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Land-Holdings under the Comunidades of Goa : An Historical Perspective

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I

1.1 It is often claimed that the system of *comunidades* (village communities) which existed in Goa centuries before the land was captured by Portuguese in 1510, was a desirable system, that the Portuguese were generous to maintain it, almost intact, at least upto 1540, and that subsequently the conquerors introduced a number of drastic changes in the system, all for the worse. This paper attempts to show two things : (1) The nature of the landholdings under the *comunidades* system as per the Portuguese codification under the *Foral* or Charter of 1526¹ and the drastic changes that were made by the Portugueses since 1540. These changes are explained in terms of the specific legislation in this respect, particularly with reference to the decrees, ordinances, and codes of the years 1540-1961. (2) The paper attempts also to show the exploitative nature of the system as it existed even before the Portuguese introduced their changes. The greater exploitative character of these changes are also discussed to bring out how the landless peasants and tillers of the soil suffered. These hapless subaltern groups used to protest in their own ways which are also examined.

1.2 There is an impression that all the land in Goa belonged² to the *comunidades* at the time when the Portuguese took Goa and that these village communities were allowed to retain the communal ownership of land on the payment of the quit rent which they used to pay to the erstwhile masters of Goa, namely, the Adil Shahis of Bijapur. Albuquerque, conqueror of Goa, is said to have assured the people of Goa that they would not be disturbed in their land-holdings and day to day life if they remained loyal to the king of Portugal and paid him the customary dues regularly.³ It is asserted that the customs and practices of the goans were codified in the *Foral* of 1526 only after getting themselves clear about the various issues and doubts involved.⁴

1.3 It is a fact that the institution of *comunidades* in Goa is at least 1000 years old, perhaps a couple of centuries older. The first evidence of its existence comes from an inscription of the year 1054 A.D. belonging to the reign of the Kadamba king of Goa, Jayakeshi.⁵ D.D. Kosambi takes the antiquity of the *comunidades*

back to 4th century A.D., making the institution more than 1500 years old. King Mayurasharman, founder of the Kadamba dynasty of Banavasi, imported Brahmins from the north and settled them in Goa. According to Kosambi the Brahmin community as a whole owned the lands of the village concerned.⁶

1.4 However, the *Foral* itself implies that different kinds of ownership of land existed in Goa even before the coming of the Portuguese. Clause 1 of the *Foral* implies that the right of ownership was claimed by virtue of conquest. While considering the genesis of the *comunidades* the *Foral* accepted the traditional view that the Islands of Goa constituted no man's lands and that they were settled gradually by some immigrants who then claimed the ownership of large chunks of land in common. However, some conquerors came in subsequently and the original settlers or their descendants could retain the communal ownership of their lands only by agreeing to pay a certain amount of tributes. The same principle was applied when Afonso de Albuquerque conquered the Islands of Goa in 1510, as already noted.

1.4 Within a village there seem to have existed three kinds of land holdings. Some lands were possessed by the *comunidade* in common, some in private and others were claimed by the state. The *comunidades* owned such cultivable lands which were reserved for meeting the expenses of the community, as well as waste, pasture and forest lands. On the other hand some cultivable lands were parcelled off to village and temple servants in perpetuity. The lands once so granted were not to be taken back as long as the required services were rendered. If the grantee faltered his heirs were recognised. These servants therefore held their lands in heredity (C1.12). The *comunidades* also granted wastelands and other areas for being brought under cultivation. The grantee was to pay either no rent or a certain gradually increasing rent until the first 25 years or less, and thereafter pay the regular rent. None would think of depriving the grantee or his heirs of these lands after 25 years or so (C1.9). Such lands therefore went into private possession in due course.

1.5 Thus the lands reserved for its own expenses were possessed by the village community in common along with the waste, pasture and forest lands which were not yet granted to any one. The cultivable lands, however were leased out annually to the highest bidders in a public auction under the *Foral*. The bidders had to be *gauncars* of the village though there were some villages where outsiders were allowed to bid (C1.20).

1.6 That there were privately owned lands in villages is evident from clause 15 which lays down that none could sell or purchase lands within a village without the consent of all the *gauncars* therein and that if any land was sold or purchased without such consent the sale deed had no validity. Obviously, a *gauncar* could not sell what did not belong to him or what he did not own. Private ownership of lands is further confirmed by the next clause, 16, which prescribes that while making a letter of sale of any inheritance, not only the seller but also all his heirs should sign it. Even minor

heirs had to be represented. If any body was left out to sign the whole deed became invalid any time and the sale price had to be returned.

