

AGRICULTURE LAW

PROJECT TITLE:

ACCESS TO CROP INSURANCE AS A VITAL RISK
MANAGEMENT TOOL IN INDIAN AGRICULTURE:
ADDRESSING CHALLENGES AND ENSURING FUTURE
PROMISE FOR BETTER SOLUTION

(This project aims to emphasis on challenges and better ways for implementation of a more viable and farmer friendly Crop Insurance Programme in India)

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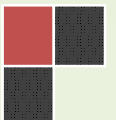


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CHAPTER 1

INTRODUCTION

With the ushering of globalization era promoting investments in agricultural trade, the study of agricultural risk management has its immense value at present. Its usefulness lies in strengthening national food security and stabilizing farmer's income under uncertain events ranging from production risks as well as market risks of agricultural commodities. The *crop insurance*, under although covers production risks but has been linked with as *farm income insurance* and *weather insurance* in different countries adopting varied insurance models.

The Government's contribution implementing the programme in response to farmers needs amidst socio- economic and geographic relevance plays a significant part. Thus , variation in implementation of crop insurance draws the distinctive line in between developed countries arising from heavily mechanized farming, lesser size of farming community, systematic and planned resource management tracing localized calamities against crop insurance schemes in developing nations where poverty , population explosion , inadequate financial resources acting as hindrance. However, all the countries attempts to satiate their crop insurance domestic support within the green box criteria under the World Trade Organization mandate but apparently it seems that the WTO Rules favor the developed nations.

India, post - independence had adopted various National Crop Insurance Schemes. Such Schemes are administered by government and private insurers. Further, crop insurance is linked to credit insurance seeking mandatory participation from the loanee farmers at time of loan grant and voluntary for others. In Indian social milieu, Government under constitutional obligations cherishes the goal of lending social benefits like insurance support to agrarian community but there are inadequacies in administrative and legal aspects making the insurance framework ineffective and non accessible to the

beneficiaries. However, the judicial bodies like Courts and Consumer Forums have attempted to solve the disputes as to crop insurance claims. Still, there is much room left for progress in this arena and better solutions for farmer friendly crop insurance can be possible by incorporating innovative cross border insurance techniques.

The present research paper based on **doctrinal method of policy orientation** attempts to discuss the aforesaid issues and tries to find justifiable solution while engaging a comparative study with help of website based research articles.

This paper focuses on **Hypothesis** - **For successful implementation of crop insurance programme in India along with Public- Private Participation, decentralized risk bearing mechanism and farmer friendly regulating environment must be ensured.**

It attempts to bring out following **Research Objectives-**

- (1) To analyze the relevance of crop insurance within the World Trade Organization Framework.**
- (2) To bring out a picture of comparative crop insurance in countries like US, Spain and Netherlands.**
- (3) To critically analyze the crop insurance scenario and weather insurance in India with reference too few cases.**
- (4) To discuss the future panacea for a farmer friendly crop insurance programme.**

Realizing the relevance of the crop insurance in agricultural law, the present research paper has been classified under various chapters for a systematic analysis of the issues.

CHAPTER 2

RELEVANCE OF CROP INSURANCE WITHIN THE

WORLD TRADE ORGANIZATION

The present Chapter will first focus on significance of agricultural insurance with importance to crop insurance and then will concentrate on its relevance within World Trade Organization's framework.

(2.1) SIGNIFICANCE OF AGRICULTURAL INSURANCE WITH SPECIAL REFERENCE TO CROP INSURANCE

Since the agricultural production forms country's main Gross Domestic Product (GDP), the role of agricultural credit institutions and insurance sector has a significant role to play ensuring national food security and social security to farmers.¹ Agricultural production is a risky profession being associated from sowing of crops to market risks². Particularly, the study of agricultural insurance in recouping losses and preserving farmer's income under adverse uncertain events is undoubtedly significant.³

¹ Report of the Working Group on Agricultural Credit , Cooperation and Crop Insurance For The Formulation of 10th Five Year Plan (2002-2007) , pg 1-2 available at <http://planningcommission.nic.in/aboutus/committee/wrkgrp/agricrdit.pdf> (last visited on 23.10.2011)

² Jerry Skees, Peter Hazell , and Mario Miranda :New Approaches to Crop Yield Insurance In Developing Countries ;EPTD Discussion Paper No 55; Environment and Production Technology Division ; International Food Policy Research Institute ; November 1999 available at <http://www.ifpri.org/sites/default/files/publications/eptdp55.pdf> ,pg 1-2 (last visited on 23.10.2011)

³ Ibid

Agricultural Insurance comes under two-fold division - formal and non-formal.⁴ It covers a wide arena of risks which are production risks,⁵ financial and credit risks,⁶ price or market risks,⁷ institutional risks,⁸ technology risks⁹ and personal risks¹⁰.

