

## **LAND TENURE REFORM IN NEPAL**

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### **1. INTRODUCTION**

The land system is an important adjunct of economic, social or political structure of an agricultural country such as Nepal. Reform in the prevailing land system has always remained an important issue in the body politic of the country ever since the Rana oligarchy came to an end in 1951. The political change of 1951 not only ushered the country into modern form of government and economic developmental efforts but paved the way for reforms in the land system. No institutional change of substantial nature was possible as long as the Ranas were the ruling oligarchy. They had insulated themselves not only against the people of Nepal but against modern ideas. The political forces released by the change of 1951 made the changes in the existing land system not only possible but also indispensable. The sporadic peasant movements in some parts of the country, the fear of the revival of the feudal order, the urge for economic development and the international demonstration effect also played their respective parts in hastening reforms in the prevailing land system.

A Land Reform Commission was constituted in 1951 in order to study the agrarian problems and suggest appropriate reforms and machinery for their implementation. In 1954, the Commission submitted its report in which a number of suggestions were made for reforms. Many of the reforms suggested by the Commission pertained to the land system. The recommendations of the Commission, however, were almost ignored by the Government of Nepal (later His Majesty's Government). Apart from the merits of the recommendations, the political vacuum characteristic of the fifties was least conducive to any decisive reforms.

Reforms in the land system acquired urgency after the general elections in 1959. The Government formed in that year was supported by all the major opposition parties in abolishing the Birta tenure which constituted the largest and most predominant segment of the feudal land system inherited from the previous generations. The Royal takeover in December 1960 did not stop the process of the Birta abolition. Also, reforms in many other aspects of the agrarian system started in the sixties. Another Land Reform Commission was constituted in 1961 to recommend appropriate reforms in the prevailing agrarian system. The Commission submitted its

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report in 1962. The report was not published, but it is surmised that the provisions of the Lands Act, 1964, the Ukhada Lands Act, 1965 and the Guthi Corporation Act, 1966 owed their origin largely to the deliberations of the Commission.

Reform in the land system was the only aspect of the agrarian reform during its first phase which began in 1951 and ended in 1964, only to merge with the second phase that began in the latter year. In fact, it was reform in the land system on which alone was there a consensus in the country during the fifties. The abolition of the revenue appropriating intermediary system (as represented by the Jagir, Birta and Rajya tenures) was the most important aspect of the reforms in the land system.

The term 'land system' can be defined in a broad or narrow sense, depending on the context or purpose. To some, it encompasses all the gamut of agricultural system ranging from the technical to the institutional aspects. For others, the term denotes only such institutional aspects as are confined to the system of landholding. The term 'land system' can be used in various contexts in various countries. The term in this study is used in the narrow sense to denote institutional arrangements in holding land for agricultural purposes. The land tenure system is but one part of the land system. The present study is confined to the land tenure system. Within the land tenure system also the main focus is on the intermediary system. To be specific, to study the revenue appropriating intermediary system as represented by the Birta, Guthi, Jagir and Rajya land tenures is the main purpose of the present study. Since the study of this kind would be incomplete without some understanding of the overall aspects of the land tenure system, one section is devoted to the general description of the land tenure system prevalent before the reform. The description of the intermediary system of landholding prevailing before the reforms, the problems arising from the presence of intermediaries and the reforms in the intermediary system of landholding constitute the subject matter of the present study. The descriptions of the system, of the problems and of the reforms are the orders in which this study will proceed. To confine thus to one particular area of the land system, however, is not to suggest that the other aspects of the land system are less important or that reforms in other aspects are non-existent.

## 2. LAND TENURE SYSTEM

The land tenure system as it prevailed in 1951 was characterised by extreme heterogeneity. Various land tenures co-existed or substituted one for another in different parts of the country. However, they could be classified into two broad groups. Some land tenures could be described as the constituents of the Reserve System under which the land revenue payable by the registered landholders was appropriated

by the Government. Some others could be taken as the constituents of the Grant System under which the land revenue was permanently or temporarily granted or assigned to the revenue appropriating intermediaries. The Reserve System comprised the Raikar, Rakam and Kipat tenures. The Grant System consisted of the Jagir, Birta, Rajya and Guthi tenures.

## 2.1 Reserve System

### 2.1.1 Raikar Tenure

The Raikar tenure was most prevalent in the country, though the area under it had been progressively shrinking with the passage of time, as the grants of land revenue continued unabatedly during the years of the Rana rule beginning in 1846. The Raikar was the model land tenure into which were converted the lands under other tenures in the course of reforms in the land system. Presently, the Raikar system of land tenure alone exists in the country with the single exception of the Guthi tenure which continues to govern perhaps one or two per cent of the total agricultural land.

The Raikar tenure was divided into two categories on the basis of mode of revenue settlement. One was known as the Amanati system under which, firstly, the ultimate responsibility for the payment of revenue to the Government lay on the registered landholders and, secondly, the Government was committed to the revenue remission in the event of crop failure or temporary or permanent damage to the land. The other was known as the Thek system under which, firstly, the responsibility for the payment of revenue to the Government lay on the revenue collecting intermediaries and, secondly, no revenue remission was allowed to the registered landholders even in the event of crop failure or permanent or temporary damage to the land until the next settlement when adjustments could be made. Since the revenue settlements were few and far between, the distinction between these two systems become all the more marked with the passage of time.<sup>1/</sup>

From another angle, the Raikar tenure was divided into the Raikar as such or general Raikar and the Ukhada tenure, by the criteria of the rights of tenants. Under the Raikar as such, no tenant below the registered landholder could claim tenancy right, unless the right of a tenant was specifically mentioned in each and every contract between the landholder and the tenant. But such contracts were rarely made and where made they rarely contained clauses which protected the rights of the tenants. In contrast, tenants below the registered landholders (Jimidars in this case) possessed heritable tenancy right under the Ukhada tenure. Ukhada tenants had acquired this right

as a result of the prolonged and peaceful struggles they had waged during the Rana regime. Thus, the distinction between the Raikar as such and the Ukhada tenure lay only in the fact that the right of the cultivator below the registered landholder was not recognised by law under the former, whereas the same was recognised under the latter. The Ukhada tenure was confined to the Western Terai, which presently comprises Rupandehi, Kapilvastu and Navalparasi districts. It was an exception to the general pattern of the Raikar tenure and had to do more with the specific circumstances of colonisation of these districts than with the general acceptance of the rights of the cultivators as distinct from those of the registered landholders.<sup>2/</sup>

The basis of revenue under the Raikar tenure was area in most of the cases, though part of the land in the Pahar, mostly dry land, was also assessed on the basis of homestead, i.e., family. The revenue was tied with the unit of land where the basis of revenue was the extent of land and with the family where the basis of revenue was homestead. The form of revenue assessment was cash in the Terai; it was either cash or kind or both, depending on many factors, in the Pahar. However, it could be generalised that the most prevalent form of revenue assessment in the Pahar was cash on the dry land and kind on the wet land with the exception of the Kathmandu Valley where part of the dry land was assessed in kind.

The right of the registered landholder under the Raikar tenure was heritable, sub-divisible and transferable. The registered landholder was free to let out or use his land in any way he liked. His only responsibility was the regular payment of revenue to the Government directly through the Revenue Offices in the Kathmandu Valley and through the revenue collecting intermediaries (Jimidars and Talukdars) in the rest of the country.

#### **2.1.2 Rakam Tenure**

The term 'Rakam' refers either to a system of land tenure or to a system of compulsory labour service rendered irrespective of the type of land held by a registered landholder. The former is the narrow meaning of the term, while the latter the broad meaning of it. The term here is used in the narrow sense to denote the kind of tenure under which the land revenue, otherwise payable to the Government in cash or kind, was commuted into specified labour service or delivery of specified commodities in specified quantity. Subject to the rendering of labour service or delivery of commodity, the right of the registered landholder under this form of tenure was heritable, sub-divisible and transferable. In other words, the distinction between the Raikar and Rakam

tenures was little except the mode of revenue payment to the Government.<sup>3/</sup> The abolition of Rakam tenure was completed by 1963.<sup>4/</sup>

### **2 1 3 Kipat Tenure**

The Kipat tenure was the hang-over of the tribal system of land tenure which had been prevalent in the ancient Nepal as the general framework of the land system. This tenure had almost vanished from the country, the Limbus being the only community which could preserve it. The preservation of it was one of the preconditions to the peaceful merger of the eastern part of Nepal into the Kingdom of Nepal during the process of the unification during the second-half of the nineteenth century. This tenure was thus allowed to continue in six hill districts in eastern Nepal (Sankhuwasabha, Dhankuta, Tehrathum, Taplejung, Panchthar and Ilam). It was confined to the Limbu community, and to a part of the agricultural land in these districts. The Kipat tenure co-existed with the Raikar, Birta, Guthi and Rakam tenures. The right of the registered landholder under it was heritable and sub-divisible. It was also transferable, but within the Limbu community. The purpose of such a restriction was to protect the Limbu community from the rapacious land-grabbers belonging to the other communities. However, that purpose was defeated when, subsequently, the Limbus were allowed to pledge their lands with the non-Limbus on usufructuary mortgage basis. Under the Kipat tenure, the system of revenue settlement was Thek, the basis of revenue homestead and the form of revenue payment cash, irrespective of whether the land was dry or wet.<sup>5/</sup> The Kipat tenure was abolished in 1968 by way of an amendment to the Lands Act, 1964. Except for the inalienability of the Kipat lands beyond the Limbu community, the Kipat tenure was regarded as only a variant of the Raikar tenure.

### **2.2 Grant System**

#### **2.2 1 Jagir Tenure**

The term 'Jagir' referred to a system of land tenure under which lands were assigned to the State functionaries in lieu of salaries or allowances. Once a Jagirdar, that is a holder of Jagir grant, was out of Government service or ceased to be entitled to receive any allowance, the land assigned to him reverted to the State. It was assigned again to some other Jagirdar, unless it was converted into the Raikar tenure permanently. During the intervening period when one Jagirdar relinquished the land and another did not take its charge, the land was managed by the office that was responsible for the payment of salaries and allowances to the State functionaries. The right of a Jagirdar in the land assigned to him was limited to the appropriation of the land

revenue payable by the concerned registered landholder. The right of the landholder was heritable, sub-divisible and transferable, and in these respects, the Jagir land was not different from the Raikar.