1.7 The Portuguese state did claim the right of ownership of village lands by virtue of conquest. The king of Portugal in his letter of 15 March 1518 provided for the grant of lands to the *casados*⁸ according to their ranks, asserting that the lands of Goa belonged to him by virtue of conquest. However, doubts were raised in Goa whether all lands belonged to the king. He then modified the grant, vide his letter of 28 December 1519⁹, saying that the *casados* should be provided with such lands which were owned privately by Muslims prior to the Portuguese conquest and which lands certainly belonged to the king by virtue of conquest. The other lands were to continue in the possession of the non-Muslims as before provided they paid the state dues.

1.8 Besides, the state claimed certain lands of *gauncars* in specific cases under the *Foral* of 1526. If a *gauncar* died without leaving any heir, his property movable as well as immovable were to belong to the state, provided that the property was not subject to the quit rent of *foro* (c1.19). However, clause 27 simply laid down that the state would inherit the property of any man who died without a heir. Further, under clause 40, if any *gauncar* of the Island of Chorao or of any other island which was a part of the Portuguese territory then (Tiswadi) fled to the neighbouring Adil Shahi lands such *gauncar's* immovable properties became part of the common property of the *comunidade* while the movable property went to the state. Similarly, if a *gauncar* fled away unwilling to pay the rent or being incapable of paying it, the other *gauncars* were to assemble and fix a date for his return; if he did not come back within the time after notification, his heirs were to be asked to take over and pay the dues; if the heirs also were unwilling, the *comunidade* was to take over and pay the dues (c1.17). If a *gauncar* fled owing to debts, one could deprive him of his inheritance; instead his heirs were to be asked to take it over and pay the debts; if the heirs were unwilling or if there were no heirs at all then the movable property would belong to the state and the immovable to the *comunidade* (c1.18).

Thus, the state did not claim much of the land of the *comunidades* under the *Foral*; there were only some exceptions. This position did not change until the 1540's. However, in the mid-sixteenth century and thereafter the *comunidades* were turned topsy-turvy, thanks to the religious policy of the Portuguese.

II

2.1 The temples of the Islands of Goa were destroyed in 1540. The temple lands were allowed to revert to the *comunidades* who in return were to pay 2,000 silver *tankas* (*tangas*) to the Catholic church. In 1545 the state took away the temple lands from the *comunidades* and made them over to the Jesuit Order without relieving the *comunidades* from the payment of 2,000 *tankas*.¹⁰ When the Marquis of Pombal, liberal Prime Minister of Portugal, suppressed the Jesuit Order in 1759

these lands were declared a state property. The temples of Bardes and Salsete were also destroyed soon after their acquisition by the Portuguese in the 16th century. The temple lands were made over to the churches. These land transfers upset the economic life of many a temple servant, including the priests.

2.2 The customs and traditions were further disturbed when a law was passed that no public office should be held by non-Christians.¹¹ The Hindu scribes (Kulkarnis) were forced to sell their posts to the Christian *gauncars*. The Hindu *gauncars*, in the course were deprived of other village offices such as those of tax collector, watchman, etc. Probably the sale of such offices by the Hindu holders was accompanied by transfer of properties attached to the offices. Hindu priests were not only banned from discharging their religious and social obligations but they were also exiled from Portuguese Goa. If they did not leave within a month their private property was confiscated and they were enslaved for life at the galleys. Further, Hindu women were granted the right to inherit the family property, provided they embraced Christianity. Granting of the right of inheritance to women was a right step, but the rider that they should become Christians to earn the right disturbed the village community life considerably. Under the Hindu laws the women folk had no right to inherit. The *Foral* had recognised this. Clauses 27-30 relate to questions of inheritance and clause 30 clearly declares that no female, not even a daughter, had the right to inherit. As a result there were cases of widows who refused to become *satis* or to live in Hindu widowhood, but got themselves converted to Christianity. Their claim to inherit the dead husband's property was upheld by the state and enforced. There were cases of women who were no widows but sisters and wives.¹²