Crop Insurance, a non-life insurance product, protecting farmers against the variations in crop yields primarily due to natural factors like rainfall, drought, hail, frost, pest and insects and transferring risks to company or any organization on paying premium.¹¹ The insurance indemnity is payable on the basis of shortfall in average crop yield from the

⁴ Planning Commission of India , Report of the Working Group on Risk Management in Agriculture , For the Eleventh Five Year Plan (2007-2012), available at http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_risk.pdf pg-8 (last visited on 23.10.2011) Formal mechanisms is where government intervention is needed and non formal is associated with without intervention of government , farmer community is able to create an adequate risk structure.

⁵ Supra at note 2, pg- 6-8 .Production risks are associated with risks relating to weather, pests which affect the crop yield loss. To cure such kind of risks – crop insurance, index based contracts (area or weather) are present.

⁶ Ibid, pg -7 .Financial or credit risks are related to financial expenses incurred by the farmers which cannot be covered once the product is marketed and it can also arise when these farmers spend a huge amount of money on its own in agricultural production without having access to any credit facility. Insurance, Priority sector lending are risks bearing mechanisms.

⁷ Ibid. Market risks are present when agricultural crops which cannot be later on sold out due to price fluctuations on basis of demand- supply in the market.

⁸ Ibid. Institutional risks are the risks which arise due to change in fiscal policies of the government as to income support or subsidies in agricultural premiums, implements under any new policy framework by the WTO regime.

⁹ Ibid, pg-9 .With the progress of biotechnology, newly modified seeds and crops are being used for cultivation and the crops are also being structured to become adaptive under various climatic circumstances and for this farmers are to incur technology risks in agriculture.

¹⁰ Ibid. pg-8 Personal risks are mainly associated with farmer's individual risks relating to loan repayment, assets loss under natural calamities.

¹¹ What is Crop Insurance ?Available at <http://www.wisegeek.com/what-is-crop-insurance.htm> (last visited on 23.10.2011)

threshold yield¹² only after loss assessment. Crop insurance may come in the form of various insurance coverages.¹³

Under individual crop insurance covering perils of localized calamity where the loss adjustors ascertain individual farmer's loss is treated differently from the area -yield based or index based crop insurance being tagged as over -covered or under -covered failing thereby to compensate the actual loss since the quantum of crop failure in an entire area does not match with farmer's area¹⁴. Nowadays, along with crop insurance two other insurance mechanisms like farm income insurance¹⁵ and weather index based crop insurance¹⁶ are encouraged as feasible options for many farmers.

(2.2) CROP INSURANCE UNDER THE WTO – CONFLICTING CONSENSUS

The World Trade Organization's role in developing rules for crop insurance subject is enshrined under the Marrakesh Agreement, 1994.¹⁷

¹² The threshold yield is the calculation of previous 5-10 years past yield data .Rural Insurance available at <http://www.ikisan.com/Rural%20Insurance/Rural%20Insurance.htm> (last visited on 23.10.2011)

¹³ Single peril covering a particular crop, named peril covering up to four perils, multi peril covering five or more perils and all perils covering all kinds of perils. Supra 2, pg-34.

¹⁴ Index Insurance , an Innovative Tool for Poor Farmers , International Research Institute on Climate and Society , available at http://www.momagri.org/UK/focus-on-issues/Index-insurance-an-innovative-tool-for-poor-farmers_571.html (last visited on 23.10.2011)

¹⁵ It is being related with natural uncertainties along with future market risks, available at <http://india.gov.in/sectors/commerce/insurance.php?pg=2> (last visited on 23.10.2011)

¹⁶ It is concerned with crop loss arising out of adverse weather parameters and showing changes in weather index range thereby signaling triggers for indemnity payments. Manisha Sharma, Weather Insurance- a boon for farmers? Oxfam India available at <http://www.oxfamindia.org/content/weather-insurance-boon-farmers> (last visited on 23.10.2011)

¹⁷ RA.J Roberts Insurance of Crops in Developing Countries ,2005 available at <http://www.fao.org/docrep/008/y5996e/y5996e03.htm> (last visited on 23.10.2011)

Crop insurance comes under *non-product specific* class since support is provided through indemnity payments and premium subsidies.¹⁸ For Crop Insurance to fall within the ambit of Green Box, national Governments have to provide income support through insurance fulfilling some necessary criteria¹⁹.