There were two variations of the Jagir tenure. One was known as the Khuwa Jagir and the other as the Khangi Jagir. The system of assigning lands assessed in cash (dry lands) came under the Khuwa Jagir tenure, while that of assigning lands assessed in kind (wet lands) came under the purview of the Khangi Jagir tenure. Since the Jagirdars were entitled to collect and appropriate the revenues in the forms in which the lands were assessed, there began to arise in course of time a substantial difference between the Khuwa and Khangi tenures. A Jagirdar assigned with a Khuwa Jagir land yielding, say, Rs. 2.22 revenue in 1910 continued to appropriate the same amount in 1950, to cite the example of the Kathmandu Valley, while another Jagirdar assigned with a Khangi Jagir land yielding one Muri of paddy revenue, which was converted at Rs. 2.22 on the basis of the official commutation rate fixed on a long-term basis in 1910, was appropriating the in-kind revenue the price of which in the market came to no less than Rs.30 in 1950. The Jagirdars assigned with the Khangi Jagir lands were thus actually receiving more than what the Government had originally intended to provide as salaries or allowances (Rs.30 against Rs.2.22 from the examples cited above). On the other hand, the registered landholders of the Khangi lands had to pay the Jagirdars in the form of in-kind revenues more than what the registered landholders of the adjoining Raikar lands assessed in kind but commuted into cash at the time of collection at the rate of Rs.4 per Muri of paddy had to pay to the Government (Rs.30 against Rs.4 from the examples cited above). Thus, the Jagirdars with the Khangi Jagir land assignments benefitted themselves at the expense of both the registered landholders and the Government.6/

### **2.2.2 Rajya Tenure**

For the purpose of revenue practices, the Rajya tenure was not supposed to be a separate land tenure. The intervening of the Rajautas between the States and the registered landholder was the only special feature that made the Rajya tenure distinct from the Raikar. Like the Raikar tenure, the system of settlement under the Rajya tenure was the Thek or Amanati, depending on the district where a Rajya was located; the basis of assessment was homestead or area, depending on whether it was dry or wet land; and the form of assessment was kind or cash, depending on whether it was wet or dry land. Also the right of the registered landholder under the Rajya tenure was similar to that under the Raikar tenure, that is, it was heritable, sub-divisible and transferable. Thus, the Rajya tenure was only a variant of the Raikar tenure for all practical purposes.7/

There were three categories of the Rajyas; namely, Sarbangamaphi Rajya, Srito Rajya and Thek Rajya. A Rajauta of the Sarbangamaphi Rajya was entitled to appropriate the whole of the land revenues collected in his domain. A Rajauta of the Srito Rajya was liable to pay a fixed amount of the annual tribute to the Government, and then he was free to appropriate the rest of the land revenue collected in his domain. A Rajauta of the Thek Rajya, on the country, was required to pay the Government the amount of land revenue fixed at the time of revenue settlement, after deducting a certain fixed amount as collection expenses to be retained by him.

### 2.2.3 Birta Tenure

The Birta tenure referred to a system under which the Government granted the right to appropriate the land revenue to an individual on permanent or temporary basis. There were many varieties of the Birta grants which made the Birta tenure the most heterogenous among the land tenures prevailing in Nepal before the reform. However, these different Birta tenures could be classified into three groups for the purpose of analysis. The Pota Birta could be described as taxable grants, the Maphi Birta as permanent tax-exempt grants and the Bekh Birta as temporary tax-exempt grants. The Pota Birta referred to the type of land tenure under which the Birtawals were not completely tax-free; they were required to pay the land revenues to the Government but at rates which were quite lower than those prevailing on the adjoining Raikar lands. The Maphi Birta grants were completely tax-free; such grants were also of permanent nature (all tax-free grants of the permanent nature are described here as Maphi Birta for the purpose of analysis). The Bekh Birta was the third category, and it referred to such grants as were made only for the life-time of the grantees (all temporary grants are grouped under the category of Bekh Birta for the purpose of analysis). The rights of the Pota and Maphi Birta grantees were heritable, sub-divisible and transferable.<sup>8/</sup> The right of a Bekh Birta grantee was limited to the appropriation of the land revenue for his life-time. But the usual practice of renewing grants to the heirs of the deceased had all but obliterated the distinction between the Bekh Birta and other Birtas.

Historically speaking, all the Birta grants were revenue grants - they were not land grants. It was because traditionally the State was entitled only to a portion of the produce of the land (generally one-half of the expected yield) in the form of land revenue. It could grant others only that right which it was entitled to, that is, the right to appropriate the revenue from the land. The State was not entitled to the right to operate land which was reserved for the registered landholder which in previous times could be none but the cultivator of the soil. The State could grant only the right it did possess.

that is, to impose and collect the land revenue. But this crystal-clear historical perspective was lost sight of and gradually a belief came to predominate the thinking of the authorities to such an extent that they classified the Birta grants into land grants and revenue grants and treated these two categories at the time of the Birta abolition quite differently.<sup>9/</sup>

The rights of the registered landholders under all forms of the Birta tenure were heritable, sub-divisible and transferable. The form of revenue payable by the registered landholders to the Birtawals was cash in the Terai and kind in the Pahar. The level of revenue payable to the Birtawals on the land assessed in cash was only slightly higher than that payable to the Government under the Raikar tenure, and this difference too arose because of the fact that Birtawals were allowed to raise separate extra-levies from the registered landholders, which the State did not in respect of the Raikar lands. But where the revenue was assessed and payable in kind, the difference in the incidence of revenue between the Birta and the Raikar lands was real and substantial. The difference arose from the fact that while the State raised its revenues at the rate of Rs. 4 per Muri of paddy revenue, to cite the example of the Kathmandu Valley, the Birtawals appropriated the same one Muri of paddy revenue in kind which in 1960 yielded no less than Rs. 40 at the market.

#### **2.2.4. Guthi Tenure**

The Guthi referred to a system of land tenure under which the revenue from the land was granted to the temples, monasteries and religious, social or charitable institutions. The Guthi tenure could be classified into three groups, namely, Rajguthi, Mathguthi and Dartaguthi. Lands granted to the temples, monasteries or other institutions which were managed by the State through the Guthi Offices came under the Rajguthi tenure, while lands granted to such institutions but managed by such intermediaries as the Santas, Mahantas and Pujaris came under the purview of the Mathguthi tenure. Lands donated by private individuals to the Guthi institutions managed by private trustees (Guthiyars) and registered as such came under the Dartaguthi tenure. A land became tax-free the moment it was registered as an endowment (Guthi) in the name of any institution. The rights of the Guthi Offices, Santas, Mahantas, Pujaris and Guthiyars were limited to the appropriation of the land revenue from the respective Guthi lands. There was no question of inheritance, sub-division or transfer of land by the revenue appropriating intermediaries under the Rajguthi and Mathguthi tenures. The right of the Guthiyar under the Dartaguthi tenure, however, was heritable. The rights of the registered landholders under all forms of the Guthi tenure were heritable, sub-divisible and transferable. The land donated by an

individual to an endowment (Guthi) but not registered as such became Nijiguthi. The Nijiguthi land was not regarded as belonging to the Guthi tenure; it belonged to the Birta tenure. The Rajguthi tenure was but another variant of the Raikar tenure, and the assignment of land under the Mathguthi tenure was equivalent to the assignment of land under the Jagir tenure. The land revenue payable by the registered landholders to the Guthi institutions was mostly assessed and payable in kind, though part of the in-kind revenue was commuted into cash on the basis of the commutation rate fixed on a long-term basis in respect of the Rajguthi lands.<sup>10</sup>

The land tenure system as it prevailed around 1950 can be shown in a schematic way as follows:

#### **Reserve System**

##### **1. Raikar tenure**

- a. Amanati system of settlement
  - b. Thek system of settlement
- Alternatively,
- a. General Raikar
  - b. Ukhada Raikar

##### **2. Rakam tenure**

##### **3. Kipat tenure**

#### **Grant System**

##### **4. Jagir tenure**

- a. Khangi Jagir
- b. Khuwa Jagir

##### **5. Rajya tenure**

- a. Sarbangamaphi Rajya
- b. Siro Rajya
- c. Thek Rajya

##### **6. Birta tenure**

- a. Pota Birta
- b. Maphi Birta
- c. Bekh Birta

##### **7. Guthi tenure**

- a. Rajguthi

- b. Mathguthi
- c. Dartaguthi

### **2.3 Geographical Distribution of Tenures**

No precise statistics are available regarding the extent of lands that were under different tenures. On the basis of the Birta and the Guthi statistics available on fragmentary basis it can be safely said that about one-half of the total agricultural land was alienated by the State in favour of the revenue appropriating intermediaries who interposed between the State and the registered landholders.

The Raikar tenure was spread all over the country in greater or lesser degree of concentration. The only exception was the district of Bardia, which was entirely under the Birta tenure. The Kipat tenure was confined to part of the agricultural land in the easternmost six districts in the Pahar (Shankhuwasabha, Dhankuta, Tehrathum, Taplejung, Panchthar and Ilam), co-existing with the Raikar, Birta, Guthi and Rakam tenures. The Jagir tenure was confined to the Pahar and there too within the Kathmandu Valley and the districts adjoining it. The Rakam tenure was thinly spread over the Pahar. The Rajya tenure was confined to the vassal territories which formed parts of several districts in the hills west of Kathmandu. The Rajya tenure co-existed with the Rakam, Birta and Guthi tenures. The Birta tenure was spread over the country in greater or lesser degree of concentration, parallel with the Raikar tenure, and the same could be said of the Guthi tenure, but at a quite lesser scale.

One more characteristic of the land tenure system prevailing in Nepal before the reform was that there was not only heterogeneity in the land tenure system but it was carried on to such an extent that it was not uncommon to find single landholding under which more than one land tenure co-existed. This was true more of the Pahar than of the Terai, and in the Pahar also more of the Kathmandu Valley and the districts adjoining it than of the rest of the Pahar.

### **2.4 Agrarian Class Structure**

The land system prevailing in Nepal around 1950 was characteristic of the medieval land system which bore and nurtured more than one class. The agrarian classes comprised the following:

- (1) The revenue appropriating intermediaries or higher intermediaries consisting of the Jagirdars, Birtawals, Guthiyars, Santas, Mahantas and Pujaris, and Rajautas;

- (2) The revenue collecting intermediaries or lower intermediaries such as the Jimidars and Talukdars who acted as revenue collecting intermediaries between the State and the registered landholders on the one hand and between the revenue appropriating intermediaries and the registered landholders on the other;
- (3) The registered landholders;
- (4) The registered tenants such as those of the Ukhada land;
- (5) The tenants-at-will who cultivated land leased in from the registered landholders, registered tenants or revenue appropriating intermediaries (in respect of home-farm lands) on share-cropping, fixed rent or labour service basis, and
- (6) The landless agricultural workers who served one or several of the classes enumerated above in various capacities but predominantly as the cultivators on daily or contract wage basis.

Whether most of the classes mentioned above had simultaneous claims over the land or its produce depended on such factors as the form of land tenure, the kind of land, the mode of revenue collection, the pressure of population on land, the availability of waste land, the system of cultivation and similar other variables. At one extreme lay the owner-cultivated small Raikar holdings in the Kathmandu Valley where only the registered landholder was involved, apart from the State whose paramount interest dominated all the six classes enumerated above. The same could be said of the owner-cultivated small Raikar, Birta or Rakam holdings in the Kathmandu Valley. At the other end, however, were the larger of the Birta intermediary holdings in the Terai which provided the meeting ground for at least four of the classes mentioned above, including the Birtawals, Jimidars, absentee registered landholders and tenants-at-will. At the rock-bottom of the agrarian structure then prevailing lay the agricultural workers who could be appended in addition to other agrarian classes wherever cultivation was divorced from the contribution of own labour or the labour of the family.