2.3 In 1566 it was enacted that the Hindu *gauncars* should be excluded from the meetings of the village assemblies if the Christian *gauncars* were in a majority in the village concerned. The next year it was laid down that in the auctions of rice fields, etc, preference was to be given to Christian bidders.¹³

2.4 The *Foral* and the Portuguese promises were ignored in the mid-sixteenth century and thereafter in respect of the traditional dues payable to the state and the church by the *comunidades*. Not only were the existing dues increased, but new taxes of various types were imposed and collected until an era of state liberalism dawned in the beginnings of the 19th century. The lands belonging to the destroyed temples were transferred to the church and in addition the *comunidades* paid 2,000 *tankas* to the church, as we have noted above. Further, the church did not hesitate to impose tributes from time to time for various purposes - repair of churches, feasts, festivals, and so on. Such impositions became so frequent and heavy that the state decided that they should not be allowed any more without the sanction of the government. The church did not appreciate this and made a vain attempt to reverse the decision.¹⁴

2.5 The state itself went on increasing the taxes on the *comunidades*. Such taxes were meant mainly for military expenses. They were either in kind or in cash. The

impositions in kind included supplies of fodder for horses and the beasts of burden; of palm leaves for thatching purposes; of free labour; and of men to the army or the navy. These could be substituted by cash. For instance, if the state wanted that a village should supply ten soldiers, the *comunidade* concerned could agree to contribute a sum annually which was equivalent to the salaries etc., of ten men. The *Foral* contained a provision that a *comunidade* should be exempted from paying the state dues if it could not pay owing to damages caused by war. This was disregarded by the Portuguese more often than not. For instance, in 1739 Bardes and Salsette were attacked by the Marathas. The *gauncars* of the villages fled to the Islands of Goa as they could not face the attackers. The lands were left uncultivated. Yet the state made the *gauncars* or the *comunidades* to pay a heavy contribution towards war expenses and peace negotiations.¹⁵ Such heavy and ever increasing imposts often rendered the *comunidades* bankrupt or debtors. Incomes and belonging of the *comunidades* were pledged and loans were raised to make good the dues imposed by the state and the church.

III

3.1 It is evident from the foregoing pages that the Portuguese accepted the system of land holdings which they found in 1510 in Goa, but they did not preserve its form or its spirit for long. They introduced many drastic changes from time to time. Though the number of the major laws on the *comunidades* can be reduced to seven, there was hardly a year when half a dozen or so rules and regulations were not proclaimed. The major laws themselves became increasingly elaborate, complex and voluminous. The form and spirit of these laws also kept on changing. The major laws were (1) the *Foral* of 1526, (2) the Ordinance of 1735, (3) the Decree of 1880, (4) the Regulation of 1889, (5) the Code of 1904, (6) the Code of 1933, and (7) the Code of 1961. The first two did not differ much from the point of view of the number of clauses, 49 and 46, respectively, but the two had to be taken together as the Ordinance of 1735 laid down in clause 38 that the *Foral* was valid for all the three provinces which the Portuguese had conquered by then, with certain exception. The major exception was that the Finance Council had declared in 1649¹⁶ that the lands of the villages belonged to the state and that the *comunidades* were mere grantees of lands in return for the payment of a rent. Under the *Foral*, however, the *comunidades* were the owners of the lands.

3.2 The major laws of the 19th century, namely, those of 1880 and 1886, consisted of 68 and 465 clauses respectively.¹⁷ The latter declared that all the previous legislation on the subject of *comunidades* was null and void once the new one came into force. It meant that the *Foral* was no more valid. The Regulation of 1886 defined the *comunidades* as agrarian associations, as the Decree had done in 1880. In fact the Decree was the basis of the Regulation. Both embodied the concept that the *comunidade* lands were the property of the state; both provided for an Administrative Board whose president chaired the meetings of the village assemblies; both redefined the membership of the *comunidades*, admitting shareholders and

others to full legitimate membership of *comunidades*. The major laws of the 20th century were voluminous and elaborate. The last, that of 1961 changed the very spirit of the legislation on the subject since the 1540's. It accepted the concept that the *comunidades* were the perfect owners of the lands of the village. It was the shortest of the three also, with 660 clauses vis-a-vis 750 of 1904 and 873 of 1933.

