

Fact Finding on Surplus Land

Legal and Institutional Mechanisms concerning Revenue Land in Lakhimpur Kheri



For



Report Prepared by



Independent Thought

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Contents

1. Background.....	3
1.1. AIM.....	3
1.2. Lakhimpur Kheri	4
1.3. Issue and Assignment.....	5
1.4. Independent Thought [iThought – www.ithought.in]	6
2. Methodology.....	7
2.1. Participatory Approach	7
2.2. Process Undertaken	7
2.3. Literature Review	8
2.4. Tools.....	8
2.5. Stakeholders	8
2.6. Village Selection Rationale.....	9
3. Revenue Land: Local Laws and Legal Concepts	10
3.1. Type of Revenue Lands.....	10
3.2. Land Records.....	11
3.3. Record of Right (Institutional Setup).....	12
3.4. Gram Sabha – Entrustment of Land & Redistribution Policy.....	15
3.5. Gram Panchayat & Land Management Committee	16
3.6. Ejectment of Tenure Holder.....	17
3.7. Procedure for Ejectment.....	19
3.7.1. Special Procedure for Gaon Sabha Land	19
3.7.2. Special Procedure for Land held by Member of Schedule Tribe.....	19
3.7.3. Remedies against wrongful Ejectment.....	20
4. Findings	21
4.1. Observation – Administrative Functioning and Officials	21
4.2. SEE VIDEO	21
4.3. Observation – Land and Concerned Issues	22
4.4. Observation Village Wise – Village Babapurva (Kardhaimanpur), Gom Panchayat	23

4.5. Observation Village Wise – Village Mohammadpur, Babuna Panchayat	23
5. Surplus Land – Law & Policies	25
5.1. Definition and Determination.....	25
5.2. Administrative Mechanism	25
5.3. Procedure for Settlement of Surplus Land	26
5.4. Order of preference in admitting person to land	26
5.5. Situation on Ground & Problems	27
6. Discussions on Findings	28
6.1. Problems at Community / Village Level.....	28
6.2. Concerning Land Records & Officials.....	28
6.3. Procedures concerning Revenue Land	30
6.4. Panchayat vis-à-vis Revenue Land	30
7. Recommendations & Way Forward	32
Annexure I – Guidelines for Data Collection	34
Annexure II – Team Composition	36
Annexure III – Reference Materials	37
Annexure IV – Stakeholders List.....	38
Annexure V – Glossary.....	39
Annexure VI – District Revenue Map	40
Annexure VII – Focus Map of Gom Panchayat.....	41
Annexure VIII – Sample of Khatauni	42
Annexure IX – Map of Revenue Village Kardhaimanpur	43

1. Background

1.1. AIM

Aim is a non-profit, non-sectarian, and voluntary organization registered under the Indian Trust Act 1882 and Foreign Contribution Regulation Act (FCRA), 1976. It was about a decade back that few dedicated people working towards development came together and formed an organization Aim in year of 1999, which strive towards empowering people towards securing their rights given by constitution of India, international covenants, Parliament of India and by assemblies of state.

As time passed more and more committed people came together on this common platform to overcome poverty and suffering by making policies favourable and effective at local, state, national as well as international level.

Aim is an association of people working towards the fulfilment, protection and respect of rights of men, women and children and to ensure that it reaches the marginalized sections of society including dalits, minority, and women. Aim believes that poverty can be addressed through integrated and participatory development approaches. The programmes adopted are for addressing the denial of basic rights through community based approach on right to food , right to education , right to health and women's right.

GOAL: To form an environmentally sustainable and just society where everyone can avail their economic, social and cultural rights in dignity

VISION: Aim envisions the attainment of self-determining weaker sections whose development is founded on equity, ecological, sustainability, gender fairness, and respect for children's right, respect for people's right and culture and the socio-economic and cultural empowerment of marginalized sectors.

OUR APPROACH:

- To participate actively, directly or indirectly in the process of democratization, development in partnership with marginalized communities, civil society organisations and other stake holder organizations.
- To work for the broadest possible unity, support and participation of various sectors, like rural, urban and international.
- To implement programmes and services that will enable the weaker section and organizations to attain self-reliance and greater participation in the process of development.
- To work actively to bring women, other excluded communities and disabled in mainstream in all respects of life.

- To ensure participation of all poor and marginalized sections and to bring their voices on a common platform for advocacy at local, national and international level.
- To promote information dissemination at village district and state level.
- To follow right based approach in our all programmes.

FOCUS TARGET GROUP

- Women, infants and children.
- Excluded sections of society
- Workers of Unorganized Sector.
- Displaced and Migrants.
- Victims of natural/manmade disasters, in context of climate change.
- Physically challenged
- Communities thrown on the margin.
- Slum Dwellers

FOCUS ISSUES

Programmes are focused on availability and access of these basic five rights in the state of Uttar Pradesh

- Right to food and livelihood
- Right to Health
- Right to Education
- Women's Right
- Child Rights

1.2. Lakhimpur Kheri

Lakhimpur Kheri (Hindi: लखीमपुर खीरी ज़िला, Urdu: ضلع لکھنپور کھیری) is a district of Uttar Pradesh in the Lucknow division. It is located in India along the border with Nepal. The headquarters of the Lakhimpur Kheri District are situated in the city of Lakhimpur.

Lakhimpur Kheri district is a part of Lucknow division and is the largest district in terms of area in the state (Total Area = 7680 sqr km). According to Government of India, the district Lakhimpur Kheri is one of the Minority Concentrated District in India on the basis of the 2001 census data on population, socio-economic indicators and basic amenities indicators.



Lakhimpur Kheri is famous for Dudhwa National Park, the only national park in Uttar Pradesh. It is home to a large number of rare and endangered species including tiger, leopard, swamp

deer, hispid hare, Bengal florican, etc. Being a Terai district it is rich in natural resources with lush green scenery and many rivers.

(Source: http://en.wikipedia.org/wiki/Lakhimpur_Kheri_District)

1.3. Issue and Assignment

Throughout history, land has been recognized as primary source of wealth, social status, and power. It is the most significant provider of employment opportunities in rural areas and is an increasingly scarce resource in urban places. Access to water and other natural resources, as well as to basic services such as education and health, is often conditioned by access to land.

During the year 2010 women of the project area have moved forward and made demand for access over natural resources. For instance women from Khutehna, Kustaul and Chakrampur, villages united for getting lease/ patta of pond which is constructed under MNREGA. They created pressure over Panchayat secretary and gram pradhan for that. They even approached revenue officer but in vain. Due to pressure building, district administration announced a date for open meeting of Gram Sabha. In the meeting Community people put up this issue for discussion. As a result Gram Sabha decided to announce allotment of land to the women.

For replicating this experience Project will take a campaign named *Mahila Jameen Haqdari* for addressing the women land rights issues. In organizing this campaign, feudal landlords will give strong challenge.

Recent Government Action: During the recent past Government Order (GO) issued in Uttar Pradesh for assessing homeland of Dalit community but functionality of ground level officials does not allow the changes to appear in the community.

Rozi Roti Sangathan with its past experience on the issue of land entitlement and the Government Order, *thought limited to homestead lands*, initiated the work of mapping the surplus land in the villages. In the continuum a need was felt to understand the legal and institutional mechanisms concerning revenue lands in Lakhimpur Kheri. Data collection on surplus land in two Gram Panchayats in the District of Lakhimpur Kheri and understanding on legal and institutional mechanisms was initiated with the technical support from Independent Thought.

Data collection was expected to provide impetus to the ongoing community Campaign for access of women / dalit on land, especially surplus land. The process is later expected to fulfill the following objectives;

- To Increase access of Dalit especially women over *Natural Resources esp.* ponds and Gram Sabha lands

- Pressure building for effective implementation of Patta distribution and allotment in name of women
- To organize and strengthen of Savitri Bai Phule Mahila Samiti for accessing Rights

1.4. Independent Thought [iThought – www.ithought.in]

Independent Thought – iThought is a National Human Rights organisation providing technical and handholding support to various Funding, Policy, Research and Grassroots organizations in the area of *Law & Development; Law & Environment, Social & Legal Research; Imparting Training & Development of Modules; Strategic Planning, Monitoring & Evaluations*. As a support group we handhold organisations for conducting action studies, data analysis, staff capacity strengthening, thematic advocacy and policy interventions.

Under the present assignment iThought provided support to AIM under the project supported by Action Aid, India, for undertaking Fact finding and Data Collection on Surplus Land in Lakhimpur Khiri, Uttar Pradesh. The team undertook legal research, visits to villages and government offices in person to understand the Legal and Institutional Mechanisms concerning Revenue Land in Lakhimpur Kheri. A team of two comprising of Vikram Srivastava¹ and Saikat Ghosh² undertook the legal research and field visit. While Vikas Sinha³ supported in the legal research.