### **3 . REVENUE APPROPRIATING INTERMEDIARY SYSTEM**

The revenue appropriating intermediary system consisted of the Jagir, Rajya, Birta and Guthi tenures with the Jagirdars, Rajautas, Birtawals, Guthiyars, Santas,

Mahantas and Pujaris as the intermediaries. The Guthi Offices acted as the intermediaries vis-a-vis the Rajguthi tenure.

### **3.1 Rights of Intermediaries**

Revenue appropriating intermediary rights were no less varied than the intermediary tenures. The rights of the Pota and Maphi Birtawals were heritable, subdivisible and transferable, while those of the Bekh Birtawals were, though not so in law, heritable and transferable in practice. The Guthiyars' rights were only heritable. As far as the rights of the Jagirdars were concerned, these were limited to the appropriation of the revenues from the lands assigned to them temporarily. Similarly, the rights of the Rajautas were limited to the appropriation of land revenues collected within their domains, though their rights were heritable in accordance with the law of primogeniture. All transferable intermediary rights were subject to pre-emption by nearest co-parcener in case these rights were transferred to the outsiders, though the usual practice of over quoting values in transfer deeds effectively debarred any co-parcener from exercising his right of pre-emption. Apart from the land rights the big Birtawals and Sarbangamaphi Rajautas had rights of monopoly on leather and liquor trades within their domains.<sup>11/</sup> The Rajautas, Birtawals and Jagirdars had judicial and administrative rights too.<sup>12/</sup> Unlike the other intermediaries, the Rajautas could sentence to imprisonment persons within their domains. All these intermediaries could delegate some of the less important powers to their revenue collecting intermediaries.

### **3.2 Obligations of Intermediaries**

The obligations of the revenue appropriating intermediaries towards the Government, on whose authority they possessed permanent or temporary rights in lands assigned to them, were no less varied. The Pota Birtawals and Sirto and Thek Rajautas were liable to revenue payments to the Government. The Jagirdars, big Birtawals and Rajautas rendered their services to the Government. Similarly, the Guthiyars and Santas, Mahantas and Pujaris rendered specified charitable or religious services to the community. The Maphi and Bekh Birtawals, however, had no obligations except to express loyalty to the ruling power now and then. Let us view the phenomena from another angle. The Maphi and Bekh Birtawals were secure in their Birta holdings as long as they did not invite displeasure of the ruling power. The Pota Birtawals' tenure depended on regular payment of revenue. The tenure of the Santas, Mahantas and Pujaris co-existed with their duties as heads of monasteries or priests of temples. The Jagirdars' tenure was secure for the period they were in the government service or entitled to receive allowances. The Guthiyars were secure in their tenure so long as they

were not derelict of duties relating to the concerned endowments. And finally, the Rajautas were secure in their tenure so long as they remained loyal to the Government and, to the extent applicable, regularly paid their dues to the Government.

### **3.3 Mode of Revenue Collection**

Apart from the self-cultivating Birtawals, the Rajautas in respect of demesne lands and the Santas, Mahantas and Pujaris in relation to hermitage and garden lands, the revenue appropriating intermediaries were mere appropriators of the land revenues which otherwise were payable by the registered landholders to the Government. The Birtawals other than the self-cultivating ones could be classified into two groups from the angle of the mode of revenue collection. The small and middle Birtawals, as also the Guthiyars, collected the revenues on their own either directly by themselves or through their personal agents, whereas the big Birtawals did so through the revenue collecting intermediaries at the village and their private Revenue Offices at the revenue district level. The Rajautas made the collections of the land revenues through the revenue collecting intermediaries at the village and the Revenue Offices at the Rajya level. The Revenue Offices opened by the Birtawals and Rajautas were guided by the revenue regulations that were common with the Government Revenue Offices in most matters of procedures. Many of the Jagirdars made the collections of the land revenues on their own either by themselves or through their personal agents, while the rest of them did so by discounting the Tirjas (that is, annually issued revenue drafts on the presentation of which alone a registered landholder could be asked to pay the land revenue) to the Dhokres who specialised in the business of purchasing such Teargas on discount and later collecting the revenues from the registered landholders. The Santas, Mahantas and Pujaris collected the land revenues by themselves, but they were helped by the Revenue Offices in case they were unable to do so for any valid reason. The cost of collections incurred by the Government on behalf of these intermediaries was not deductible, but it was otherwise if such collections were made by the Revenue Offices on behalf of the Jagirdars, who could request the Revenue Offices to do so on their behalf in some circumstances.<sup>13/</sup> The collections of revenues from the Rajguthi lands were made by the Guthi Offices in the Kathmandu Valley, the Manegery Offices in some districts in the Terai, the Rajya Revenue Offices in the Rajyas and the Government Revenue Offices in the rest of the country.

### **3.4 Ejection and Resumption**

The revenue appropriating intermediaries could be classified into three groups with respect to their rights to eject the registered landholders from the lands held by

them under different intermediary tenures. One group comprised the Jagirdars and Santas, Mahantas and Pujaris who had no right to eject the registered landholders on their own. If a registered landholder was to be ejected from his land for any valid reason, it was done by the Government Revenue Office, or by the Guthi or Managery Office, as the case might be. In the second group fell the Rajautas who could eject the registered landholders through the Rajya Revenue Offices but only on grounds specified in the revenue regulations. The third group of intermediaries consisted of the Birtawals and Guthiyars who could eject the landholders on their own on fulfilment of conditions specified in the revenue regulations. The grounds for ejection of the registered landholders under the intermediaries were specified and these were non-payment of revenue on time, refusal to pay due amount of revenue, misutilisation of land, deliberate damage to the land and resumption for personal use in the case of the Birta tenure.

The Birtawals were the only intermediaries who were allowed to resume lands for personal use. The maximum area allowed for resumption, as also the procedure of resumption, varied between the Terai and the Pahar regions. In the Terai, a Birtawal was entitled to resume land for personal use upto one and a half Bigha in a village, subject to the condition that a registered landholder should have been left with a minimum of two Bighas after the resumption. An exception to this was that, if the land had to be resumed by a Birtawal in single plot, even the land below the minimum holding could be resumed, in which case he had to provide compensation to the registered landholder for the land so resumed at the rate current in the locality or, alternatively, he was required to provide the registered landholder with another land of similar quality duly resumed in the locality from another registered landholder possessing more than five Bighas of land.<sup>14/</sup> In the Pahar, however, the maximum area that a Birtawal was entitled to resume for personal use in a village was limited to five Ropanies (about two-fifths of a Bigha), subject to the condition that a registered landholder should have been left with a minimum of two Ropanis after the resumption. A Birtawal could resume land for personal use depriving the registered landholder of that minimum area, provided the former gave another land of similar quality in the village or paid compensation at the rate current in the locality. Compensation in the shape of allotment of similar land was paid by the Birtawal to the registered landholder by resuming land from another landholder who, in his turn, should have been left with at least two Ropanis in the process of resumption.

From the foregoing, it becomes clear that the registered landholders under the intermediaries except the Birtawals were as secure or insecure in their tenure as were the registered landholders under the Government. The tenure of the registered landholders under the Birtawals too was not so insecure as to make it anything materially different from that under the Government, the right of a Birtawal to resume land for

personal use upto the specified limit with compensation payment to the registered landholder being the only special feature of the Birta tenure. Otherwise, all the registered landholders, whether under the Government or under the intermediaries, were similarly situated as far as the security of the tenure was concerned. If there was any material difference between the registered landholders under various tenures, it related with the differential incidence of revenue between the lands under the various tenures.

### **3.5 Revenue Rates**

The revenue rates prevailing under the intermediary tenures could be classified into seven groups: Birta revenue rates in the Terai, Birta revenue rates in the Pahar, Dartaguthi revenue rates, Jagir revenue rates, Rajya revenue rates, Mathguthi revenue rates and Rajguthi revenue rates.

It was generally prescribed that the revenue payable by a registered landholder to a Birtawal in the Terai should not exceed by more than 10 percent the land revenue rate prevailing on the adjoining Raikar land. Since the land revenue in the Terai was assessed as well as collected in cash, the Birta rate did not exceed by more than 10 percent the land revenue rate prevailing on the adjoining Raikar land. But in case all the registered landholders in a village unanimously agreed to the proposals of the Birtawals to enhance the revenue rates in excess of this permissible limit, the latter could do so notwithstanding the ceiling. In the event of a lack of unanimity among the registered landholders regarding such proposals, with some of them accepting but others rejecting the proposal to enhance the revenue rates, the case was referred to the Prime Minister whose decision on this would be binding on all the parties concerned. But there was a snag here. These safeguards in favour of the registered landholders related to the areas which were already cultivated. In the case of the lands that were newly brought under cultivation, the Birtawals were free to settle the land revenue at any rates they could persuade the cultivators to pay,<sup>16/</sup> the forces of demand and supply being applicable in this regard. However, since there were more lands available for cultivation compared to the tillers to cultivate the malarial forest or waste lands in the Terai, it could be said with certainty that the Birta revenue rates in the Terai did not diverge much from the revenue rates prevailing on the adjoining Raikar lands.

The Birta revenue rates in the Pahar varied widely according to the difference in the form of assessment as well as the quality of land. The level of the Birta revenue rates on the Birta lands assessed in cash was comparable to that on the adjoining Raikar lands. Insofar as the revenue rates were concerned, there was little, if any, difference

between the cash-assessed Birta land and the cash-assessed Raikar land in the Pahar. In respect of the in-kind-assessed Birta lands also there was a similarity between the Birta and the Raikar lands as far as the formal rates were concerned. But the effective revenue rates between the two tenures in respect of the in-kind-assessed lands diverged one from another quite substantially, the effective Birta revenue rates thus being far higher than the revenue rates on the adjoining Raikar lands. This divergence arose due to the difference in the form of collection or, rather, in the commutation rate. The revenue payable to a Birtawal was paid in kind or it was paid in cash after converting the in-kind revenue into cash at the prevailing market prices, whereas that payable to the Government was done so in cash after converting the in-kind revenue into cash at the commutation rate that was fixed in 1910 and slightly raised upward in 1934. To give one example, in 1960 the paddy revenue payable to the Government in Kathmandu was paid in cash after converting it at the rate of Rs.4 per Muri, whereas the same amount of paddy revenue payable to a Birtawal for similarly placed land would involve the sum of no less than Rs.50 per Muri.

The Dartaguthi tenure was in essence the Birta for all practical purposes. So the rates of revenue payable by the registered landholders to the Guthiyars were comparable with the revenue rates applicable to the Birta lands.

In regard to the revenue rates on the cash-assessed Jagir lands, they were comparable with the adjoining Raikar lands. In respect of the in-kind-assessed Jagir lands, however, the effective revenue rates were far higher than the comparable Raikar rates though, in respect of the formal rates, these two were strictly comparable. The reason for such a divergence was that while the revenue on the in-kind-assessed Jagir land was payable in cash after converting the in-kind revenue into cash at the prevailing market rate of about Rs.40 per Muri in 1950, to cite the example of the Kathmandu Valley, the same level of paddy revenue under the Raikar tenure was payable in cash at the conversion rate of just Rs.4 per Muri.