3.3 A study of the legislation on the *comunidades* and of the records of their actual working reveal that they underwent certain identifiable stages of development. The first stage may be characterised as idyllic which lasted from 1510 to 1540. During this short period of three decades the Portuguese government upheld the customs and traditions governing the land-holdings and other aspects of the *comunidades*. They conceded that the *comunidades* were the owners of their respective village lands. The property rights and other privileges of the members of the *comunidades* were protected. The next stage lasted from 1540 to 1640 when the *comunidades* came under the spell of the Catholic church which turned them topsy-turvy with state help. As noted elsewhere, temples were destroyed and their lands were gradually made over to the church; inheritances were transferred to converts; numerous persecution laws were introduced on account of which a large number of *gauncars* fled from Goa leaving their lands behind; non-Christian *gauncars* were deprived of public offices of the *comunidades* which meant loss of lands attached to such offices; they were banned from attending the meetings of the village assemblies if they were in a minority and the Christian *gauncars* were in a majority; and the church imposed heavy contributions on the *comunidades* from time to time. The third stage, 1640-1800 was marked by state burdens imposed on the *comunidades*. The burdens were particularly in the form of ever increasing imposts for the purpose of military and naval establishments. The stage was also marked by the assertion of the state that the lands of the *comunidades* belonged to the state, not to the *comunidades*. The latter were virtually bankrupt owing to these state demands. The next phase of the development was marked by state liberalism, 1800-1903. As one author points out¹⁸ this might have been due to several influences in operation then : liberal ideas of the French Revolution; less influence of the church on the state; and the English threat to Goa and the need to earn the loyalty of the Goans. Strict laws were passed in 1813 to control usurpation of the *comunidade* lands. There were some additional taxes; but they were meant for promoting education, construction of roads and such other social purposes. The 19th century also marked the elaborate and detailed legislation on *comunidades* as noted earlier. Under this legislation the *comunidades* were redefined as agrarian associations. The fifth and the last stage was marked by the 20th century legislation, 1904-1961, which brought about certain reforms aimed at improving the agricultural activities and operations, and to change the concept of ownership of lands. The Code of 1961 reverted to the concept of 1510-1540, that the *comunidades* were the real owners of the village lands.

3.4 The system of *comunidades* suffered from many a drawback. A major defect was the periodical auction of lands among the *gauncars*. The system might have netted the maximum possible income to the *comunidades* and no *gauncar* might

have held a piece of land for long, thus helping the principle of communal ownership of village lands. However, it hindered improvement of lands as the lessee had no permanent interest in them. It also led to the exploitation of the poor farmers and landless labourers. The winner at the auctions could not cultivate all the lands he obtained; he therefore sublet some portions to others at a considerable profit. Such subletting was not necessarily confined to the winner (A and his lessees (B1), (B2), (B3) etc, but often from the latter to others down to the actual tiller, the poor farmer who had to pay through his nose. Subletting of several degrees took place in such cases where a whole village or even a couple of villages, or when an individual *gauncar* held lands in different villages as it happened. Such development took place in the latter half of the 16th century and thereafter. For instance, in 1573 the *comunidade* of Colla had been deprived of its lands which were transferred to an individual Portuguese national. The grant was made for three generations. Similarly, the villages of Cuncolim and Veroda formed a single grant to an individual, Joao da Silva, in 1585.¹⁹ Naturally the grantees could not have tilled the whole village or group of villages by themselves. They must have parcelled out the lands to others on profit.

3.5 The system was defective from another angle, i.e., when the number of members of the *comunidades* was too small. To give one example:²⁰ the *comunidade* of Oxel had only three *gauncars*. They were related to each other, the uncle and his two nephews. The result was that they exploited the lands of the village by making themselves tax collectors and evaluators, by obliging and disobliging each other, by rigging up the bidding at auctions involving outsiders, thus enriching themselves at the cost of the state and the poor farmers and landless labourers. The system of the *comunidades* involved free labour too. The state demanded and received free labour of a certain number of workers every year for certain types of work.²¹ The *comunidades* themselves and the *gauncars* themselves must have received free labour from poor farmers and landless labourers.