¹Vikram Srivastava is an Advocate and Founder, Independent Thought (iThought – www.ithought.in) and works on issues of Law & Development, Law & Environment and Issues concerning marginalized communities.

²Saikat Ghosh is studying Law at University of Delhi and is undergoing his Internship with Independent Thought.

³Vikas Sinha is an Advocate and Partner, Advolex Law Firm with long standing in Noida District Court and Supreme Court of India.

2. Methodology

2.1. Participatory Approach

The whole process was structured to be open and inclusive so to best utilize their skills and local knowledge of the local team on the issue, people, places and governance system. The process was evolved in such a manner so that people such as Administrative officials, lawyers and community with understanding on Land Revenue Legislations or experience with the issues concerning Land Revenue are able to participate.



Various activities were undertaken along with the AIM team members and one member always accompanied during the whole exercise, providing excellent support. Focused group discussions were held with the Villagers of Babapurva Locality (Kardhaimanpur) and Mohammadpur Village (Babuna Panchayat) which provided insight into the issues of land and its institutional problems at the ground zero level. One to one unstructured interviews were also held at the Tehsil office with the relevant and available officials. All the above together along with the legal study conducted by team earlier helped in understanding the Legal and Institutional Mechanism at the District level. The experiences of the community leaders and volunteers of the *Rozi Roti Sangathan* and their rapport with the community was of great utility in understanding the ground reality of every village.

2.2. Process Undertaken

- Pre Visit Legal Review: there was a pre visit legal review concerning the issues. A broader understanding was developed and based on that certain frameworks for data collection was developed. The framework was shared with the local team to act upon.
- Guidelines for Basic Data Collection: The framework / Guidelines for data collection were shared with the local team, also provided in *Annexure I*. The local team was expected to gather certain information as a background to the field visit of the joint team (AIM-iThought) and facilitate the process in a



time bound manner. There were certain documents which could be gathered by the local team; rest was gathered during the visit itself.

- Field Visit: As stated above a field visit was undertaken by AIM-iThought team to the targeted villages and concerned Tehsil office. The team composition is provided in *Annexure II*.
- Legal Review: A parallel review of local laws was undertaken before, during and after the visit.
- Consolidated Report: based on the legal reviews and findings from the field a consolidated report was prepared by iThought.

2.3. Literature Review

The team undertook review of Local Revenue Laws as applicable to Uttar Pradesh. Some review was also undertaken of the various documents which were collected from various sources in villages, officials and local team. List of the reference material is provided at *Annexure III*.

2.4. Tools

A variety of tools is proposed to be used to understand the overall situation.

- Desk study of the relevant Local Laws and documents.
- Focused group discussions with community, officials and local team
- Unstructured interviews with multiple stakeholders including user groups, officials, lawyers and community leaders
- Selective meetings with relevant Government officials.
- Review of the secondary information and documents

2.5. Stakeholders

The issues concerning land is complicated, emotive and involves many stakeholders;

- Villagers who are landless and deprived of the benefits of natural resources in Babapurva, Gom Panchayat & Mohmmadpur, Babuna Panchayat
- Other Villagers in Babapurva, Gom Panchayat & Mohmmadpur, Babuna Panchayat
- Volunteers, Community Leaders and officials of Rozi Roti Sangathan
- Officials concerned with Revenue Land such as Lekhpal, Kanoongo, Registrar Kanoongo, other Officials at Tehsil Office
- Staff of AIM

2.6. Village Selection Rationale

Keeping in mind the immediate objective of the study of data collection and also the long term agenda of community campaign, two Villages were selected in two separate Panchayats and separate Blocks of District Lakhimpur Kheri. The logic behind the selection of two Villages Babapurva, Gom Panchayat, Phulvihar Block & Mohmmadpur, Babuna Panchayat, Mitauli Block for our study were

- a) **Completing the Loop:** This method was used for Babapurva Village in which the whole administrative level was studied- Babapurva Village, Gom Panchayat, Tahsil level at Lakhimpur and also included meeting with Lekhpal of this village.
- b) **Case based Intervention:** This method was used for Mohmmadpur village where we referred to different cases related to land issues (Patta) to get basic knowledge about the problems faced by people of the village (four cases helped us to get idea of the village).

3. Revenue Land: Local Laws and Legal Concepts

The chapter provides a consolidated details on the provisions of the laws concerning revenue lands in UP. The laws worked upon but not limited to are:

- Provisions of UP Zamindari Abolition and Land Reforms Act, 1950 (UP ZA & LR Act);
- UP Land Revenue Act, 1901 and UP Land Record Manual
- UP Panchayati Raj Act, 1947
- UP Imposition of Ceiling on Land Holdings Act, 1960

3.1. Type of Revenue Lands

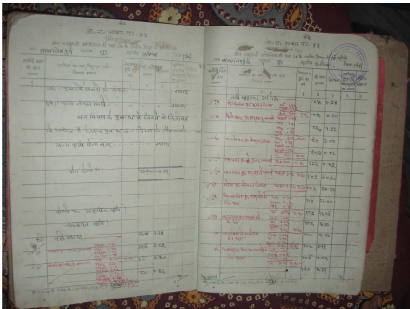

Land can be categorized into following:-

- 1) **Forest Land:** The state has divided forests into Reserve forest, Protected Forest and Private Protected forest which are governed by the Forest Act and are recorded in the village land record with notification from State government.
 - a. In some areas, village forest come under the revenue department and is managed by village level bodies as per State Acts and Customary Laws.
- 2) **Pastural Land:** This type of land is also referred as 'GOCHAR LAND', 'GAIRAN' etc in different areas.
 - a. This land is used for cattle grazing and fodder growing in the village area and is recorded as separate category in village land record.
 - b. It is managed and looked after by village Panchayat. The area is governed by U.P PANCHAYATI RAJ ACT 1947 and Customary Law.
- 3) **River, Nallas, Tanks, Creeks, Ravines etc:** This land cannot be used for any agriculture purpose because of its nature, thus, it is not assessed for revenue purposes.
 - a. *It doesn't also form part of record of rights.*
- 4) **Fallow land:** This land is cultivable but for various reasons is not used for that purpose and thus not assessed for revenue purpose. It has been divided into two categories
 - a. Permanent fallow which is commonly known as 'PARTI'.
 - b. Current fallow named as 'PARTI KADEEM'.
 - Fallow land gets recorded in abstract of village land records.
- 5) **Land not available for Cultivable purpose:** This land is marked for non agricultural purpose like school, playground, market place and for commercial purpose acting a source of income for government. These lands are separately accounted for in the village land records.
- 6) **Non cultivable waste land or Banjar:** These land is not fit for cultivation, thus, is not assessed for revenue purpose.

- 7) **Alluvial land:** The land is found adjacent with the river course which is made up from the changing course of river.
 - a. *It is not recorded in the name of individual or village.*
 - b. It is under the purview of collector who can dispose of the land.
- 8) **Home Stead land:** This land is marked for **residential** purposes in every village and is recorded as separate category in village land record. The village land records in their village abstract do not contain the quantity of land in a village under this category.
- 9) **Cultivable land:** Land is owned by individual, joint family members, Companies, Co-operative societies and is recorded in their names in the village register. These lands are normally privately held and owned by private persons.
 - a. Land found cultivable are assessed and classified as such in village land record
 - b. Land which are cultivable but not occupied or owned by any persons are assessed and classified in village land records as waste lands.

3.2. Land Records

The Primary source of land records are;

- 1) **Khatauni:** It is the **register** of all persons cultivating or otherwise occupying land in a village as prescribed according to Uttar Pradesh land Revenue Rules. It is document prepared as part of record of right. It contains entries regarding ownership, cultivation and various rights in land. Khatauni has been made triennial record since 1363 fasli.
 
- 2) **Khasra (Record of Cultivation):** It is **register of harvest inspections**, the record is conducted by the Lekh Pal where the records facts regarding crop grown, soil classification, cultivable capacity of the cultivators in the month of October, February and April.
 
- 3) **Village Map:** In this system all type of land along with their survey numbers are recorded. Land record is prepared in three distinct stages
 1. Consolidated village map
 2. Map of each survey number
 3. Its portion and detail statement about each survey number and its portion.
- 4) **According to these records land holdings are divided into seven categories:**
 1. Forest Land
 2. Unoccupied government Land (assessed or

non-assessed)

3. Includes all type of **tenure lands**;
 - a. new tenure lands cannot be disposed of without prior permission of the collector;
 - b. old tenure land which can be disposed of without permission of collector; and
 - c. land allotted to village Panchayat for specific purpose and recorded at one place in category
4. **Provisions for recording for surplus land available in the village**
5. Stock of encroached land
6. Land put to non agricultural usage i.e. *Residential, Commercial and Industrial*.
7. Revenue free land (if any) in the village.