US Crop Programme falls under amber box since it provides excessive support more than 70%; and in the recent US –Brazil Cotton Dispute where it has been found that US Crop Insurance is more of product specific.²⁰

However, the recent Doha WTO Negotiations reduced the *de minimis* from 5% to 2.5% thereby increasing the Aggregate Measurement Support²¹, discloses US considerable influence in designing the WTO Norms for prejudicing the level playing ground of all agriculturists.

However, in India, crop insurance falls within *green box limit* and there has been trend of 10% inclination in government crop insurance support.²² However, like US and other developed economies, Indian government cannot provide much financial support through

¹⁸ Keith Collins ,Future of Crop Insurance in Volatile Markets , Analytical Papers available at <http://www.agroinsurance.com/en/analytics?pid=10872> (last visited on 28.10.2011)

¹⁹ Ibid. (a) for income loss exceeding 30% previous three year income average is to be calculated. (b) Payment must compensate for less than 70% of producer's income loss in a year. (c) If an agriculturist receives crop insurance payments along with government disaster payments, the total payments must be less than 100% of his actual loss.

²⁰ Agricultural Situation Spotlight: How the Brazil-U.S. Cotton Dispute Could Affect Iowa's Agriculture available at http://www.card.iastate.edu/iowa_ag_review/summer_04/article3.aspx (last visited on 24.10.2011)

²¹ It is the annual financial support by the government for agriculturists .Agreement on Agriculture available at <http://www.jurisint.org/pub/06/en/doc/13.htm> (last visited on 25.10.2011)

²² Muniswamy Gopinath India Shadow WTO Agricultural Domestic Support Notifications , IFPRI Discussion Paper 00792 September 2008 available at <http://www.ifpri.org/sites/default/files/publications/ifpridp00792.pdf> (last visited on 28.10.2011)

calamity relief²³ due to administrative inefficiencies Besides, the Indian government faces the problem to leverage between farmer's demand to purchase greater premium valued crops and in reimbursing the indemnity claims since for crops like pulses, oilseeds and commercial crops premium rate has been actuarary based compared to flat subsidized rates of annual food crops. The reintroduction of Farm Income Insurance Support can be one of the ways, India to remain within the confines of "Green Box" Support by fulfilling promise made under the National Agricultural Policy.²⁴ Thus, the Government after comparative analysis must adopt and implement a suitable policy for protecting farmer's interests.

²³ Kolli N Rao and Louis Bockell Risk Management as a Pillar in Agriculture and Food Security Policies – India Case Study Policy Brief, FAO, July 2008, EasyPol Module 209 available at http://www.fao.org/docs/up/easypol/764/risk_mngmnt_pllrfp_policy_indiacs_209en.pdf , pg -3-4 (last visited on 29.11.2011)

²⁴ Income Insurance Linked Schemes For Farmer's Support available at <http://webcache.googleusercontent.com/search?hl=en&q=cache:9aesFbe1PLIJ:http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=211&Section=high%20level%20committee%20report&ParentID=0&Parent=1&check=0+challenges+in+implementation+of+FARM+INCOME+INSURANCE+INDIA&ct=clnk> (last visited on 29.11.2011)

CHAPTER 3

CROSS BORDER CROP INSURANCE SCENARIO

Despite the fact that India has the largest crop insurance programme in the world covering nearly 25 million farmers ,²⁵ there have been much politicization and manipulation about insurance data and its implementation. The component of legally regulated public –private participation with a unique Combined System in US and Spain respectively; and also an efficient structure of mutual insurance in Netherlands can be a significant learning lesson for India.

(3.1) United States of America

The US Congress initiated the concept of crop insurance in early 1930s to help agriculturists from severe economic loss of the Great Depression²⁶. Then came ,the *Federal Crop Insurance Act, 1980* replacing the Farm Bills of 1960's and 1970's.²⁷

The Government later on reformed the *Federal Crop Insurance Reform Act, 1994* making mandatory participation for farmers eligible for deficiency payments under price support programs and soon greater participation among farmers in the insurance programme increased.²⁸ Same time around, *Catastrophic Risk Protection Act (CAT)* was passed compensating marginal farmers for losses exceeding 50 % at much subsidized premium.²⁹ The implementing agency apart from the Federal *Crop Insurance*

²⁵ Niraj Verma and Olivier Mahul ,National Agricultural Insurance Scheme in India , available at http://www.aseandrr.net/Portals/0/OK/DRF/India_mNAIS_Final.pdf (last visited on 31.10.2011)

²⁶ A History of Crop Insurance Programme , United States Of America Risk Management Agency available at <http://www.rma.usda.gov/aboutrma/what/history.html> (last visited on 31.10.2011)

²⁷ Ibid.