The Raikar rates prevailed on the Rajya lands. Therefore, not only the Raikar and Rajya revenue rates were the same but these two tenures were one and the same for all practical purposes.

The registered landholders under the Mathguthi tenure paid the revenues in kind in the same way as was paid by those under the Khangi Jagir and Birta tenures in respect of the in-kind-assessed lands. The difference between the effective Mathguthi and Raikar revenue rates arose in the same way as it did between the in-kind-assessed Birta and Raikar revenue rates.

The revenue rates charged by the Guthi Offices in respect of the Rajguthi lands varied from place to place and also between the cash-assessed and the in-kind-assessed areas within a locality, much in the same way as it did in the case of the revenue rates on the Raikar lands. As most of the lands under the Rajguthi tenure were wet, they were mostly assessed in kind. The actual collection, however, was made partly in kind (50 percent, to cite the example of the Kathmandu Valley) and partly in cash after converting the in-kind revenue into cash at the commutation rate fixed for the purpose. For the Kathmandu Valley, the rate of commutation of paddy into cash was Rs.6.67 per Muri of paddy as compared to Rs.4 per Muri of paddy in the case of the Raikar tenure. In respect of the cash-assessed Rajguthi lands, however, the revenue rates applicable for such lands were comparable with the Raikar revenue rates.

### **3.6 . Rights of Landholders**

Apart from the personal subordination to the revenue appropriating intermediaries, the greater possibility of the removal from the land and generally higher incidence of revenue, there was otherwise no substantial difference between the registered landholders under the Reserve system and those under the intermediary tenures. It was immaterial whether their rights were called 'ownership' or 'tenancy'. All of them were Mohis (registered tenants), the word commonly used in the law and revenue regulations. All of them were landowners if the bundle of rights enjoyed by them were the criteria to be used. All of them were registered landholders, as termed in this study, irrespective of the commonly used term, Mohi, which, in modern parlance, is translated as tenant. There was an essential similarity between the rights of the registered landholders under various tenures, and perhaps it was the single unity in the otherwise bewildering variety in the land tenure system prevailing at around 1950.

### **4. DEFECTS OF REVENUE APPROPRIATING INTERMEDIARY SYSTEM**

Intermediary tenures were concomitants of medievalism; they served it well for centuries. But with the change of 1951 the revenue appropriating intermediary system came to be regarded not only as an anachronism but positively inconsistent with the ideals of democracy and a more egalitarian society which were the objectives set before the country by public opinions representing the emergent political and social forces.

There were two defects of the revenue appropriating intermediary system. One related to the administrative problem that did arise from the heterogeneity in the land

tenure system and the other to the problems that emerged from the very presence of the revenue appropriating intermediaries. The former related more with the problems of administration than with those of the rights in land. The analysis that follows is therefore confined to the latter.

#### 4.1 Loss of Revenue

One of the main defects of the revenue appropriating intermediary system was that the Government was, in many cases fully and in others partly, deprived of the land revenue which otherwise would have been available to it for spending on social and economic development of the country.

The function of Government in regard to social and economic sectors was very much limited during the Rana Regime and the same situation prevailed for some years following the change of Government in 1951. The government expenditures on social and economic sectors did not exceed 13 percent of the meagre total expenditure of Rs.42 million in 1951/52. No great effort is required to conceive that the share of expenditure on social and economic sectors was still lower during the Rana period. The government revenue was equally meagre, totalling Rs.30.5 million in the year mentioned above, mainly because of the fact that the largest source of revenue at that time, the land, was alienated in favour of the revenue appropriating intermediaries to the extent of about 50 percent of the total agricultural land.<sup>17</sup> But there was one big difference between the pre- 1951 and the post-1951 situation . If the government revenue before 1951 was meagre, the government expenditure was all the more meagre, so that a substantial part of the revenue still remained surplus which went into the coffers of the Rana Prime Minister as his personal income. In fact, every Prime Minister during the Rana period was interested in curbing expenditures, and the brunt of cuts in expenditures was borne by social and economic sectors. In such a context, an increase in government revenue did not mean that it would return back to the people in the form of expenditures on social and economic sectors. It was therefore immaterial whether the revenues payable by the registered landholders were appropriated by the revenue appropriating intermediaries or went directly into the Treasury. The question as to whether the revenues were payable to the Government or were appropriated by the intermediaries, with the Ranas and their kinsmen forming the hardcore, was more a question of the internal power structure of the Rana oligarchy than a matter of public policy as such. That was the reason why the more the number of the Ranas and the more their modern snobberies, the more land passed into their hands in the shape of the Birta grants. It happened so despite the fact that in granting the Birtas the Rana Prime Minister, ruling for lifetime, was only reducing his personal income. But once the

Rana oligarchy came to an end, the context was greatly altered. The State was called upon to orient its activities towards public welfare and development. The paraphernalia of the modern form of government also called for additional resources for the Government, so that in only one year after the end of the Rana regime the traditional trend of government revenues exceeding expenditures was reversed. The Regular Budget deficit alone amounted to Rs.11.5 million in 1951/52.<sup>18/</sup> This trend continued for a decade with the exception of a couple of years. Such was the position of the Regular Budget. The Development Budget was financed exclusively by foreign grants. Given the budgetary position of the Government such as this, not much could be expected of it in the sphere of developmental activities.

But the role to be played by the Government was immense. There was complete unanimity amongst people of all shades of opinion that it was the Government that was the appropriate agency for provision of social and economic infrastructures. It was also an experience of the country that the private sector was shy of investment even in the directly productive industrial and agricultural sectors. To shoulder the manifold responsibilities of development, the Government necessarily needed more financial resources. Despite the alienation of about 50 percent of the total agricultural land, the land revenue still constituted one of the largest sources of government revenue, accounting for 24 to 35 percent of the total government revenue in the fifties.<sup>19/</sup> It was but natural that the Government should give thought to the mobilisation of resources from the agricultural sector in the shape of land revenue. Two ways were open to the Government for increasing the revenues from the land. One was to enhance the rates of land revenue on the Reserve lands. The other was to appropriate the revenues from the lands under the intermediary tenures by the Government by abolishing the revenue appropriating intermediary system. Of course, these alternatives were not mutually exclusive, but it was natural that in the beginning the attention of the Government should be concentrated on the second alternative, that is, the abolition of the intermediary tenures. For, in that case, the remaining 50 percent or so of the total agricultural land, too, would have been brought under the ambit of the land taxation and the resultant increase in the government revenues would have been quite substantial, leaving apart the question of healthy development in the land relations.

There was a further obstacle in enhancing the land revenue rates on the Reserve lands before the question of the intermediary tenures was solved. The enhancement of the land revenue rates by the Government would have simultaneously increased the revenue receipts of the revenue appropriating intermediaries such as the Rajautas and the Birtawals, as well as the rent receipts of the Jimidars in the capacity of the registered landholders of the appanage (Jirayat) lands. The rent rates imposed by

the registered landholders of the Ukhada lands on the registered tenants were linked with the land revenue rates imposed on the registered landholders by the Government. The registered tenants paid double the amounts of revenue payable to the Government by the Jimidars in the capacity of registered landholders of the Jirayat lands. It would have been unfair for the Government to be a party to the increased burden on the registered landholders under the revenue appropriating intermediaries and the registered tenants of the Ukhada lands when the intermediary system as a whole was regarded as an anachronism in the context of the changed political system and its abolition had already been accepted as a matter of principle.

There was yet another way of enhancing the government revenue from the lands under the intermediary tenures by imposing taxes on the intermediary holdings without disturbing the existing land relations. This was, in fact, attempted in the case of the Birta holdings when the Birta abolition receded into the background, following the political instability in the fifties. But the experience did not prove a happy one, even from the narrow point of view of enhancing the government revenue.

The Jagir tenure involved loss of revenue to the Government in a specific way also. As the salaries or allowances of the Jagirdars were expressed in cash, the assignments of land were made in such a way that the land revenue so assigned would be equal to the amounts payable to the Jagirdars in the form of salaries or allowances. In the case of the assignment of land assessed in cash, the cash assessment figures were used while imputing the values of the expected revenue receipts. So there was no problem in this case. In the case of the assignment of the in-kind-assessed land, however, there was the problem of imputing cash values to the in-kind revenues expected to be appropriated by the Jagirdars from the lands assigned to them. The commutation rate fixed for this purpose was Rs.2.22 per Muri of paddy revenue in the Kathmandu Valley. But the commutation rate used by the Government in commuting the paddy revenue into cash under the Raikar tenure in the Valley was Rs.4 per Muri of paddy. The Government was thus losing Rs.1.78 per Muri of paddy revenue on every assignment of land yielding one Muri of paddy revenue. The Government could have enhanced the land revenue receipts to the extent of the difference between these two rates simply by providing the government functionaries with cash salaries or allowances, converting the Jagir tenure into the Raikar and imposing the land revenues at the Raikar rates. Such a measure would have benefitted both the Government and the registered landholders simultaneously.

## **.2 Lost Utility of Intermediaries**

Before the reform, the land revenues from the intermediary tenure areas were being appropriated by a class which no longer served any socially useful purpose. Even the few useful services that were still being rendered by a section of this class were being paid for in such a way that it was adversely affecting the interests of the Government no less than those of the registered landholders.

The revenue appropriating intermediaries could be classified into two sections from the stand-point of contemporary social utility. One section comprising the Birtawals and Rajautas had completely lost its utility once the medieval political system justifying its existence and the medieval value system prevalent among the rulers and the ruled were no longer there to protect its interests. The other section consisting of the Jagirdars, Santas, Mahantas and Pujaris, Guthiyars and Guthi Offices still retained its utility inasmuch as its services were still required by the Government as well as the society at large; but even in this case there was enough ground to see whether such services as it was rendering to the Government and the society at large could not have been organised in a more efficient and equitable way.

The rights of the Rajautas were derived from the fact that their forefathers had peacefully accepted the merger of their principalities in the expanding Kingdom of Nepal in the latter part of the eighteenth century in exchange of vassalage rights. Some of the Rajautas later came to be related with the Rana families in marital and other ties. Therefore, an element of vested interests also emerged there to protect their interests. The rights of the Rajautas were thus purely based on past services and contemporary vested interests. The judicial function of the Rajautas was also more in the nature of a right than a duty. Since the Rajyas were small in size, the judicial administration could have been better taken over by the judicial courts of the districts to which the vassal territories formed constituent parts. By no stretch of imagination, therefore, could it be said that the Rajautas were rendering any useful service to the Government or the society at large. Once the country became free from the medieval political system, it became possible, as also necessary, to review the place of the Rajautas in a rational light. With the emergence of the new political system in the country in 1951, the functional ground for the retention of the Rajya tenure was entirely lost and only the ground of past services remained with the Rajautas to defend their interests. The emergent political system recognised only the past services as the legitimate ground for reward. But the reward was to take a form different from the traditional one.