3.3. **Record of Right (Institutional Setup)**

It is prepared on the basis of information collected and compiled as basic records in three stages:

- (a) Information of each survey number and sub division of survey number.
- (b) Nature of tenure, name of occupant and interest holder
- (c) Account number and details of assessment

Revenue Department is responsible for all matters concerning land rights and revenue. Officers involved with Maintenance and Authority of Land Records

- a) **Board of Revenue (BoR):** It is the highest revenue court in Uttar Pradesh. Its decisions are binding. It is a judicial body created by an enactment by the UP Land Revenue Act 1901.
- b) Territorial Jurisdiction of the board is over the whole of Uttar Pradesh with offices in Allahabad and Lucknow.
 - BoR is empowered to distribute its business and make territorial division of its members⁴.
 - BoR Consists of two kinds of members: *Administrative* (only at Lucknow) and *Judicial* (17 Divisions⁵).
 - Section 10 of UP Land Revenue Act empowers State Government to authorize any member of the board to perform or exercise all or any of the duties and power imposed.
 - Section 219 – Power to Revision; Board can call for the record of any case decided by any subordinate court.
 - Section 234 – Power too Make Rules with previous sanction of the State Government.
 - Section 191 – Power to Transfer Case
 - Section 220 – Power to Review its order or decisions.
- c) **Commissioner:** It is revenue court as well as revenue officer appointed by state, with each seventeen division of UP, having one commissioner.

⁴ Section 7 of UP Land Revenue Act, 1901

⁵ 1. Agra, 2. Allahabad, 3. Azamgarh, 4. Bareilly, 5. Basti, 6. Chitrakoot, 7. Deoria, 8. Gorakhpur, 9. Jhansi, 10. Kanpur, 11. Lucknow, 12. Meerut, 13. Mirzapur, 14. Moradabad, 15. Saharanpur, 16. Varanasi

- He has been given power to summon persons to give evidence and to produce documents (Section 193) and to exercise power of Civil Courts when person fails to produce evidence (Section 194).
 - To correct accidental errors or omissions which do not materially affect the case (Section 202)
 - To refer the matter to arbitration (Section 203)
 - To Call for and examine the record of any case is decided or proceeding held by any officer subordinate to him (Section 218)
 - **Additional Commissioner:** It is appointed by State Government under Section 13, in a division or in two or more divisions combined together to exercise *Judicial Function* of the commissioner.
- d) **Collector:** It is appointed by State Government for each of 72 Districts of UP. He has power and duties throughout the district.
- Has to maintain map and field book and record of right.
 - Preparation and maintenance of register of villagers (Section 31).
 - Preparation of new records of rights (Section 225).
 - Correction of mistakes in the annual register on reference from Tahsildar (Sec 39)
 - Additional collector has same status in the district as Additional Commissioner (Section 14 A).
 - State Government may appoint Assistant Collectors as sub-ordinate to Collector, as it thinks fit (Section 15).
- e) **Assistant Collector In Charge of Sub – Division:** He is in charge of sub-division (Tehsil) which is division of District.
- a. When he exercises powers under revenue laws he is known as sub-divisional officer (S.D.O.) but he exercises criminal power under the penal law he is known as sub divisional magistrate (S.D.M.)
 - b. He has powers ;
 - To call on tenure holders or Gaon Sabhas to erect or repair boundary marks (Section 29).
 - To fine for injuries to boundary or survey marks in certain cases apportion the charge of repairing boundary (Section 30).
 - To order alteration in the annual registers (Section 33).
 - To enquire and decide application for correction of mistakes in the annual registers (Section 39).
 - To decide boundary disputes and disputes as to entries in annual registers.
 - To exercise any other jurisdiction or authority which is conferred on assistant collector first class or second class or on Tehsildar.
- f) **Tahsildar:** He is appointed by State Government to hold charge in a Tehsil subject to immediate control of Assistant Collector in charge of sub division.

a. Tehsildar is assisted by as many *Naib–Tehsildar* as the State Government deems fit.

Duty of Tehsildar is;

- To collect land revenue, canal revenue and other government dues ; to look into timely action for filing suits or initiating proceeding on behalf of Gaon Sabha or State Government
- To keep the collector and the sub divisional officer in touch with all important social, economic or political movement in the tahsil.
- To supervise the working of the land management committee (L.M.C.) in the Tehsil.

g) **Naib Tehsildar:** Duty of Naib Tehsildar is;

- To test the work of the Lekhpal and Supervisor Qanungo and receive their reports.
- To hold charge of the registrar Qanungo's Office and remove defects pointed out by inspecting officer.
- To distribute Lekhpal's pay and alliances on the dates fixed.

h) **Lekhpal:** The District Collector may arrange the villages of the district in *Lekhpal's Halkas*.

a. Under Section 23 state shall appoint Lekhpal of each Halkas, who maintains the record of ownership of land, record of cultivation on the land, maps of village mutation register and other records of the village.

b. In every cropping season, he inspects every field and record the cultivation data. He also initiates mutation and gives certified copies of land records.

c. Duties of Lekhpal

- Attendance At Tehsil
- Reports to Registrar Qanungo.
- Report of calamities.
- Reports to Supervisor Qanungo.
- Work as Secretary of *Bhumi Prabhandhak Samiti*.



i) **Qanungo:** Section 25 provides that one or more Qanungo may be appointed in each district for the proper supervision, maintenance and correction of annual register.

1. **Registrar Qanungo:** Appointed by the collector and remains at Tehsil headquarters. Each Tehsil consists of one Registrar Qanungo whose functions are maintenance, preservation and custody of land records at the Tehsil.

2. **Supervisor Qanungo:** Appointed by the collector, shall consists of 20 – 30 Lekhpal Halkas and changes shall not be made without previous sanction of director, land records. His duties are:

- General Supervision over Lekhpals and testing of Lekhpal's records and statistics.
- Supervision over village maps.

- Detection of agricultural deterioration and local enquiries.
3. **Sadar Qanungo:** Recruitment to the service is made by promotion of Supervisor or Registrar Qanungo and designated as “*Assistant Land Record Officer*”
- Inspection of Lekhpals record room at Sadar and preparation of pay bills of lekhpal
 - Examination of diaries and monthly progress returns of supervisor and registrar qanungo and maintenance of registers.
 - Compilation of Statistics and returns.

3.4. Gram Sabha – Entrustment of Land & Redistribution Policy

Gram Sabha⁶ means, a body consisting of Persons registered in the electoral roll relating to village comprised within area of gram Panchayat (Established u/s Section 3 of UP Panchayat Raj Act). Section 3 of UP Panchayat Raj Act: The state government by notification in the official gazette established a gram Sabha for village or group of villages by such name specified.

Entrustment of certain Lands to Gram Sabha through Zamindari Abolition and Land Reforms Act, 1950

State government is empowered to vest certain land in Gram Sabha through notification in official gazette (Section 117, ZALRA, 1950).

1. Lands, whether cultivable or not, but the land comprised in any holding or grove shall not vest in the Gram Sabha and shall continue to vest in tenure holder or grove holder.
2. Forests, situated within the area of Gram Sabha.
3. Trees, other than trees in a holding or on boundary of holding or in grove or in Abadi.
4. Fisheries.
5. Haats, Bazaars and Melas, accept those which are held on Bhumidari Land or the site of building, such are vested with Bhumidari or owner of the building and not in the Gram Sabha.
6. Tanks, ponds, private ferries, water channels, pathways and Abadi sites.

Admission of Land

Admission of land by Land Management Committee after prior approval have the right to admit any person as Bhumidhar with non-transferable rights to any land (Section 195, ZALRA, 1950), other than land falling in any of the classes mentioned in section 132, where the land is

- 1) Vacant land
- 2) Vested under Gram Sabha under section 117, ZALRA, 1950
- 3) Land under possession of LMC under section 194 or any other provision of this act.

⁶ Section 2(g) of UP Panchayat Raj Act, 1947

Order of preference in admitting person to land under section 195, ZALRA, 1950 (Section 198, ZALRA, 1950).

- a) Landless widow, son, unmarried daughter, parents, residing in the circle of a person who has lost his life by enemy action, while in active service in the armed force of the union.
- b) Wholly disabled by enemy action.
- c) A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category.
- d) Any other landless agricultural laborer.
- e) A Bhumidhar / Asami holding land less than 1.26 hectare.
- f) A landless person retired from armed forces other than as an officer.
- g) Landless freedom fighter who has not been granted political pension.
- h) A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category not residing in the circle but residing in the Nyay Panchayat circle referred to u/s 42 of UP Panchayat Act.

