

State or Royal ownership of land in ancient India:A Historical Perspective

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In the *Rigveda*, there is nothing to prove that the king was regarded as the owner of the land or the owner of the state. The *Rigvedic* hymns simply show that the kings received *bal* (generally translated as voluntary tribute) as guardian of the people and not as being the head of the state. In later period, we find the references that land was divided into four classes viz., pasture land, homestead land, the arable land and the forest.

The *Mahabharata* says that king alone can bring peace on the earth. If there is no king, the very sense of property would disappear. Therefore, state is necessary for the protection of wealth and property which also include land. The protection of land, and not the ownership, was one of the important duties of the king. The *Mahabharata* further lays down certain rules for the land tax. It says that the land tax should never be so heavy as to induce the agriculturist to migrate to other areas. Taxes may be high but never so high as to emasculate the people. The king was required to reclaim land for cultivation, to excavate tanks and lakes in order to make

agriculture independent of the caprices of the rains. He was also required to distribute seed grains on loan to the cultivators in times of need.

In the Buddhist literature many changes are noticed in the economic life of India but the land system continued as before. Many new towns and industries developed during this period and almost all the important sections of the society formed corporate organizations for themselves. They began to represent their section in the administration of the state. The *Jatakas*, Works of *Panini* and the early *Dharmasutras* of *Gautama*, *Baudhayana*, *Apastamba* and *Vasistha* throw interesting light on the land system including the ownership of land. All the *Dharmasutras* mention that the king was the head of the state but not the owner of the entire property of the state.

According to *Apastamba Dharmasutra*, if a man does not cultivate the land given by the state on lease, he should compensate full loss caused to the state, but if he is rich, he should be compelled to pay to the state the value of the crop which should have reared on his fields. *Vasistha Dharmasutra*³ says

that the property entirely given up by the owner should go to the king. Further, according to *GautamaDharmasutra*, the treasure-trove or articles hidden under the earth should also be given to the king.

Kautilya'sArthasastra says that the arable lands were divided into private land and the crown land (*sita*). The crown land was under the direct supervision of the officer-in-charge of agriculture (*sitadhyaksha*). The crown land was further divided into two groups-(a) fields directly cultivated by the officer-in-charge, and (b) those let out to share-croppers who were entitled to a half or quarter of the crops and were further liable to water rates.

The forest, which was regarded as no man's land before the *Mauryan* period, came to be regarded as the property of state. *Kautilya* includes forest as a separate item in the classification of sources of revenue. He classified forest into four groups-namely forest of wild animals (*pasu-vana*), economic forest (*dravya-vana*) and elephant's forest (*hasti-vana*), forest of domesticated animals (*mriga-vana*). He lays down special rules for the maintenance and development of economic forest and recommends that colonies of foresters should be built for their upkeep and forest guards should be appointed for keeping a watch. There should be an officer-in-charge of economic produce of the forest

(*kupyadhyaksha*) who should collect the economic produce through the agency of the forest guards. The workshop for the manufacture of forest products should be established and the *kupyadhyaksha* must see that proper wages are paid to the labourers.

Arthasastra says that state should clear some parts of the forest and develop them either into cultivable land of homestead land. He further recommends that state should adopt special measure for colonization of waste lands. This comprised the two-fold programme of the development of the rural and urban areas. The settlement of the urban area was planned to meet the requirements of a composite residential population and an efficient administration as well as the advance strategy and tactics of warfare. Under this scheme, a chain of forts should be built along the frontiers of the kingdom. The central town (*sthaniya*) in the midst of 800 villages should be built on a site selected by experts in town planning (*vastuvids*) or on other suitable sites.

Manusmriti and *Yajnavalkyasmriti* give valuable information about land system in the post *Mauryan* period. *Manusmriti* says that the king is lord of all. He is the supreme authority, therefore, he should be regarded as master of the land and he should appoint clever superintendents at different places to exercise control over the land and the people. However, there are many other

passages in *Manusmriti* which show that the king was only a sovereign power on the earth, but he was not the real owner. It is laid down that if a king discovers any treasure hidden under the ground he should give half of it to the twice born (*Brahmana*) and store up other half in his treasury. In case of the treasure found by individuals, king should get only half of the treasure and that should be given to him only because he guards or protects the people. The other half is kept by the person who found/discovered the treasure.

Brihaspatismriti (XXVI.119) declares that the king is the lord of all. It further says that if *Ksatriya*, *Vaisya*, *Sudra*, die without a male issue, or wife or brother, their property should be taken by the king, for he is the lord of all. *Naradasmriti* (XVII. 84, VII. 6-7) says that one-sixth of the produce of the soil forms customary of royal revenue, in return for the protection of the King's subjects. *Naradasmriti* further says that king has the monopoly over the treasure-trove and it is one of the important 'Sources of revenue of the state. It (XI.22-26) makes distinction between different types of land for the purpose of remission of revenue or for fixation of taxes. *Vishnumriti* (V. 82) lays great stress on the title deeds even

in the case of *bhumidanaby* a king. It says that those, on whom a king has, bestowed land, should furnish a document, for the information of future rulers, written on a piece of cotton cloth or on a copper plate, containing the names of his three immediate ancestors, declaring the extent of land, signed under his own seal with an imprecation against those who might appropriate that plot.