The locus standi of the Birtawals was still weaker. Some of the Birta grants were no doubt made in recognition of the services rendered to the State in the past or in exchange of monetary advances to the needy chieftains of the erstwhile principalities. But most of the Birta grants involving the bulk of area under the Birta tenure originated either in mere act of favour on the part of the Rana Prime Ministers or in misappropriation of the landed resource of the country effected through the hold of the Ranas over the machinery of the State. Original Birta grants involved entirely uncultivated forest area, depending on individual circumstances. Contributions of the Birtawals in regard to the already cultivated area were practically nil. Their contributions in respect of the other two categories of lands were limited to the extent of reclamation of uncultivated lands under their Birta holdings. But how far the extension of cultivation could be ascribed to the Birtawals was a debatable point. The area under cultivation increased at a fast rate during the first half of this century even in those geographical areas where the Raikar tenure was predominant, if not the only form of land tenure. The only clear and positive credit that can be bestowed on the Birtawals was that they usually followed the governmental practice of allowing revenue exemptions on newly cultivated lands for some initial years of reclamations. But, in such case also, once the land was reclaimed, the role of the Birtawals remained limited to the appropriation of the whole or major part of the revenue for themselves. The Birtawals in general and the bigger ones in particular were far from the land both physically and psychologically. The higher ones among the Birtawals were impersonal like the Government in their relationship with the registered landholders. There were two other tiers in between the Birtawals and the registered landholders. Private Revenue Office constituted one tier. The revenue collecting intermediary was another.

The case of the Guthiyars, however, was not that simple. They were, on the one hand, rendering religious, charitable, or social services, but, on the other such services as were being rendered by them were not always socially important. Not infrequently, lands were donated to endowments the advantages of which were confined to the narrow circle of the Guthiyars. The attachment of one's land to an endowment was also a convenient device to evade the land revenue or avoid the confiscation of land by an unscrupulous ruler. The Guthiyars were entitled to appropriate the revenues that remained surplus after meeting the expenditures on the endowments. But the dilapidated temples, water works, inns and other objects of endowments were the testimonials as to how the revenues collected from the Dartaguthi lands were being appropriated by the Guthiyars without meeting even their primary obligations.

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\* Partly cultivated and partly forested area, or entirely uncultivated area.

The case of the Jargirdars, Santas, Mahantas and Pujaris, and Guthi Offices was different. These intermediaries were performing administrative services to the State (Jagirdars), religious services to the society (Santas, Mahantas and Pujaris), or both (Guthi Offices). The problems arising from their presence were essentially in the nature of administrative and financial reorganisation of governmental functioning. The precise task was to detach the land from the religious and administrative services by replacing the system of land revenue grants with that of cash grants. In that case, the high incidence of revenue to which the registered landholders were subjected would have ended at the same time.

#### **4.3 High Incidence of Revenue**

The amount of land revenue collected by a revenue appropriating intermediary was higher than that collected by the Government from similarly placed Raikar land. The revenue demands made by the intermediaries in many cases were pitched so high that no agricultural development was feasible without first lightening the revenue burden of the registered landholders.

Leaving apart the customary exactions in the shape of compulsory labour service or presents in kind, the Rajautas were otherwise the only revenue appropriating intermediaries who were appropriating the land revenues at the Raikar rates. The other example in which the revenue burden on the registered landholders was not so heavy was provided by the Terai Birtawals who were prevented from raising the revenue rates on their own pertaining to the already cultivated lands. Apart from the Rajautas and the Terai Birtawals, the burden of revenue of the registered landholders under other revenue appropriating intermediaries was so heavy that it was not comparable at all with the revenue rates prevailing on similarly placed Raikar lands. The burden was the heaviest under the Pahar Birtawals, Guthiyars, Santas, Mahantas and Pujaris, and Khangi Jagirdars. The incidence of revenue under the Guthi Offices was in between the two. It was not surprising therefore that the main banner of dissent against the Birta and the Guthi tenures was raised by the peasants in the Kathmandu Valley in the form of no rent campaigns in the fifties. In the Kathmandu Valley, the incidence of revenue under the Birta and the Guthi tenures was the highest in the country.

#### **4.4 Insecurity of Tenure**

Threats of evictions and resumptions were hanging over the heads of the registered landholders under the Birta, Dartaguthi and Rajya tenures. It was true that no registered landholder could be ejected from his land unless he provided to an

intermediary a pretext for this. But a registered landholder could not always resist his intermediary if the latter was bent upon to eject the former. The reported illegal evictions of the registered landholders by the Rajauta of Galkot, which led to newspaper headlines in 1957, showed that the security of tenure of the registered landholders was not safe even in the hands of the Rajautas who were not the ordinary intermediaries but the representatives of the State in the vassal territories. If that was the case with the Rajautas, it was hardly necessary to speak of the Birtawals who were legally entitled to resume lands for personal use upto the limit permitted by revenue regulations. As the law in this regard did not clearly define what constituted personal use, and as there was no limit to the number of villages where they could resume lands for personal use, the restrictions imposed by law was not strictly effective in the case of those Birtawals who possessed Birta holdings in more than a village. The big Birtawals residing in Kathmandu had home-farms in several Maujas in the Terai. The more lands entered into the market for sale as a result of the commercialisation of agriculture on the one hand and the population growth on the other, the more evictions and resumptions started in the Terai, particularly after the end of the Second world War. Given an opportunity, the Guthiyars too could change their registered landholders, though they were not entitled to resume lands for personal use. The abolition of the Rajya, Birta and Dartaguthi tenures would have ended such evictions and resumptions once and for all.

#### 4.5 Misdirection of Resources

The revenue appropriating intermediaries were least interested in the development of agriculture in their intermediary holdings. They were miles away from the land by the very nature of their rights. They had not shown any inclination to remove this barrier either. The question that could arise, therefore, was whether they were playing any useful role in other sectors of the economy, if not in agriculture. The answer to this question, too, was an emphatic no.

There were big Birtawals and Rajautas in hundreds of numbers. But those who had invested in shares and debentures of the few industrial concerns existing in the country could be counted by fingers. The revenue receipts garnered by the Rana Birtawals were mostly spent on the conspicuous consumption such as fancy foreign goods of the latest European make, the palatial buildings enclosing scores of Ropanis of land and the maintenance of a large army of slave girls, retainers and over-crowded families. Whatever was left over that also found its way abroad in the form of investment in shares and securities, purchase of real estates and accumulation of bank balances. As favourites of the Ranas, the middle Birtawals also acquired habits of imitating some of the less conspicuous snobberies of their patrons. If the Ranas invested in the larger of

the cities in India like Bombay and Calcutta, the middle Birtawals did the same in the provincial cities in the Indian States adjoining Nepal. Thus, the Birtawals presented a strange mixture of medieval feudals with reactionary social, economic and political facets in Nepal, while at the same time joining the ranks of the stockholders abroad. The incomes earned by them abroad did never find their way back in Nepal. The political change of 1951 further accentuated this problem as their political power, which was the only attachment binding the Ranas to the country, had come to an end. The richer ones among the Ranas left the country, and with them went also the source of employment to some people as slave girls and retainers. Thus, the big Birtawals, after the political change of 1951, were not providing even the medieval domestic employment as they were doing before, leave alone their participation in the development of the country.

In the competition for pompous expenditures, even the Guthi Offices were not far behind. It did not occur to those who were behind the management of the Guthi Offices that in a poor country like Nepal where there were people who went hungry for days or where sections of the cultivators were one of the most rackrented, Gods should also lead a modest 'life'. The same was applicable to the Santas, Mahantas and Pujaris who behaved as if they were the intermediaries also between the Gods and the cultivators.

#### **4.6 Concentration of Landholding**

The revenue appropriating intermediary system, particularly the Birta tenure, had an inherent bias towards the concentration of landholding. Due to paucity of data, no precise comparisons can be made, but even such fragmentary evidence as could be available lends credence to this point.

Bardia was the only district where a single land tenure prevailed; the district was entirely under the Birta tenure. The difference between the pattern of landholding in Bardia district and the same in the Terai as a whole might roughly be attributable to the Birta tenure factor. The same could be said of the difference between the district of Bardia and the adjoining district of Kailali in regard to the pattern of landholding.

In Bardia, lands held by the Jimidars in their capacity as registered landholders constituted 33 percent of the total agricultural area in 1910, but the ratio in 1964 was found to have reached 63 percent. During the same period, when the total area under cultivation in the district increased by two percent, the area held by the Jimidars increased by 93 percent but the area held by the ordinary registered landholders decreased by 43 percent.<sup>20/</sup> The Jimidars were everywhere in the Terai, but nowhere

else was such a high degree of concentration of landholding as in Bardia which was, as noted earlier, entirely under the Birta tenure.

Bardia and Kailali districts are not only adjoining but they have also common agricultural characteristics. The only substantial difference was the differential incidence of the Birta tenure. As against 54 percent of the total agricultural land in Bardia, the percentage of surplus land above the ceiling on landholding constituted only two percent in Kailali.

The main factors which explain to some extent the greater degree of concentration of landholding in the Birta area in comparison with the Raikar area might be suggested here. There was a general neglect on the part of the Birtawals in their traditional responsibilities towards the registered landholders. The Birtawals had also soft corner for the Jimidars who, in most instances, happened to be their relatives or favorites. As the years passed by, the Government began to go soft for the Jimidars whom the Ranas began to conceive as their agents in the outlying districts, particularly in the Terai, which, with its open border in the south, was prone to political influences not to the liking of the Ranas. Apart from these reasons, it was the general policy of the big Birtawals to allot extensive tracts of uncultivated Birta lands for reclamation to their non-cultivating favorites and hangers-on rather than to the peasants who actually did the job of reclamation on individual basis after leasing in land from such non-cultivating registered landholders. The ever-increasing difference between the prevailing rent rates, payable by the tenants-at-will in kind, and the prevailing Birta revenue rates, payable by the registered landholders in cash, resulting from the rise in prices since the beginning of the Second World War, was the basis on which the edifice of the concentration of landholding in the Terai was being built. The Birtawals, with extensive tracts of uncultivated forest lands as Birta holdings, were carrying forward this trend with a zeal not known earlier in the history of the country.

#### **4.7 Economic Disparity**

The disparity in the distribution of income and wealth was the concomitant to the intermediary tenure system. The revenue appropriating intermediaries, particularly the Birtawals and Rajautas, cornered part of the landed income quite out of proportion to their number. The disparity was limited to income levels insofar as the Rajautas, Jagirdars, Santas, Mahantas and Pujaris were concerned. In the case of the Birtawals and Guthiyars, the disparity in income and wealth resulting from the revenue appropriating intermediary system was not limited to the concentration of income and wealth in the hands of the intermediaries. The policies followed by the intermediaries,

particularly the Birtawals, in allotting waste lands for reclamation in bigger plots to the non-cultivating landholders were leading to the concentration of land at the level of registered landholders also.