3.5. Gram Panchayat & Land Management Committee

Gram Panchayat is the Executive Committee of the Gram Sabha and is constituted under Section 12 of UP Panchayat Raj Act. Members of Gram Panchayat are elected from amongst themselves by the members of the gram Sabha, their number being dependent on the population of Gram Sabha. There is reservation for women, upto 30% in membership, with at least seat reserved for Schedule Caste women.

The Gram Panchayat of every Gaon Sabha shall also be the ***Land Management Committee (LMC)*** to assist it in the discharge of the duties of upkeep protection and supervision of all properties vested in Gaon Sabha u/s 117, ZALRA, 1950, and all other property vesting in it or coming into its possession under any other provision of ZALRA, 1950. It consists of all members of Gram Panchayat:

- Lekhpal of the Gaon Sabha area is the Secretary of LMC
- Pradhan and Up-Pradhan of Gram Panchayat are Chairman and Vice Chairman of the LMC.

Functions and Duties

Section 122A states Superintendence, Management and Control of Land by the

- The settling and management of land.
- The conduct and prosecution of suit and proceeding by or against one gaon sabha.
- The development and improvement of agriculture.
- The preservation, maintenance and development of forest and trees.
- The maintenance and development abadi sites and village communications.
- Management of haats, bazaars and melas.

- Development of cottage industries
- Maintenance and development of fisheries and tanks
- The consolidation of holdings
- Such other matters as may be prescribed

Powers of LMC

- Power to Eject Trespassers and recover compensation for damage on misappropriation (Section 122B, ZALRA, 1950)
- ***Power to admit persons in land (Section 132, ZALRA, 1950)***
- Power to Eject person from the land of public utility (Section 212, ZALRA, 1950)
- Power to collect land revenue (Section 276, ZALRA, 1950)
- Power to let vacant land of minor, idiot or lunatic
- Power to take possession over land from Bhumidhar and Asami under certain circumstances.
- ***Power to allot land for housing site (Section 122 C, ZALRA, 1950)***

3.6. Ejection of Tenure Holder

It refers to disposition by form of law. It means expulsion by the assertion of paramount title and by process of law.

1) Ejection of tenure holders (persons) from public utility land (section 212, ZALRA, 1950) :

Following condition must be fulfilled to invoke section 212 –

- a) The person must have been admitted as an tenure holder or grove holder.
- b) Such admission, cultivation or plantation upon land was made, on or after 8th August 1946.
- c) The admission, cultivation or plantation must have been on land which was recorded.
- d) Limitation period: The suit for Ejection must have been filed within 10 years of date of vesting.
 - The above four condition are *sin-qua-non* i.e. if anyone is not satisfied the provision section 212 shall not be applied.
 - Section 212A, ZALRA, 1950 provides procedure for Ejection for persons from land of public utility. Application for Ejection may be made to the collector by the chairman or secretary i.e. Lekhpal or any member of the LMC.
 - Collector would decide if the ground for proceedings are sufficient or not and on that basis will send notice to other parties. If the other party objects the collector will hear both parties to decide on the order of Ejection.

2) Ejection of Bhumidhar

- Ejection of Bhumidhar with transferrable rights –

- Section 199 provides that no Bhumidhar shall be liable to Ejectment from his holding:
- *Exception:* Section 212 – Any person including any Bhumidhar shall be liable notwithstanding anything contained in section 199 on the Suit of Gaon Sabha to Ejectment from land.
 - Where he was admitted as tenure holder or grove holder on land of public utility.
 - Where he was admitted as such on or after August 8th 1946 and before July 1st 1952
 - Where the suit was filed within 10 years from date of vesting.
- Ejectment of Bhumidhar with non transferrable rights
 - He may be ejected on the following grounds –
 - On transfer (his holding being non-transferrable)
 - Under section 212, Ejectment from the land of public utility

3) Ejectment of Asami

Grounds for the Ejectment of Asami may be divided into two

(I) Grounds depending on the violation of any Asami

- Unauthorized transfer (his interest is not transferrable)
- Unauthorized use i.e use of land for other than agriculture, horticulture, animal husbandry or poultry farming (section 206)
- Unsatisfied decree of areas of rent (section 202H)

(II) Grounds depending upon the nature of tenure

- Ejectment from the land of public utility (section 212)
- Ejectment on the expiry of the period of maintenance allowance.
- Asami being an ex Thekadar
- Ejectment of mortgage Asami
- Ejectment of sub tenant referred in the proviso of section 27 (3) of UP Tenancy Act, 1947
- Asami of Taungya plantation
- On the extinction of the interest of the land holder

4) Ejectment of trespassers:

A person occupying land without title may be termed as trespassers. Person may be trespasser, when:

- Taking or retaining possession of land otherwise than in accordance with the provision of the law for time being in force.
- The taking or retaining possession is without the consent of the tenure holder concerned or in case of land belonging to Gaon Sabha without their consent.

How trespassers shall be liable to be Ejected:

- a) From the holding of Bhumidhar on the suit of the Bhumidhar
- b) From the holding of an Asami on the suit of Asami
- c) From the land of Gaon Sabha on the suit of Gaon Sabha

Section 209 provides for the Ejectment of two sorts of trespassers

- a) Trespassers ab-initio: Enters the possession without consent of tenure holder or any previous agreement, is trespasser from the very beginning
- b) Trespasser afterwards: Includes a person who enters the land some title but subsequently loses that right.

3.7. Procedure for Ejectment

The Suit for Ejectment has to be filed in Revenue Court of Assistant Collector First Class and State Government shall be made necessary party. If the Asami does not file suit for Ejectment of the trespasser, the land holder i.e. the Bhumidhar can file suit for Ejectment as he has to see that land is not trespassed. *No limitation period is prescribed to file suit by the Gaon Sabha.*

3.7.1. Special Procedure for Gaon Sabha Land

Para 128 of Gram Sabha Manual points out that the conduct of litigation shall not depend upon the individual discretion of chairman of the LMC but shall be matter of resolution of the LMC as whole.

Any person aggrieved by the order of the Assistant Collector may within 30 days from the date of such order refer a revision before the collector on the grounds :-

- Assistant Collector appears to have exercised jurisdiction not vested in it by law.
- To have failed to exercise jurisdiction so vested.
- To have acted in the exercise of jurisdiction illegally or with material irregularity.

3.7.2. Special Procedure for Land held by Member of Schedule Tribe

The State Government itself has come forward to evict the unauthorized occupants from such land. The UP Land Laws (Amendment) Act 1982 has added Section 211 to the ZALRA, 1950.

- Any land held by tenure holder belonging to ST is in occupation of any person other than such tenure holder, the Assistant Collector may suo-motu or on the Application of such tenure holder put him in the possession after evicting the occupant.
- If the person after eviction re-occupies the land or any part thereof without any lawful authority, he shall be punishable with imprisonment for term which may extend to two years but which shall not be less than 3 months.

3.7.3. Remedies against wrongful Ejectment

Remedies when an Asami is wrongfully ejected

Section 212 B guarantees that no Asami shall be ejected from his holding except as provided in Section 200. Where an Asami ejected from or prevented from obtaining possession of any land forming part of his holding otherwise than in accordance with the provision of the law for the time being in force, by –

- 1) His land holder
- 2) Any person claiming as land holder and to have right to eject him
- 3) Any person admitted to or allowed to retain possession of the land by such land holder or person

Asami has remedies under 2 sections:

- Section 209 – Remedies available to all tenure holders (Bhumidhar or Asami)
- Section 212 B – Remedy available only to an Asami.

Remedies available to an Asami are:

- For possession of land, or
- For compensation for wrongful dispossession, or
- For possession of the land and for compensation for wrongful dispossession.

4. Findings

The situation on the ground concerning land is grim. People are forcibly deprived of their land holdings, there are families who have had entitlement but no possession for decades, their families remained deprived ruining life and prospects of generation of members; while the illegal holders keep on harvesting the fruits.

The team interacted with the community members and there were open discussions with the individuals both in group and individuals. Community members shared openly the problems related to land, records and officials they are facing. This is a clear reflection of the organisational rapport with community.



4.1. Observation – Administrative Functioning and Officials

- The structure which is being adopted and followed in reality is according to the legal frame work and proper procedure.
- There is lack of coordination among the officers at each level (pointing out mistakes of one another), for example Qanungo puts blame on Lekhpal regarding maintenance of daily diary and allotment of Patta but he has supervisory role over Lekhpal which he himself does not do as per the law.