Jaiminisutra (VI.7.2), in the context of *visvajit* sacrifice, says that where the sacrificer has to donate everything that belongs to him, even the greatest king cannot make a gift of the whole earth of which he may be the ruler, since the earth is common to all. *Sabara* in his *Bhasya*, (Kane 1974. Vol. II. Pp. 865-66) says that men enjoy lordship with regard to fields, but not with regard to the whole earth and hence there is no difference between a paramount ruler and an individual with regard to the objects received as fees for providing protection to the crops. *Medhatithi* (VIII. 99) on *Manusmriti* also considers the king only as recipient of share for the protection he affords. *Madhava* (*Nyayamalavishtara*, p. 358) commenting upon Jaimini's *Mimasa*, clearly says that the king cannot give the state territory (*mahabhumi*) because,

it is not his own (*svam*), but his *rajya*. He also disagrees with Gautama when later proceeds to say that the paramount ruler could give away the state territory because it is his property (*dhana*). Madhava says that land is not the king's property but the common property (*sadharana*).

Khandadeva (*Bhattadipika*, p.317) also does not agree with the view that the king has 'svatva' over 'mahabhumi'. He says that the king becomes owner of the exclusive property of the conquered territory of the enemy (*satrusvamika*), while others are to be considered as 'rajya' from which he is eligible for taxes only. Nilakantha (*Vyavaharamayukha*, p. 91) also said that village belong to their respective possessors (*bhaumika*).

Sukra says that king as a member of family also has the share in joint family property which is also corroborated from epigraphical evidences. (EI.IX. No.9B; EI.XI.No.4; ELXIII No.18 B)

The above discussion shows that the king was not the lord of land in his individual capacity, but in the capacity as the head of the state. It was the state which was the lord of entire water and land, but it was an abstract power. It got itself personified in the king, the

minister and other officials. Among the seven limbs (*saptanga*) of the sovereignty, the king has been assigned the first place and then are the ministers and other functionaries. That is why the king as the paramount ruler, exercised this prerogative of being called type lord of the earth, and he acted in a manner he liked with regard to the movable and the immovable properties of the state; but he did so not in his individual capacity. This may explain why the fear always lurked that the lands given in grants might be confiscated by the future kings, for which they were exhorted in the imprecatory verses .not to interfere with the right of donee. *Brihaspatismriti*(XI.22)⁵⁴ says that the king's decision was not to be disgraced.

Brihaspatismriti(VIII.12-17) speaks of the permanent gift of land. It says if the tracts of land is given to a person by the state, the king should cause a formal charter to be executed on copperplate or on a piece of cloth, stating the place, the ancestors of the king, and other particulars, and the names of the mother, father and king himself. This document should also include the date of execution of the charter, the period of it and the mode of inheritance. Further, the secretaries for peace and

war should put his signature on this document with the remark “know this (the charter) should be provided with (the king's) own seal, and with a precise statement of the year, month and so forth, of the value (of the donation) and of the magistrate”.

The Smritikaras(*Smritichandrika*III,*Vyavaharaka*I) and the commentators advise that the *bhumidana* given by the officials and inhabitants of the villages should also be included in the land transaction records. Inscriptions often enumerate a large number of officials and village residents some of them being quite in keeping with the injunctions of the legal texts. Most of these officials appear to *be* associated with one or other form of the properties mentioned in connection with the *dana* of the village where there was no owner, state as absolute power was called the owner of the land. But it was the duty of the king to protect the people and the property in his territory.

Sukranitisara(I.188) enumerate this in these terms: “God has made the King, though master in form the servant of the people getting his wages (sustenance) .in taxes for the purpose of continuous protection and growth”.

Even in medieval period, sources do not speak of king as owner of land. Habib on the question of land ownership during the medieval period writes. “No such pretensions (king being owner of land) were put forward on behalf of the Mughal rulers in any official documents. When AbulFazl sets himself the task of justifying the imposition of taxes on “the peasant and merchants”, he does not argue that the tax on the land flows from the sovereign's right of ownership, he appeals on the contrary, to a social contract by which the sovereign obtains his “remuneration” through taxation in return for providing protection and justice to his subject”. IrfanHabib very rightly points out that “It is only in the eighteenth century that we have an assertion of the king’s right to ownership" basically by the European travelers who wrote extensive treatise on India without any understanding of the system and this doctrine was passed on the British officials who claimed that the East India Company had inherited a universal right of ownership over the land from its predecessors.

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