It was true that the phenomenon of concentration of income and wealth was not confined to the revenue appropriating intermediaries. But the concentration of income and wealth in the hands of the big Birtawals and some of the Rajautas was simply appalling. The bigger of the Birta holdings were reckoned not in hundreds of Bighas but in thousands, encompassing not only Mauja after Mauja but Parganna after Parganna. In one case in the district of Bardia, the Birta holding at the time when the grant was first made covered the whole of the District. Similarly, the bigger of the Rajyas were reckoned not in Gaun after Gaun but in Thum after Thum. It was necessary to reduce the extreme disparity in income and wealth at whatever level it existed. But, if the disparity could not be reduced at every level at one stroke, it was logical to reduce it first at the level where it was most appalling, that is, the landed wealth.

#### **4.8 Adverse Socio-political Effect**

The last but not the least important of the problems arising from the revenue appropriating intermediary system was related with the social and political aspects. The concept of equality- social, political and economic-was the product of the 1951 change. But the revenue appropriating intermediary system was an anathema to the very concept of equality. Its abolition was a logical culmination of the acceptance of the goal of equality.

The revenue appropriating intermediary system was an indicative of the social power structure where the higher caste supremacy was imposed on the lower castes. The system was the relic of those by-gone days when only the higher castes were privileged to have an approach to the ruling circle and be in a position to receive State favours. It was not without significance that only one of the 17 Rajautas belonged to the lower castes and that the overwhelming majority of the Birtawals entitled to compensations belonged to the higher castes. Of the few non-high caste Birtawals who were entitled to compensations after the Birta abolition, most of them had in fact been turned into Birtawals overnight by favour of their Rana patrons on the eve of the Birta abolition legislation in 1959. It may be mentioned parenthetically here that by subdividing their Birta-holdings and transferring part of them in favour of their family members, favourites and retainers, the big Birtawals were helping themselves and others out of nothing, thanks to the upper limit of Rs.12,000 that was fixed as the ceiling for compensations. The revenue appropriating intermediary system was one of

the mechanisms through which a substantial portion of the social product was being appropriated by a small number of intermediaries who were almost wholly drawn from the higher castes. The domination of the higher castes at the revenue appropriating intermediary level did often percolate down to the landholding level also for the recipients of uncultivated lands in lots for reclamation were mostly relatives and favourites of the revenue appropriating intermediaries.

The abolition of the revenue appropriating intermediary system was also a political demand which had to be accepted by the leadership of the emergent political system that arose on the ruins of the Rana system of polity. The revolution in 1950 was directed against the Rana oligarchy. But the Ranas were the most powerful of the Birtawals and Jagirdars also. They epitomised the revenue appropriating intermediary system, no less than they represented the political system prevailing in the country before 1951. The hold of the Ranas in the land system was the direct result of their hold over the State machinery. The change of 1951 removed the Ranas from the political power base, but they were left intact in their hold over the land system. The economic power derived from their hold over the land system provided them with the last opportunity to linger in the political scene and cast their shadows on political, administrative and cultural environs of the country. The lessons derived during the fifties were enough to convince even those who were not convinced earlier that it was impossible to advance the cause of the emergent political system without first removing the revenue appropriating intermediaries of which the Ranas formed the hard core.

Political equality on the basis of universal suffrage was one objective for which there was a unanimity in the country after the change of 1951. But the fact that the revenue appropriating intermediaries were the Talsings (revenue appropriators) and the people at large the Mohis (cultivators) was always reminding the latter that there could be no equality between them in the real sense of the term. Moreover, the difference between the registered landholders under the revenue appropriating intermediaries and those under the Government in regard to the social status was generating a feeling among the former that perhaps they were not only second class registered landholders but also second class citizens of the country. The abolition of the revenue appropriating intermediary tenures would have prepared the ground for political consciousness of the peasantry, of which the registered landholders under the intermediaries formed an important segment. It would have also alleviated the feeling of inferiority complex among the registered landholders in regard to the village power base.

The Birta tenure was also a potential source of tension between the different communities. In the Kathmandu Valley, the hostility of the registered landholders towards the Birtawals sometimes degenerated into hostility towards the city-dwellers. The Birta tenure was also a potential source of tension between the Paharias and the other people in the Terai, as the Birtawals almost invariably were the former and the registered landholders the latter. The abolition of the revenue appropriating intermediary system in general and the Birta tenure in particular would have eliminated such a potential source of tension once and for all.

##### **5. INTERMEDIARY TENURE ABOLITION**

Since the intermediary tenures were inextricably linked with political and administrative systems prevailing in the country during the Rana regime, the political change of 1951 was bound to call for their abolition, irrespective of the kind of political outlook that the people at the helm of affairs after 1951 held as a matter of principle. The policy decision on the abolition of the Birta tenure was made in 1951, by the Coalition Government with the Ranas as equal partners. It was the decision of the same Government that led to the abolition of the Jagir tenure. The Minister who introduced the Birta Abolition Bill in Parliament in 1959 was himself one of the big Birtawals. All this shows that the political change of 1951 had generated an atmosphere in which no one could openly defend the intermediary tenure system with sufficient moral courage. But this is not to suggest that it was easy to translate the consensus into actual practice. Procrastination was the device by which even those who were opposed to the abolition of intermediary tenures in the core of their hearts could flaunt themselves as the champions of abolition. The abolition of the Birta, Rajya and Guthi tenures was the most difficult task to attempt at

###### **5.1 Objectives of Intermediary Abolition**

The main objectives of the intermediary tenure abolition were fiscal and socio-political. Lessening the revenue burden of the registered landholders and ending the uncertainty regarding the security of tenure were the secondary objectives which were not followed in all cases.

The Notification regarding the abolition of the Jagir tenure stated that from the date specified in the Notification "assignment of land as salaries or allowances shall be abolished, and collection of land revenue thereon shall be made by the appropriate Revenue Offices. Jagirdars shall henceforth receive salaries in cash according to the prescribed pay-scale."<sup>21/</sup> The very nature of the Jagir tenure taken together with the

Notification necessarily leads us to conclude that the underlying objectives of the Jagir abolition were administrative, fiscal and welfare of the registered landholders

The objectives of the Birta abolition were mentioned in the Birta Abolition Act in the following words: "To put an end to the feudal system of holding land without paying land revenue to the State; to create feelings and conditions of equality among various classes of people and thereby bring about harmonious relations among them; and to achieve the objective of strengthening and promoting the economic welfare of the people."<sup>22/</sup>

The objectives of the Rajya abolition were: "To bring about reform in the system of judicial administration; and to promote harmony among peoples of various classes occupations and regions."

The Preambles to the Guthi Sansthan Act, 1964 stated: "Whereas Article 59 of the Constitution of Nepal has kept the Guthi revenue separate from the general revenue, now, therefore, as it became necessary to establish a Guthi Sansthan for the sake of managing the Rajguthis in an orderly manner."<sup>23/</sup>

## **5.2 Intermediary Abolition Provisions**

The Jagir Abolition Notification was issued in October 1951. It became effective from April 13, 1952. The implementation of the Notification resulted in the removal of the Jagirdars from the land, the payment of cash salaries or allowances to the Jagirdars in lieu of land assignments, the conferment of landownership right to the registered landholders, and the conversion of the Jagir tenure into the Raikar.

The Birta Abolition Act was passed by Parliament in October 1959. The Act received Royal assent in December 1959 and came into force in September 1960. The Royal takeover of December 1960 and the political uncertainty following it delayed its implementation till August 1961, when, in course of the Budget speech, the then Finance Minister announced the intention of His Majesty's Government to implement it. Before its implementation, the Act was amended in 1962. The amendments mainly related to the rates of land revenue payable by the Birtawals classified as B-Class for the purpose of discriminatory treatment. The Birta lands on which the Birtawals were raising only the prescribed revenues or incomes based on such revenues were defined as A-Class. In operational terms, all the Birta lands in the Kathmandu Valley and the owner-operated Birta lands and home-farms of the Birtawals in the rest of the country fell under B-Class category. The rest fell under A-Class. The existing registered landholders in

respect of A-Class Birta lands were registered as landowners, while the Birtawals were registered as landowners in respect of B-Class Birta lands. The existing registered landholders of B-Class Birta lands were recognised and registered as tenants. The actual cultivators below the registered landholders, if there were any, were recognised as "protected peasants" in terms of the Lands Act, 1957, which existed, though only in name, in the status book. Subsequently, these "protected peasants" were recognised and registered as tenants in terms of the Lands Act, 1964, while the registered tenants of the converted B-Class Birta lands, if not cultivators themselves, were removed from the land in accordance with the provisions of the same Act. The registered landholders of the A-Class Birta lands, who were converted into landowners, were required to pay the land revenue to the Government at rates prevailing for the adjoining Raikar lands. The B-Class Birtawals were recognised and registered as landowners in respect of the B-Class Birta lands, and they were required to pay the land revenues to the State at rates separately prescribed for the Kathmandu Valley and at rates prevailing for the adjoining Raikar lands in respect of the areas outside the Valley. Later, the B-Class Birta lands converted into the Raikar were assessed at rates prevailing for the adjoining Raikar lands in respect of the Kathmandu Valley also. The B-Class Birtawals were not paid anything in the form of compensations, for they had not lost anything except that they were made to pay the land revenue to the State which they were otherwise not paying or paying only at concessional rates. The A-Class Birtawals, however, were paid compensations varying between one-fourth of a year's revenue to 10 times the revenue of a year, but the ceiling was fixed at Rs. 12,000 beyond which no compensation could be paid to a Birtawal irrespective of the extent of area involved in the abolition. For collecting the land revenues by the Government on the converted Birta lands, separate Revenue Offices were established in three districts in the Kathmandu Valley, while the existing Revenue Offices and revenue collectors were employed to perform the task of revenue collection from the converted Birta lands in the rest of the country. Later, when the land revenue administration was reorganized and strengthened, similar treatments were meted out to the similarly placed Raikar lands, whether they were Raikar lands from the very beginning or were converted into the Raikar tenure from the Birta and other intermediary tenures.

In terms of the provisions of the Rajya Courts Act, 1960 and the Rajya Act 1961, the administrative, judicial and revenue rights and responsibilities of the Rajautas were abolished; the Rajautas were provided with compensations in the shape of privy purses for the life-time of the Rajautas in the case of 13 and for generation-to-generation in respect of the Rajautas numbering four. The existing registered landholders were recognised as landowners, and the revenue administration in the

erstwhile Rajya areas was to be carried out through the Revenue Offices of the concerned districts.

Dartaguthi lands were placed in the category of B-Class Birta lands for the purpose of the Birta Abolition Act, but they were exempted from the payment of land revenue to the Government. Guthiyars were recognised and registered as landowners whose responsibilities were to perform such duties as were traditionally assigned to them. The registered landholders were converted into the registered tenants in terms of the Birta Abolition Act, 1959. They were later registered as tenants in terms of the Lands Act, 1964, in case they were the actual tillers.