Lekhpal

- Siyaram Agnihotri Lekhpal of Babapurva Village as per the Villagers has not taken any step to allot the Patta or remove people with unauthorized kabzha. He has not proper information regarding the daily diary as he himself was not able to show it.
- As shared by community members in Mohamadpur Village, Lekhpal Rahul Srivastava has been asking for Money regarding measuring of their Patta and allotment of Patta and has taken wrong finger impression from some Villagers, thus creating false document. Lekhpal has been avoiding his work and is trying to earn money from the Villagers rather than allocating Patta to them. He is using false means to take away the land and provide benefits to the rich and influential people.

- There is no accountability among the officers and the responsibilities are not performed for example Lekhpal should properly allot the Patta to its prescribed individual but he is willing to measure and allot the area to the individual. In related to this seniors are not properly reported and if it comes to their knowledge are not taking proper step.
- Officers run away from their role and function, for example Lekhpal and Qanungo have to maintain Daily Diary and have to file it every year for stamping but these

provisions are not followed by everyone and there are irregularities regarding the maintenance of Diary. Atleast what was shared was not in conformity with the provisions.

- In reality the subordinate officer are pressurized sometimes by their senior to avoid doing some work which might harm them or even sometimes interfere in their work, like the senior officers themselves allot Patta or ask their subordinates to allot to person of higher caste or influential person.
- In this system, sometimes the order of the senior are not implemented or followed by the lower officer as there is no one to cross refer. The notices of officer go unobserved and it becomes useless piece of paper for villagers.

4.3. Observation – Land and Concerned Issues

- Application have been filed by the villagers regarding their land under U.P LRA⁷, 1901(section 41) to different officer. This legal aspect has been profoundly used and in efficient manner.
- The L.M.C has various function and power which includes growth and maintenance of the Land i.e. development of land, it has power to eject Trespasser and admit persons in land. This power and function have not been fully utilized by the L.M.C and they have restricted themselves to distribution of land.
- The Gram Sabha are vested with certain land , which are provided by government but there is no adequate information present on the ground level There is lack of adequate data about the land available to Gram Sabha , even of surplus land .
- There can be admission of people in preferential manner as provided in law, but there is no method adopted in reality and the influential and higher caste people are admitted in the land.
- There has been clear procedure provided for Ejection and the law specifies who trespasser are and why they should be ejected and the L.M.C has also power to eject . But on the ground this law has not been applied by any one and the Trespasser are continuing to enjoy the benefit of land even when the actual holder of land is Landless.



⁷ Land Revenue Act , 1901

4.4. Observation Village Wise – Village Babapurva (Kardhaimanpur), Gom Panchayat

- In 1981-82, chakbandhi of kardhaimanpur was done; not of other 3 villages
- In 1991-92, chakbandhi of jungle no.10 area was done; No chakbandhi of jungle no.11 yet.
- Most of the Patta of villagers gets washed away by River Sharda due to its changing course and bringing flood every year causing harm to their agriculture losing most of their production (specifically SUGARCANE).
- Information required / demanded by villagers
 1. Copy of Village Map.
 2. Procedure to get document from officer.
 3. Information about Patta- how it was allotted and its procedure.
 4. Role of officer in regard to Patta.
 5. Knowledge of how much compensation to receive from office during calamities.
 6. Everything is in verbal; there is requirement of written evidence of documents.

Unique Case of Patta Holder

- Patta available to them but no knowledge of whereabouts of Land (lost due to floods)
- Patta available to them but with no kabza.
- Don't even have the Patta.

4.5. Observation Village Wise – Village Mohammadpur, Babuna Panchayat

- As shared by Community, most of the land in the area is USAR LAND
 - 75% land of Banjar.
 - 25% land of cultivable land
- Lack of knowledge of Gram Sabha Land (some land has been made as Patta).
- Patta has been made of USAR LAND; NO measurement by Lekhpal of cultivable land.
- There is lack of knowledge of Village Map and information about the procedure.

Case Study I – Bihari Lal



BACKGROUND: Land belonged to Father Narayanlal since 1972.

FACTS: They had KABZHA of 12 bigha land whereas did not have KABZHA OF 3.5 BIGHA LAND (NO KNOWLEDGE OF ITS STATUS). They filed case in 2003 under section 41 of UTTAR PRADESH LAND REVENUE ACT, 1901 in the TAHSIL. Order was passed providing them with right to Patta but no written document was provided and everything was verbal. The person having illegal KABZHA of Patta did not allow them to build boundary in their Patta, thus they still did not have KABZHA on their own Patta. They did not file any further case because of various personal reasons. They complained thrice at TAHSILDIWAS at different time intervals of which they had received different RECEIPTS (19.1.2010; 16.2.2010; 1.2.2011 being the dates respectively). They still do not have KABZHA of the Patta.

ISSUE: Unauthorized KABZHA over the land by others.

STEPS TO BE TAKEN: In the given case, the individual has full right over the 3.5 bigha Patta and the order passed by the Tahsil should be provided in written to the individual, so that he can make claim over the Patta. The people who are in illegal possession of the land are bound to be ejected as they are trespassers on other's land provided by U.P. ZALRA, 1950¹ (section 209).

Case Study II – Parshuram



BACKGROUND: Land belonged to MOTHER BHAGOTA DEVI since 1972-73.

FACTS: PARSHURAM used to plough on other land in other village. There is no information about the Patta. Application has been put to S.D.M (MOHMMADI), 2010 and followed by Application to A.D.M in March, 2011. It has been to no use as they still do not have any KABZHA over their Patta and further wants to file Application to THE C.M.

ISSUE: No KABZHA over the Patta.

STEPS TO BE TAKEN: In this case also, like the previous case the individual has full right over the Patta but he has no information about the land and has failed to get any order passed in his favor. Still, he should be allowed hold over the Patta and the person who is in possession of Patta is Trespasser, thus should be ejected by the law provided under U.P.ZALRA, 1950 (section 209).

Case Study III – Hardwarilal



BACKGROUND: Land belonged to father (RAMPRASAD) who received Patta in 1972 (3.5bigha)

FACTS: LEKHPAL measured the land at that time but nothing was given in written. They still do not have KABZA. At the moment, LEKHPAL does not measure the Patta and does not allow having KABZA, even though his name is in KHATAUNI (REGISTER as well as COMPUTER). The Patta at the moment is held by person from different village (NAMSOHA village).

ISSUE: Unauthorized KABZHA over the Patta.

STEPS TO BE TAKEN: In this case, there is proper knowledge of Patta and under whose Kabzha at present it is but Lekhpal has not provided them with any written document which should be delivered to the individual. The person with Kabzha is from different village and is trespasser according to the law who should be ejected provided by U.P. ZALRA, 1950. (Section 209)

Case Study IV – Nanhe



FACTS: The Patta is with him for last 20years. He has KABZA of 2.5 bigha (cultivation is going on) but there is no KABZA of 12 bigha Patta. They do not have information about the 12bigha Patta. LEKHPAL tells them land is BANJAR and asks for money for measurement of the land even when they have documents, i.e. KHASRA (KHASRA No.-2337(Kha); FASLI YEAR:1409 -1414).

ISSUE: No KABZHA over the Patta.

STEPS TO BE TAKEN: In this case, Patta belongs to the individual but he has no information about the Patta still he should be provided with rights to the Patta and the person with the possession of the Patta is trespasser according to the law who should be ejected provided by U.P. ZALRA, 1950. (Section 209)

5. Surplus Land – Law & Policies

5.1. Definition and Determination

As per Section 3 of Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 (hereinafter as UPICLHA, 1960, any land held by tenure-holder more than ceiling limit is called “Surplus land”.

Section 5 deals with the determination of Ceiling Area, states that no tenure-holder shall be entitled to hold the land in excess of the ceiling area in the State of Uttar Pradesh⁸. This section is divided in six parts-

- i. Determination of ceiling area in respect of total area or partly exemption from it to certain persons;
- ii. A tenure-holder belonging to a family of five members is entitled to retain the maximum area of 7.3 hectares of irrigated land and two additional hectares of irrigated land for each adult son who are either not tenure-holder or having less area than two hectares but all additional land should not exceed than 6hectares;
- iii. Any holding held by any firm, co-operative society or other society or association of persons shall be deemed to hold the land in proportionate manner;
- iv. Any holding held by private trust the benefit shall be determined as per share among the beneficiaries;
- v. At the time of determination of ceiling area to a tenure-holder the transfer of land made after 24th January, 1971 shall be considered and if the land already declared Surplus land shall not be taken into account;
- vi. In determining the ceiling area of a tenure-holder the partition of land done after 24th January, 1971 and already declared Surplus land shall not be calculated.