3.6 One crucial question about the system of *comunidades* is whose interest did it serve? The system was certainly exploitative of the poor farmers and the landless workers, though it might not have been so in its origin. When we confront it in the 16th century the *gauncars* and others who had inheritances in the villages dominated the village administration. The *gauncars* alone could attend the assembly meetings, vote and take decisions; and they alone participated in the periodical auctions. As already noted, the *gauncars* who possessed or obtained on lease large tracts of land could not cultivate them with their own hands. They and their lessees had to hire landless labourers. Were the wages of the hired workers reasonable? Most probably not.

3.7 Even when the village community owned the lands in common the system might not have been free of exploitation of the under privileged. The situation certainly did not alter when the state claimed that it was the sole owner of all the lands as it did in the 17th, 18th and the 19th centuries. In fact the state was insistent, throughout our period of study, that whatever was its due should be paid by the

comunidades at any cost. There is no other explanation of the provisions in the *Foral* of 1526, the Ordinance of 1735 and other laws such as that (1) the *comunidades* should pay the state dues even if there was a deficit in the income of *comunidades*, laying down that the deficit should be made good by contributions by the *gauncars*, proportionate to their holdings; (2) if a *comunidad* reported to the *tanadar-mor* that it could not pay owing to losses, he should ascertain the truth, that if the report was true he should summon the general assembly consisting of the *gauncars* of the eight principal villages wherein the village lands in question should be auctioned, that the highest bidders, on being entrusted with the lands, should improve and make good the state dues; (3) the state did not care how the funds were raised by the *comunidades* to meet the demands of the state in cash or in kind, whether the funds were raised by pledging the lands and other belongings of the *comunidades* at a high rate of interest; and (4) the lands were confiscated by the state if the *gauncars* rebelled and refused to pay the state dues; such lands could be granted in perpetuity to others who were prepared to more than meet the state dues.

3.8 Was this exploitative character of the *comunidad* system abandoned by the spirit of liberalism of the 19th and the 20th centuries and under the Code of 1961 which declared in its preamble that the *comunidades* were the perfect owners of the village lands²² and that the state had no right of ownership at all? I wonder. The dominance of the interested *gauncars* and other parties continued. The poor tiller continued to be exploited. The two classes of *bhatkars* and *mundkars* respectively had come into being by then. The former owned lands and the latter were employed to till and look after the lands of the *bhatkars*. For their trouble, the *mundkars* were given a cottage to live in or were allowed to build one, and were granted a small share in the crop - cash crop or others.

3.9 Finally, it may be observed that the Portuguese onslaughts on the *comunidades* and *gauncars* did not go unchallenged. The religious bigotry of the last six decades of the 16th century led to large scale transfers of lands from rebel *gauncars* to the faithful ones; from the *comunidades* whose entire populations rebelled to individual grantees; from temples to churches; from Hindu *gauncars* to Christian *gauncars*; from Hindu males to Christian females, and so on. There were protests, naturally. The protest was usually in the form of abandoning the arable lands and leaving them uncultivated. When this happened to vast areas for several seasons, obviously the revenue receipts of the government fell. What is more, scarcity of foodgrains became evident in the land where there was a traditional deficit of foodgrains. Under the circumstance the government had no alternative but to intervene, relax religious persecution laws, slow down land transfers and thus ensure the return of the cultivators and resumption of agricultural operations. During the latter half of the 19th century and a decade or so of the 20th, the protest story was different. The Ranes of Sattari made it a point to champion the cause of the *gauncars* and farmers whenever the Portuguese government enhanced the land revenue. However, this question of agrarian discontent and protest movements deserves more and deeper study than hitherto bestowed with.

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4. *Ibid*, 206.
5. *Ibid*, 168-9, n.16.
6. Kosambi, D.D. *An Introduction to the Study of Indian History*, Bombay, 1956, pp. 301-6.
7. Xavier, *Bosquejo*, I, 201-5.
8. *Casados* means married ones. Here however, the term is used in a particular sense, i.e., Portuguese nationals who married native women and settled down in Goa.
9. Xavier, *Bosquejo*, I, 205-6.
10. *Ibid*, 106-7.
11. *Ibid*, 107.
12. In my researches on the conversions in South Kanara, I have come across cases of Hindu widows being converted to Christianity, especially brought to Goa for the purpose of baptism, and claiming inheritance of their family properties (Shastri, B.S. *Studies in Indo-Portuguese History*, Bangalore, 1981, p. 45. On the basis of these findings one can visualise similar cases in Goa also.
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