Rajguthi and Mathguthi lands were placed in the category of B-Class Birta lands for the purpose of the Birta Abolition Act. However, they were exempted from the payment of revenue to the Government. Later, the ownership of the Guthi lands was vested in the Guthi Sansthan created in 1964 under the Guthi Sansthan Act, 1964. The existing Guthi Offices were taken over by the Guthi Sansthan. The Santas, Mahantas and Pujaris were deemed to be the assignees of the Sansthan. Actually speaking, however, nothing really changed. His Majesty's Government was substituted by the Sansthan whose accounts were kept separate from the Consolidated Accounts, in terms of the Article 59 of the Constitution of Nepal. The quantity of revenue payable by the registered landholders and the form in which such payments were to be made remained the same. The registered landholders continued to enjoy the existing rights unabatedly in practice, though the provision of the Guthi Sansthan Act denied any such right to the registered landholders. In fact, they were denied even the tenancy right when the Lands Act 1964, enacted and implemented, among others, to protect the rights of the tenants, exempted the registered landholders or, for that matter, even the cultivators other than registered landholders, if any, from acquiring tenancy right on the Guthi lands. In 1967, an amendment to the Guthi Sansthan Act was published in the Gazette whereby the registered landholders could buy ownership rights by paying purchase price to the Sansthan and the actual cultivators could be registered as tenants under the provisions of the Lands Act, 1964. Even after nine years elapsed, nothing practically came out of the Gazette publication. In 1976, another Guthi Sansthan Act came into force by amending and consolidating the Act of 1964. The 1976 Act, which was amended again in 1977, contains provisions similar to the 1967 amendment insofar as the land relations are concerned. The Act is in the process of implementation.

### **5.3 Process of Intermediary Abolition**

The intermediary tenures came to be divided into two groups in the process of abolition. The Jagir, Birta and Rajya tenures were abolished during the decade ending 1961. The Guthi tenure remains at the position where it had been in 1951. The question as to why the Jagir, Birta and Rajya tenures were abolished while the Guthi tenure is yet to be abolished can be answered only in the light of the objectives of the intermediary tenure abolition.

The objectives of the intermediary tenure abolition were administrative in respect of the Jagir and Rajya tenures, political in respect of the Birta and Rajya tenures and public welfare in respect of the Jagir, Birta and Rajya tenures. The fiscal and public welfares were the objectives common to all the intermediary tenure abolition legislations. But where the fiscal objectives were in contradiction with the welfare objectives, the former were to rule. This is proved by the fact that the Guthi tenure was not abolished in spite of the fact that thousands of rackrented peasants would have benefitted from its abolition. The reformers were shy of the Guthi tenure abolition, perhaps because, in that event, the Government had to shoulder the responsibility of providing the difference between the revenue available to the Guthi Sansthan on the existing basis and the revenue that would have been available to them on the conversion of the Guthi lands into the Raikar tenure.

Since the Guthi tenure is strongly attached with the religion and tradition to which there is still a strong sentimental attachment of the people, it was not difficult to sidetrack the issue by pointing out this aspect of the problem of the Guthi tenure. The First Land Reform Commission went to the extent of asserting that the abolition of the Guthi system would be "anti-social and anti-religious".<sup>24/</sup> What was not realised was that the abolition of the Guthi tenure did not mean the discontinuation of the Guthi system or religious and philanthropic services. The purpose of the Guthi endowments would have been equally served by substitution of the land grants by the monetary grants. The perspective was blurred because of the fact that the main criterion employed in the abolition of each and every intermediary tenure was the question whether or not any intermediary abolition increased the revenue to the Government. The abolition of the Guthi tenure and its conversion into the Raikar tenure would have reduced the revenue from the Guthi lands. The shortfall had ultimately to be met by the Government in the form of the monetary grants.

Under the intermediary system the revenue appropriating intermediaries had rights which could be classified into three categories: revenue, extra-levies and

administrative and judicial matters. In the process of intermediary tenure abolition all the rights of the intermediaries were abolished at one stroke in one case and one after another in the other cases. The Jagir tenure was abolished at one stroke of pen and without much deliberation. The question of the abolition by stages did not arise in that case, nor was there anything to decide after much deliberation. The Birta and Rajya tenures, however, were abolished in stages and with much hesitation. The final abolition of the Birta tenure was preceded by the abolition of the extra-levies and the imposition of land tax on Birta holdings in 1959. Similarly, the final abolition of the Rajya tenure was preceded by the abolition of the extra-levies in 1957 and the abolition of the Rajya Courts in 1960. Thus, the abolition of the revenue rights of the Rajautas was preceded by the abolition of their administrative and judicial and extra-levy rights. The abolition of extra-levies which was effected in 1959 did apply to the Rajautas as they did to the Birtawals and other intermediaries. This is not to suggest, however, that the abolition of the Birta and Rajya tenures in stages was the considered policy of the Government, arrived at after much deliberations. Rather, it reflected the unwillingness or inability of the authorities in the fifties in taking immediate steps at the abolition of the revenue rights of the intermediaries which constituted the core of the rights without which the other rights could hardly exist.

Whether the intermediary tenures were to be abolished completely or smaller of the intermediaries were to be exempted from the scope of the intermediary tenure abolition was also an important question that had to be decided upon by the reformers. Owing to the very nature of the Rajya and Jagir tenures and the clearly non-proprietary nature of the rights of the Rajautas and Jagirdars, there was no question of the ceiling method being adopted in the process of the abolition of the Jagir and Rajya tenures. The question could arise in regard to the Birta and Guthi tenures. The Birta Abolition Act, 1959 did not formally provide for the discriminatory treatment for different size-groups of the Birta holdings. But if the purpose of the ceiling method in the Birta abolition were to discriminate between the bigger and smaller Birtawals, the purpose was very well served by the classification of the Birta lands into A-Class and B-Class. Since the B-Class Birta holdings were generally small, and since the land ownership was conferred on the B-Class Birtawals in contrast with the A-Class Birta holdings, which were generally big, the ceiling method came to be applied in a more round-about way in the process of the Birta abolition.

Regarding the kind of intermediary abolition, there were two possibilities open to the reformers. One was to remove the intermediaries from the land-lock, stock and barrel. The other was to abolish the extra-levy and administrative rights of the intermediaries and subject them to the payment of land revenue to the Government

leaving aside the question of landownership. The first alternative would have resulted in the diffusion of landownership, leading to a healthy development in the agrarian structure of the country. The second alternative, on the other hand, would have accentuated the tenancy problem. Owing to the very nature of the Jagir and Rajya tenures, there was no need to think over the possibilities of conferment of the ownership rights to the Jagirdars and Rajautas. However, the possibility was open in regard to the Birta tenure, under which the rights of the registered landholders which, in attributes, were as good as ownership, coexisted with the rights of the Birtawals with similar attributes of ownership.

The imposition of the land revenue on the Birta holdings and the conferment of the ownership rights to the Birtawals were the concepts of the Birta abolition which was advocated by one section of the public opinion. The removal of the Birtawals from the land and conferment of the ownership right to the registered landholders were the concepts of the Birta abolition as advocated by another section of the public opinion, some with certain reservations regarding the smaller-sized Birta holdings but others without such reservations. The second approach was more acceptable to the public opinion. The concept of the Birta abolition limited in scope to the imposition of the land revenue on the Birta holdings would have entailed an additional burden on the registered landholders in the Terai and a section of them in the Pahar where the revenue rates payable to the Birtawals were not only expressed in cash but also comparable with the land revenue rates prevailing on the adjoining Raikar lands. With the abolition of the extra-levies in 1959, the revenue rates on the Birta lands and the land revenue rates on the adjoining Raikar lands had been the same. Under such circumstances, the imposition of the land revenue on the Birta holdings would have entailed the enhancement of the revenue rates payable by the registered landholders to the Birtawals at least to the extent of the land revenue payable to the Government. The concept of the Birta abolition embodied in the Birta Abolition Act, 1959 was a mixture of the two contradictory trends in the public opinion. In the case of the A-Class Birta lands, the Birtawals were completely removed from the land, but when the question of the B-Class Birta lands was concerned the Birtawals were to stay there as the absentee landowners subjected only to the payment of the land revenue to the Government.

Another conceptual problem that could still arise was whether it was to confer ownership right to the registered landholders or to the tenants-at-will, if there were any. This question demanded a political decision on the removal or otherwise of the absentee landholders. During the whole decade of the intermediary tenure abolition efforts, the pre-occupation of the reformers was with the attainment of the objective of

establishing the right kind of relationship between the State and the registered landholders. The political realities of the fifties precluded even the possibility of vigorous consideration for the removal of the non-cultivating registered landholders from the land. It was the reality of the situation in the Kathmandu Valley, where the capital of the country is located, that even the claims of the registered landholders were circumvented, not to speak of the claims of the actual tillers.

Though the ownership right was denied to the tenants-at-will during the process of intermediary abolition, their claims regarding the security of tenure and limitation of rent could not be ignored by the reformers. The Jagir tenure had been abolished so soon after the political change that there was no organised opinion in the country which could articulate the rights of the cultivators in contradistinction to that of the registered landholders. In the case of the Rajya tenure, the tenants below the registered landholders were supposed to have protected themselves and acquired the 'protected peasant' status in terms of the Lands Act, 1957 and, therefore, the Rajya abolition had nothing to add in this regard. The Birta Abolition Act, 1959 recognised the tenancy right of the cultivator below the registered landholder in the case of the B-Class Birta lands and the 'protected peasant' provisions of the Lands Act, 1957 were made to apply in this regard. The tillers of the B-Class Birta lands, in case they were not registered landholders, were not conferred any right whatsoever. Since the erstwhile registered landholders of the B-Class Birta lands were made merely registered tenants, the reformers possibly did not like to legitimise any hierarchy below the converted landowners other than the converted registered tenants. But the 'protected peasant' status conferred on the tenants-at-will of the A-Class Birta lands or Rajya lands or, for that matter, on tenants-at-will under any tenure, was more a formality than conferment of any effective right. The factors which denied ownership right to the tenants-at-will during the process of the intermediary abolition also prevented them from acquiring the right of 'protected peasants' conferred on them half-heartedly, without any provision for implementation.

Once it was decided to convert some registered landholders into landowners and others into registered tenants during the process of the intermediary tenure abolition, another question that called for decision was whether or not should a ceiling be placed on the acquisition of landownership right (A-Class Birta land) or registered tenancy right (B-Class Birta land) by the erstwhile registered landholders. No thought was given to this question when the intermediary tenures were abolished. The registered landholders were allowed to hold whatever extent of the lands they were holding. It was not practical to impose ceiling on landholding on the intermediary tenures alone. Except under the Birta and Rajya tenures in some districts, lands under

the intermediary tenures were widely scattered amidst the Raikar lands and also sections of the landholders were in possession of lands under more than one tenure. In such a situation, it was not proper to impose ceiling on landholding under the intermediary tenures alone. But the more important reason for not imposing ceiling on landholding during the intermediary tenure abolition was that the political climate in the country was not yet ripe for the reform on landholding distribution. It was one thing to remove the Jagirdars, Rajautas and A-Class Birtawals from the land and it was quite another matter to antagonise the numerous rich landholders whose political star was rather on the ascendancy. When the reformers were afraid of alienating the B-Class Birtawals, who constituted but a small section of the absentee landowners, it was pretty impossible for them to alienate the big landholders who were rather widely spread out in the country. The practical difficulties such as the absence of land records and capable administrative machinery for implementation of the ceiling reforms put a final seal on the impracticability of dovetailing land redistribution reform with the intermediary tenure abolition.