5.2. Administrative Mechanism

Acquisition of Surplus Land and Disposal of the property left on land

After the determination of surplus land by the Prescribed Authority the physical possession of such land will be taken by the Collector; where appeal was not filed against the final order passed under section 11 by the Prescribed Authority or no appeal has been passed against order under section 13 and prescribed period of limitation has already been expired or appeal filed by

⁸ After 24th January, 1971.

tenure-holder has already been decided. The Surplus Land shall vest in favour of state after notification in Official Gazette. The land shall be vested free from all encumbrances. At the time of obtaining the possession, when any crops or fruits trees are standing on the surplus land the collector shall permit to the tenure-holder to remove the crops or fruits of trees within reasonable time of 21 days as fixed by Collector.

Any land is held as “surplus land” and on the land trees; building or wells exist, cannot be damaged or destroyed by the tenure-holder. The tenure-holder cannot even remove the trees for all the things go with the land and at the time of ejection from the tenure-holder is entitled for compensation of well, building, trees etc.⁹

5.3. Procedure for Settlement of Surplus Land

This Law¹⁰ details the procedure of settlement of surplus land and taking out the land from the encroachers and prosecutes the wrong-doer under the law. In fact, this section has to be read with section 198 of U.P.ZALRA, 1950 on the reason that after obtaining the possession of surplus land vests in the State Government. The surplus land shall vest in L.M.C from the date of publication of notification under section 117 of U.P.ZALRA, 1950 by the State Government.

Each Goan sabha is required to hold the land at least 15 acres of the land for the use of community purposes. The excess Surplus land will be settled on such terms and condition provided under section 198 of U.P.ZALRA with landless persons on the lease by the collector which is as follows:

5.4. Order of preference in admitting person to land

- a) Landless widow, son, unmarried daughter, parents, residing in the circle of a person who has lost his life by enemy action, while in active service in the armed force of the union.
- b) Wholly disabled by enemy action
- c) A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category.
- d) Any other landless agricultural laborer.
- e) A Bhumidhar / Asami holding land less than 1.26 hectare
- f) A landless person retired from armed forces other than as an officer
- g) Landless freedom fighter who has not been granted political pension
- h) A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category not residing in the circle but residing in the Nyay Panchayat circle referred to u/s 42 of UP Panchayat Act.

⁹ Ram Dayal vs. Mohanlal, 1973 R.D.21

¹⁰ Section 27 of U.P. Imposition of Ceiling on Land Holding ACT, 1960

5.5. Situation on Ground & Problems

As shared by Community members the Surplus Land's Use, its Allocation or Distribution among the landless person has faced problems at the ground level

- According to the law, Gaon Sabha are prescribed to have 15 acres of land but at the ground level there is no proper documents or records which shows that Gaon Sabha have any such land. Community members and even team members didn't have much information about land holdings.
- The situation is such that people who don't even reside in the village have large holdings of land; but the facts on paper are not known to anyone in the village. *The records are with Lekhpal and which is not approachable.*

Information on Surplus Land within the Land Records & Map

There is complete lack of information on the situation and type of Land existing in the village among both community members and Community Leaders of Rozi Roti Sangathan. People have less information on the Land Records. Rarely people have seen the **Village Map** and most of the people are or have been directly or indirectly affected by the problems related to land and officials.

The Situation is same in concern with **Surplus Land**. Community members shared that the actual situation of land at the village in terms of various types and specifically in relation to Surplus Land, is not known to any.

Whereas the Law states clearly that the land holding records will include information of seven categories of land; including **provisions for recording for surplus land available in the village.**

Fit Cases for Ejection

According to the law, State has right to eject the wrong-doer and trespasser from the land but that is not the case in the Village. While community shared large tracts of land being occupied illegally by powerful people and there also exists people with no land; there is no ejection being undertaken by revenue department.

- If the Gaon Sabha has the prescribed land, it should be used as commercial purpose and for distribution to landless.
- At the ground level, that is not the case as their any use of land for commercial purpose and there is lack of school in the area.
- The law provides that if there is excess Surplus Land available it should be provided to landless person as per the rules but at the village level the Surplus Land is not being allocated to the Villagers, most of the Villagers still being Landless.

There is a need to further probe the situation of land as per the records at both village and departmental level, so as to ascertain the actual situation for future actions.

6. Discussions on Findings

The reading of legal (findings and status), Administration (finding and status) and from the case studies, it is quite clear observation that there is actual gap between *what ought to be* legally as to *what is* at village. This clearly reflects the misuse of law, information and power against the marginalized communities.

6.1. Problems at Community / Village Level

The oppression of the community, depriving them from their source of income i.e. Land, which is one of primary natural resources, has long lasting intergenerational impacts on their socio-economic conditions.

- Further due to the natural calamity every year most of the land in villages of Gom Panchayat is being washed away by *River Sharda* due to its changing course and flood but no provision has been made for this villages. They suffer for two – four months every year due to flood causing heavy damage to their land and crop yet nothing has been done over the year to improve their condition.
- Villagers are not themselves united for the issues as they try to solve their problem individually, which makes it easier for the officers to tackle them and to move away their plea. There is lack of trust and belief amongst the villager and even for the people who are working for their benefit.

6.2. Concerning Land Records & Officials

There is lack of written documents in the village which should be present at every single village at every point of time, so that they can put forward their claim to authority with some evidence.

- KHASRA (Record of cultivation): It is register of harvest inspection (*Parthaal*). The Lekhpal conducts the field harvest inspection in the month of October, February and April, wherein he records facts regarding crop grown, soil classification and cultivable capacity of the cultivators. The first inspection starting from October is called as “KHARIFF” parhtaal while the second commencing from is called “RABI” parhtaal.

Daily Diary

One of the Key findings of the whole process was the information about the possession of *Official Daily Diary* which is to be kept mandatorily by Lekhpal. The DD has to be annually submitted at the Tehsil Office as a record of activity.

The Departmental Use of DD is as a legal evidence document.

The DD is of much use for advocacy purposes at the ground level. It can be critically used to fix accountability and challenge mal practices at the level of Lekhpal.

Source: Bhurelal Rathod (Registrar Qanungo) and was verified by Lekhpal Siyaram Agnihotri.

In the month of April the “ZAID” parhtaal is done.

- VILLAGE MAP RECORDS (picture in Annex IV.iv): This is one of the method by which the land records are maintained in the village provided with survey number for every part of that village. The Map records are available with every Lekhpal and should be available at every village. In this system all type of land along with their survey numbers are recorded. Land record is prepared in three distinct stages-
 - (a) Consolidated village map
 - (b) Map of each survey number
 - (c) Its portion and detail statement about each survey number and its portion.

According to these records land holdings are divided into seven categories –

1. Forest Land
 2. Unoccupied government Land (assessed or non-assessed)
 3. Includes all type of tenure lands; new tenure lands cannot be disposed of without prior permission of the collector; old tenure land which can be disposed of without permission of collector; and land allotted to village panchayat for specific purpose and recorded at one place in category
 4. ***Provisions for recording for surplus land available in the village***
 5. Stock of encroached land
 6. Land put to non agricultural usage i.e. residential, commercial and industrial.
 7. Revenue free land (if any) in the village.
- KHATAUNI is the register of all persons cultivating or otherwise occupying land in a village as prescribed according to U.P. Land Revenue Rules. It is document prepared as part of record-of-right. It contains entries regarding ownership, cultivation and various rights in land. At present records are maintained in the computer and all new information are feeded in it. This information can be received from MAHFIZNAMA.KHATAUNI is revised every 6 years. This duration of six years is called FASLI-YEAR. (Picture of khatauni in annex IV.iii).

FASLI YEAR

It refers to the period during revision of KHATAUNI. At present the Fasli year is 1418-1422

Source: Kamal Ahmed (Officer with Tahsildar). The fact was reconfirmed by Siyaram Agnihotri (Lekhpal).

- While some community members do not have information about their *Patta* and even if they have proper knowledge, they do not have proper paper regarding the Patta thus unable to claim KABZHA over the Patta .It clearly points out that there is administrative flaw and the officers are using illiteracy of the villagers for their benefit.
- Community sharing as to the condition of Patta holders in Gom Panchayat:
 - I. Patta available to them but no knowledge of whereabouts of Patta.
 - II. Patta are lost (especially during floods).
 - III. Patta available to them but with no kabza.
- There is no proper procedure followed related to ***Chakbandhi*** as there is no fixed time period for its updation as record. Some of the Revenue Village (Jungle No.11) have still not gone through Chakbandhi process.

6.3. *Procedures concerning Revenue Land*

- The Gram Sabha is in possession of lot of surplus land but there is lack of knowledge of its quantity and how it is being used by the Gram Sabha. They are not being properly used by the Gram Sabha as there are neither any middle schools and industrial or commercial use of land in the surplus land and the villagers are still landless. Thus the surplus lands are available for use or for distribution among the villagers, which could be done in preferential manner provided in U.P. ZALRA¹¹, 1950(section 198).
- The officer at the Village level, could be clearly seen are not working according to rules and functions and are trying to gain monetary fund by giving away Patta to higher caste and influential people or by asking for money from the villagers for the Kabzha on their Patta.
- There is lack of responsibility towards their duty and there is no accountability shown by the officer at the village level and thus affecting the system as well as villager.
- Land Management Committee: Responsibility to upkeep protection and supervision of all property vested under Gram Sabha.
Secretary- Lekhpal
Chairman– Pradhan of Panchayat
Vice Chairman-Up Pradhan of Panchayat
- Land Management Committee (L.M.C) has not been properly implemented as it has restricted its function to distribution of Patta whereas having other function as well provided in U.P. ZALRA¹², 1950(section 122-A).

6.4. *Panchayat vis-à-vis Revenue Land*

- Surplus Land: According to Village Map Records one of the categories are provided for recording of Surplus Land available in the village. In case Surplus Land are available its information should be available to Gram Sabha and L.M.C who according to the U.P. ZALRA,1950 (Section 198),which states order of preference in admitting person to land should pass it to following :
 - a. Landless widow, son, unmarried daughter, parents, residing in the

ROLE OF LAND MANAGEMENT COMMITTEE

Section 122A states superintendence, management and control of land by the

- The settling and management of land.
- The conduct and prosecution of suit and proceeding by or against one Gaon Sabha.
- The development and improvement of agriculture.
- The preservation, maintenance and development of forest and trees.
- The maintenance and development abadi sites and village communications.
- Management of haats, bazaars and melas.
- Development of cottage industries
- Maintenance and development of fisheries and tanks
- The consolidation of holdings
- Such other matters as may be prescribed

¹¹ ZAMINDAR ABOLITION LAND REVENUE ACT,1950

¹² Zamindar abolition and land revenue act, 1950

circle of a person who has lost his life by enemy action, while in active service in the armed force of the union.

- b. Wholly disabled by enemy action
- c. A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category.
- d. Any other landless agricultural laborer.
- e. A bhumidhar/asami holding land less than 1.26 hectare
- f. A landless person retired from armed forces other than as an officer
- g. Landless freedom fighter who has not been granted political pension
- h. A landless agricultural laborer belonging to SC, ST or other backward classes or BPL families from general category not residing in the circle but residing in the nyay panchayat circle referred to u/s 42 of UP panchayat Act.

Thus we can interpret from this provision that in case of available Surplus Land, if not used for *Educational, Commercial or Industrial purpose* it should be distributed in this order which gives higher preference to landless agricultural laborer belonging to SC/ST/OBC (including women).

There is lack of knowledge of Surplus Land's quantity and how it is being used by the Gram Sabha. They are not being properly used by the Gram Sabha as there are neither any middle schools nor industrial or commercial use of land in the surplus land and the villagers are still landless. Thus the surplus lands are available for use or for distribution among the villagers.

7. Recommendations & Way Forward

Based on the fact findings there are clear directions flowing from the Community Interactions and Team Discussions. There are facilitative legal provisions and people within community and officials, who can be motivated for action for the benefit of the target community. Apart from what has been already discussed above, there are few suggestions which were gathered during the process, such as;

- The basic necessity for every village is to have written documents (Village land records, Khatauni and Khasra). Villagers should try to get it either from Lekhpal or get it from Mahfizkhana (room for Record of Rights), where they should be provided with it.
- Through the written documents or with the help of Lekhpal, they should come to know about their Patta (have full knowledge of Patta).
- If they are not being allowed to get information at lower level, then they should complain at higher level.
- It is essential that villagers should work with unity as it will then force the officer to consider and take necessary steps. If they work in unity it will be hard for officer to tackle them and move away their plea.
- There should be proper report of Surplus land with the Gram sabha and how they are utilizing the land. If possible it should be made known to the people of village.
- To increase the responsibility towards their duties and accountability of the officer at village level, they should be asked to maintain monthly report which should go to each other superior and there should be proper verification of it. If possible, it should be allowed to be seen by anyone who wishes to know about the work done.
- There should be transparency in the working of the officials and it should be open system, so that information regarding the village is easily available.
- There should be proper system of L.M.C which should work for proper maintenance and growth of the land and be accountable for the development of the land.
- Map Records should be updated just like Khasra and Khatauni and should be transferred into the computer. GPS or satellite system could be used for updating Map Records.
- GPS system could also be used by Lekhpal for measuring the Patta and also during the process of Chakbandhi.
- Our first step should be to help villagers get Map record. Every Village should at every occasion have one Map record with itself.
- Go on field with the Lekhpal and see his working and if it is being done as per rules like if diary is properly maintained on daily basis or not.

- There is requirement to get information from the officers, if not provided RTI¹³ Act should be filed to get information such as
 - RTI on Lekhpal to verify his use of Daily Diary.
 - RTI about the procedure adopted by Lekhpal in distributing the Patta.
 - RTI to get information about the paper related to KABZHA OF Patta.
- There has to be trust building process build between the villagers and the NGO workers, so that Villagers can come out in open with their entire problem. It is important that an environment should be created for the villagers that they feel free to talk about their issues and do not hold back. This feeling of has to be brought amongst the villagers as well, so that they can work in unity.
- In the case of Surplus Land information has to be received from the Gram Sabha about their availability to them, if available how it is being used. The available Surplus Land should be distributed according to the preference given in U.P. ZALRA,¹⁴ 1950 (section 198) in which higher preference has been given to Landless agricultural laborer belonging to SC/ST/OBC or BPL¹⁵ of general category.

¹³ Right to information Act

¹⁴ Zamindari abolition and land revenue act,1950

¹⁵ Below poverty line

Annexure I – Guidelines for Data Collection

Basic Information

Agency responsible for maintenance of land record

- Lekhpal (Patwari) at Village Level
 - Records Available
 - Receipt of Land Revenue
 - Mutation Entry Slip
 - Map of Village and Survey Nos.
- Sub-divisional Officers or Sub District Magistrate (SDM) assisted by Tehsildar and Registrar Kanoongo (RK) at Tehsil level.
 - Tehsildar
 - Naib-Tehsildar
 - Kanoongo
 - Records Available at Sub Divisional Level
 - Succession Certificate (*swamitwa certificate – Intekhab*)
- Collectors or District Magistrate (DM) assisted by Additional District Magistrate and Chief Revenue Officer (*incharge of maal khana – Muhasib khana – land records*) at District level
- Board of Revenue (Board) [*Rajaswa Parishad*] is the State Level Implementing Authority.

Principal land records are

1. Village Map
2. Khasra or field book which records the plots
3. Khatauni which gives the record of rights of tenure holders (owners and tenants).

Land holdings with Gram Sabha

- Lands, whether, cultivable or otherwise, except land for the rime being comprised in any holding or grove
- Forests
- Tree other than trees in a holding or on the boundary of a holding or in a groove or abadi
- Fisheries
- Haats / Bazaars and Melas except Nats, Bazaars and Melas held on lands to which the provisions of clause (a) to (c) of sub section 1 of Section 18 applies or on sites and areas referred to in S.9 and
- Tanks / ponds / private ferries / water channels / path ways and abadi sites
- Gram Panachayat acts as the **Land Management Committee [Bhumi Prabandhak Samiti]**
 - The Pradahan and Up Pradhan are the Chairman and the Vice Chairman
 - Lekhpal is its secretary

Property vested in the Gram Panchayat

- All public property situated within the jurisdiction of Gram Panchayat shall vest in and belong to the Gram Panchayat and shall be under its direction, management and control.
- All markets and fairs or such portion thereof as are held upon public land

Custody and mode of proof of records

All records of a Gram Panchayat shall be in the custody of its Secretary. The Secretary shall give to a person, on an application and on payment of such fee as may be prescribed, a copy or any such records and certify it as a true copy under his signature and seal of the Gram Panchayat.

Bhulekh Scheme

The process of computerization of land records (CLR) in Uttar Pradesh is almost complete for Issuance of khatauni (RORs) to land holders under the *Bhulekh Scheme*.