There was one more question to be decided upon by the reformers. It related to the revenue rates payable to the Government by the converted landowners. The precise problem that called for solution was whether to provide relief to the rack-rented registered landholders or to ask them to pay the land revenues to the Government at the level they were paying to the revenue appropriating intermediaries before the intermediary tenure abolition. A corollary to this was whether the converted landowners were to get the facility of converting the in-kind revenue into cash at the time of payment at the official commutation rates. When the Jagir tenure was abolished, the converted landowners were asked to pay the land revenues to the Government at rates prevailing for the adjoining Raikar lands and the in-kind revenues were commuted into cash at the Raikar rates. In the case of the Rajya tenure, its abolition had nothing to do with regard to the land revenue payment. Regarding the Birta tenure, two separate criteria were applied. The converted landowners of the A-Class Birta lands were made to pay the land revenue to the State at rates prevailing for the adjoining Raikar lands. The land revenue on the converted B-Class Birta land, however, was payable in accordance with the schedule of rates devised separately for this category of land. The erstwhile registered landholders of the B-Class Birta lands, who were converted into the registered tenants, were required to pay rent in-kind at separately specified rates for separate categories of land, in the Kathmandu Valley. These rent rates, though lower than the prevailing ones at that time in that region, were several times higher than the land revenue rates payable by the landowners to the Government.

Regarding the question of compensation to the intermediaries, only the A-Class Birtawals and Rajautas were provided with compensation. By the very nature of the Jagir tenure, the Jagirdars could not be claimants of the compensation. The State could pay its functionaries in any way it liked even in the hey-day of the Jagir tenure. Historically speaking, the emergence of the Rajya tenure and substantial part of the Birta tenure was essentially based on the act of grace. The Rajautas and most of the Birtawals, therefore, had neither moral nor legal ground to claim compensation for the termination of their rights which were based on grace. But a further grace was bestowed on them. The Rajautas were provided with annual privy purse payments. The A-Class Birtawals were provided with compensation not exceeding Rs.12,000 for an individual Birta holder, payable up to Rs. 3,000 in cash and the amount in excess of it in the Land Compensation Bonds. There was no need to pay any compensation to the B-Class Birtawals. Since they did not lose any landownership right, they were not entitled to any compensation either.

#### **5.4 Financial Implication**

The financial liability accruing to the Government by way of the intermediary abolition could be classified into two parts, namely, administrative expenses and compensation payments. Administrative expenses involved in the intermediary abolition were mostly of recurring nature, inherent in any scheme under which the land revenue was appropriated by the State itself. The expenses involved in the opening of additional Revenue Offices, appointment of additional officials and many other things like that might be counted as expenses pertaining to the revenue collection rather than to those pertaining to the intermediary abolition. The actual cost of the intermediary abolition therefore could be reckoned in terms of the financial liabilities to the Government in the form of compensation payments

A corollary to the compensation payments to the intermediaries was the raising of resources to pay for the compensation. The precise question was: should such payments be shifted to the beneficiaries of the intermediary abolition or be met out of the general revenue? The cost of the abolition and the benefits accruing to the registered landholders were the two criteria by which this question could be judged. The abolition of the Jagir tenure in general and the Khangi Jagir tenure in particular immensely benefitted the landholders. Yet, no extra levies were imposed on the registered landholders, because no cost was involved in the abolition of the Jagir tenure. Compensation payments to the A-class Birtawals and privy purse payments to the Rajautas were the costs of the Birta and Rajya abolitions, but these costs were not

shifted to the registered landholders as the latter benefitted little from the abolition in financial terms.

### **5.5 Evaluation of Intermediary Abolition Reform**

The evaluation of the intermediary abolition reforms might be done by dividing the phenomena into the economic and social effects. Economic effects of the intermediary abolition include the increase in the government revenue, the removal of the insecurity of tenure and the reduction in the incidence of revenue. Social effects include the convenience in administration, the reduction in disparity in landed income and wealth and the promotion of the participation of people in the affairs of the nation.

The land revenue receipt increased from Rs.9.4 million in 1951-52 to Rs.28.2 million in 1961-62.<sup>25/</sup> Apart from the abolition of the intermediary tenures, the other factors which accounted for this increase were the imposition of a surcharge on land revenue above a certain level since 1959/60 (discontinued after some years), the abolition of part of the Rakam tenure and the consequent commutation of labour service into cash payments in 1961, and the enhancement of the land revenue rates by 10 per cent in the Pahar and 25 percent in the Terai in 1961/62. But the contribution of the surcharge for the years 1959/60 and 1960/61 was only to the tune of Rs.50 thousand and much of the Rakam lands were not yet registered for revenue payment, so that the only effective impediment in isolating the fiscal contribution of the intermediary abolition remained the enhancement of the land revenue rates. But this disturbing factor was more or less equally matched by the non-registration of part of the Birta lands for the purpose of revenue payment following uncertainties in the implementation of the Birta Abolition Act. Therefore, some three-fold increase in the land revenue receipts might roughly be attributed to the intermediary abolition reform. The contribution of the intermediary tenure abolition in the increased receipt of the land revenue was not confined to an increase of revenue on the basis of old revenue rates. The subsequent increases in the land revenue rates yielded additional revenues also from lands which were previously under intermediary tenures.

The intermediary abolition reform did not involve any significant claims against the Government by way of compensation payments. Firstly, the Jagir abolition gave a profit of Rs.1.78 for every Muri of paddy revenue assigned to the Jagirdars of Khangi variety. No compensation was involved in the Jagir abolition. Secondly, the additional government expenditures involved in the shape of the privy purse payments to the Rajautas were insignificant in comparison to the land revenues accruing to the Government from the converted Rajya lands. Thirdly, the bulk of the increases in the

land revenues stemming from the intermediary abolition was accounted for by the Birta abolition. The compensations paid to such Birtawals as were entitled to compensations both in cash and bonds (that is, those who were entitled to more than Rs 3,000) amounted to about one million rupees in cash and about one and a half million rupees in bonds. Interest payments at the rate of three per cent per annum for ten years should be added in respect of the compensations payable in bonds. The other items that have to be added in this list are the payments made to those Birtawals whose compensation claims were less than Rs 3,000 and therefore were paid entirely in cash. The amounts accounted for by this did not amount much, as overwhelming majority of the Birtawals entitled to compensation were big ones whose claims for compensation exceeded Rs 3,000. When we take all these facts into account, it becomes clear that the compensations payable to the Birtawals might not have exceeded more than three million rupees. The total cost of compensations payable to the Birtawals thus came far less than one year's land revenue accruing to the Government from the converted Birta lands even on the basis of the Birta rates prevailing before the abolition.

With the A-Class Birta abolition, the possibility of resumption of land for personal use by the Birtawals came to an end. This was no less an advancement when we remember that, with the partition of the Birta holdings among the coparceners, the number of persons entitled to resume land for personal use was rather on the increase. The abolition of the Jagir and Rajya tenures, however, did not materially alter the situation in this regard. But even in these cases, it was safer for the registered landholders to be under the Government than under the intermediaries. The denial of even the tenancy right to the registered landholders of the Guthi land, however opened the possibility of their ejection. But there is no reason why the Guthi Sansthan should resort to ejection of landholders simply because of anomaly in the legislation.

The incidence of revenue could have been reduced by one of the two means. One, reduction in the rates of revenue payment, where it was excessive and, two, abolition of the extra-levies. The reduction in the incidence of revenue in the first way was confined to the Khangi Jagir abolition. The registered landholders under the Khuwa Jagir A-Class Birta and Rajya tenures were required to pay the same amount of revenues as they were paying before the abolition. As incidence of revenue under this group of tenures was not high, the non-reduction of revenue was not a matter of importance. The registered landholders of the B-Class Birta and Guthi lands were the most rack-rented of all the registered landholders under the intermediaries. They were, however, left high and dry even in the matter of rent. Due to their silent no-rent campaign, the former B-Class Birta tenants in the Kathmandu Valley got some concessions in the form of fixity of rent in 1962. But the former B-Class Birta tenants in

the country, excluding the Kathmandu valley, and the Guthi tenants could not secure even this limited concession.

The reduction in the incidence of revenue by way of the abolition of the extra-levies was available to all the landholders under the intermediaries. It was a gain of substantial importance. The extra-levies collected by the intermediaries might have meant not much in terms of money or resources collected by the intermediaries and their abolition would have meant not much benefit to the landholders in economic terms. But the abolition of the extra-levies signified the end of the old social relations and the beginning of a new era.

The removal of the Jagirdars, Rajas and Birtawals facilitated the administrative reforms in the country, including the reform on the administration of justice. Due to the abolition of the administrative and judicial rights of the intermediaries, uniformity in law and justice was secured. This had remained no less an important objective since 1951.

The Rajautas and Birtawals were social parasites, as they contributed little to the social good but cornered a disproportionate share of the social product. Annually, more than ten million repees were being appropriated by a class which contributed nothing and whose number was small. The number of the A-Class Birtawals, Jagirdars and Rajautas together might not have exceeded one thousand. Their removal not only reduced the disparity in the distribution of landed income but also contributed to the promotion of the idea that only those who performed socially useful work should be entitled to share in the distribution of the social product. The inclusion of the B-class Birtawals in the list of the intermediaries that were removed from the land might have further promoted this ideal.

The domination of the higher caste combine in the national life was demonstrated no better than by the intermediary system. The abolition of the privileges based on status rather than on functional basis meant that there was no bar to other castes in competing with the higher castes. The State patronage to the higher castes came to an end after the intermediary abolition. A large segment of the population was favorably affected by the intermediary abolition. Even those who did not benefit much on the material side immensely benefitted on the social or political side. Hundreds of thousands of the people were liberated from the medieval control of the intermediaries. In the long-run perspective, it was not a mean achievement of the intermediary abolition.

The immediate effect of the Birta abolition on the political side was the removal of the greatest source of friction between the Terai and the Pahar. Though the removal

of the A-Class Birtawals in the Terai did not provide much material benefits to the registered landholders, the end of the extra-levies and the end of the high-handedness of the Birtawals and, particularly their agents, produced a salutary effect on their attitude towards the Government and the administration. The Birta abolition therefore contributed more than anything else in establishing a rapport between the ordinary landholders and the Government in the Terai and thus a dialogue which was throttled from the time of the advent of the Rana regime was resumed once again. The removal of the Rajautas completed the process of the national unification that had started two hundred years back. The landholders as well as other peoples of the Rajyas were spared of the double yoke. The removal of the Jagirdars ended the personal subordination of the registered landholders to the Jagirdars.

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