Data to be Collected

- Status of Common Property Resources
 - Area and Type of common property resources.
 - Different type of CPR (land / Forest and Water) available for use.
 - Status of collectively owned or held or managed CPR
 - Village Panchayat grazing land/pasture land
 - Village forest & woodlot (not under Forest/Revenue Deptt.) and van Panchayat forest:
 - Village sites and threshing floor
- Other Lands
 - Rivers, Nallas, Tanks, Creeks, Ravines etc
 - Fallow Lands
 - Land not available for cultivation (demarcated for non agricultural purposes)
 - Banjar or non cultivable waste lands
 - Alluvial Land (land from the changing course of river)
 - Abadi Land
 - Cultivable or agricultural land
- Records of Rights
 - Village Map
 - Village Registers

Annexure II – Team Composition

AIM & Rozi Roti Sangathan

- Vinod Kumar Singh
- Ajay Kumar
- RamBachan
- AshaRam
- Ranjit
- Ragini
- SantRam
- Soran
- Prabhudayal
- Anita
- Pratap Singh

Independent Thought

- Vikram Srivastava
- Saikat Ghosh
- Vikas Sinha

Annexure III – Reference Materials

- Commentary on the UP Land Revenue Act, 1901 with Rules; Rajiv Gupta
- The Uttar Pradesh Land Records Manual; PK Barar
- The Uttar Pradesh Consolidation of Holdings Act, 1953; PK Kakkar
- UP Land and Revenue Laws – Bare Acts
- The Uttar Pradesh Consolidation of Holdings Act, 1953; RR Maurya
- Land Records, Document by PRIA

Annexure IV – Stakeholders List

Name of Individuals Met	Designation	Contact Numbers
Ramjanam Yadav; Shivraj; Rajindra; Ravndra; Shriram; Harinath and Others	Community Members at Village Babapurba	
Parshuram; Hardwarilal; Kailasha Devi; Nanhe; Savitri Devi; Bihari Lal;	Community Members at Village Mohammadpur	
Suresh Singh Yadav	Pradhan (Gom Panchayat)	9918630548
Siyaram Agnihotri	Lekhpal	9918493862
Bhurelal Rathod	Registrar Kanoongo	9648607637
Bhagwandin	Registrar Kanoongo	05872-262293
Kamal Ahmed	Officer with Tahsildar	9838207011
Raju Srivastava	Officer with Naib Tahsildar	8081930828
Radhye Shyam	Ex-Tahsildar (Lakhimpur)	9598766506

Annexure V – Glossary

Technical Terms	Simple Local Word (If any)	English	Explanation
MAHFIZKHANA	ABHILEKHGHAR	ROOM FOR RECORD OF RIGHTS	
CHAKBANDHI		CONSOLIDATION	<i>It is process carried out by chakbandhi department to unify different piece of land in organize manner</i>
BANDOBASHT			<i>Make final record of the chakbandhi area</i>
RAKVA	CHETRAPHAL		
PARSIMAN		JURISDICTION	
PARIDHI		JURISDICTION	
PRABHUTVA		DOMINATION	
MARGHAT	SHAMSHAN	Pyre / Funeral Ground	
DINCHARIYA VAHI		DAILY DIARY	<i>It's a crucial document which Lekhpal is supposed to maintain and report to senior officials. The document is used for the purposes of evidence.</i>
SANKHMADHI (LAND)	BHUMIDHARI(LAN D)		<i>Highest degree of land ownership which is hereditary and transferable</i>
ASANKHMADHI	ASAMI(LAND)		<i>Lowest form of land holding which is neither transferable nor hereditary.</i>
ABHILEKH MAHAJAN		RECORD	
DOHADA, TIHADA			
SANRAKSHAN		PRESERVATION	
PARHTAAL		INSPECTION	<i>Done by Lekhpal three times every year for record of cultivation.</i>

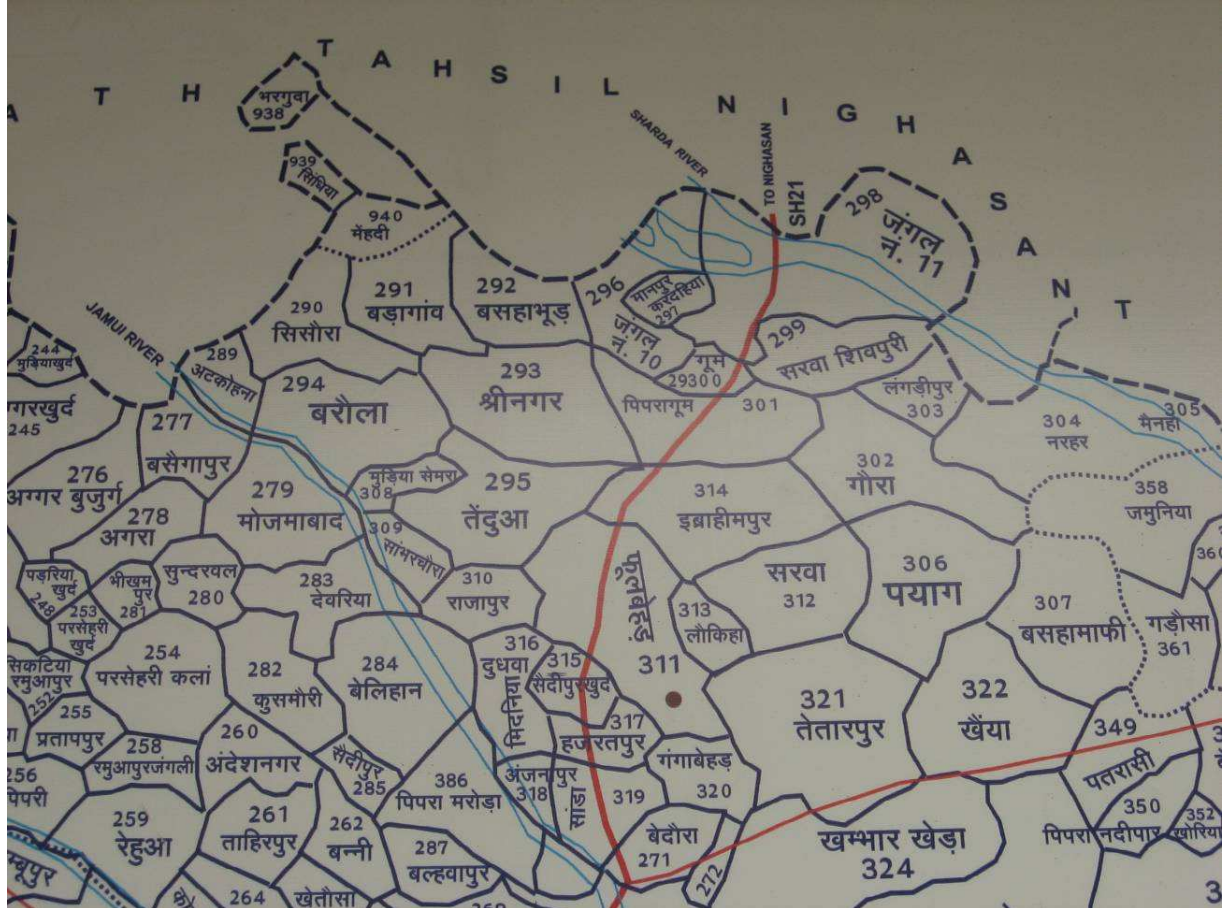
Annexure VI – District Revenue Map

PICTURES



PICTURE TAKEN AT TAHSIL OFFICE SHOWING LAKHIMPUR DISTRICT

Annexure VII – Focus Map of Gom Panchayat



PICTURES TAKEN AT TAHSIL OFFICE SHOWING AREA OF GOM, SARVASHIVPURI, KARDHAIMANPUR, JUNGLE NO.11, JUNGLE NO.10


Annexure VIII – Sample of Khatauni

उद्धरण खतौनी

तहसील : मोहम्मदी

घास क्रमांक : 28041100146 घास का नाम : खर्बोना परगना कक्षा : 1
 जयपुर : Kheri फसल नर्स : 1409-1414 भाग : 1

खारा खतौनी क्रम संख्या	खारेदार का नाम	दिना / खी / संरक्षक का नाम	विवासा स्थान	भौतिक अधिकार प्राप्त होने का फसली वर्ष	खाने के प्रत्येक गटे की खररा संख्या	प्रत्येक गटे का क्षेत्रफल (इ.)	खारेदार द्वारा देय भालपुस्तकी या स्वामन	परिवर्तन सम्बन्धी जमा या अन्वय संख्या इन्फोर्मेशन और अन्वय देने वाले अधिकारी का पद	दिनांक
1	2	3	4	5	6	7-12	13		
श्रेणी : 1-क भूमि जो संक्रमणीय भूमिपरी के अधिकार में हो।									
00282	राजपाल, नरेंद्रलाल, गोताराम लाल जी प्रसाद	राजमलाल नरमलाल	नि. मोहम्मदपुर म. घास नि. मोहम्मदपुर	1409	2337ख	0.7900			
					कुल गटे :	1	कुल क्षेत्र :	0.7900	15.35


रिजिस्ट्रार (कलेक्टर)
जयपुर - खर्बोना

पृष्ठ संख्या : 1 of 1

5/3/2011

Annexure IX – Map of Revenue Village Kardhaimanpur



i. PICTURE OF MAP RECORD OF KARDHAIMANPUR