²⁸ Ibid.

²⁹ Supra at note 4, pg-30.

Corporation (FCIC) is private crop insurers under Standard Reinsurance Agreement also shares loss and underwrite policies³⁰.

(3.2) Spain

Spain has a ‘Combined Agricultural Insurance System’ under the Agricultural Insurance Royal Decree 2329/1979³¹ in which the agricultural risks are covered by the private sector and with Government subsidized premium rates.

In this system there are three essential support systems regulating the crop insurance structure comprising of *Enesa*, Agricultural Ministry, '*Agroseguro*', co-insurance pool of forty private insurers along with a *public enterprise* as a re-insurer etc³². However, mainly in the ENESA, annual agricultural plans are designed to form suitable insurance policies but the premium rates are fixed by the private insurers.³³ Thus, with cooperative task division, organized crop insurance is found in Spain.

(3.3) Netherlands

The Netherlands is an EU member and Dutch agricultural producers operate under the *Common Agricultural Policy* (CAP)³⁴. Although quite late in 2010 covers *multi peril*

³⁰ Ibid, pg- 79

³¹ Fernando J. Burgaz Moreno The Spanish Combined Agricultural System available at http://aplicaciones.mapya.es/documentos_pwe/confe/burgaz-ing.pdf (last visited on 1.11.2011)

³² Supra at note 4, pg -78.

³³ Ibid.

[illegible]

insurance coverage has been provided by insurance companies ³⁵, but the concept of Mutual insurance schemes under Public-Private framework and the government being re-insurer made crop insurance scenario in Netherlands unique one . The mutual insurance products like Avipol, Potatopol were popular in safeguarding the premium payments and for their future use in farmer funds.³⁶.

Thus, the concluding observation can be made is that in Indian scenario, a proper crop insurance legislation along with an effective set up of public private participation and also mutual income insurance support is needed.

[per/5kgj0d5lqn48-en&containerItemId=/content/workingpaper/5kgj0d5lqn48-en&accessItemIds=&mimeType=application/pdf+risk+management+in+agriculture+netherlands&ct=clnk](#)

pg-8 (last visited on 1.11.2011)

³⁵ Ibid.

³⁶ M Karthikeyan , Piloting Mutual Crop Income Insurance With Small Rainfed Farmers available at [http://agritech.tnau.ac.in/crop_insurance/PDF%20FORM/Piloting Mutual Crop income Insurance with Small Rainfed Farmers.pdf](http://agritech.tnau.ac.in/crop_insurance/PDF%20FORM/Piloting_Mutual_Crop_income_Insurance_with_Small_Rainfed_Farmers.pdf) (last visited on 31.10.2011)

CHAPTER 4

RELEVANCE OF CROP INSURANCE AND WEATHER INSURANCE IN INDIA

Before embarking on critical analysis of crop insurance schemes in India, there is need to understand its social relevance and constitutional premise. The Indian Government is socially bound to provide crop insurance facilities to farmers. *Article 21 of Indian Constitution* providing the enforceable *fundamental right to life and personal liberty*³⁷ has a much wider dimension and the crop insurance guaranteeing social security undeniably comes under the purview of the said Article. Besides, the recent *Agriculture Workers Welfare Bill, 2011* legitimizes the farmer's basic rights like- free medical or health insurance, educational facilities, life insurance coverage up to rupees two lakh etc.³⁸

Presently, Crop insurance Scheme under National Agricultural Scheme is operated by *Agriculture Insurance Company of India* (AIC) along with NABARD and other four General Insurance Companies like-Oriental Insurance Company, New India Assurance Company and National Insurance Company providing coverage for annual food crops and also for plantation crops under geographic areas like-*apple* , *mango*, *grape insurance* etc.³⁹ Although , the agricultural market risks under legislations like *Essential*

³⁷ Article 21 of Indian Constitution available at [http://en.jurispedia.org/index.php/Article_21_of_the_Constitution_\(in\)](http://en.jurispedia.org/index.php/Article_21_of_the_Constitution_(in)) (last visited on 14.11.2011)

³⁸ Agricultural Workers Welfare Bill, 2011 (Bill No 69 of 2011) available at <http://164.100.24.219/BillsTexts/LSBillTexts/asintroduced/1215LS.pdf> (last visited on 14.11.2011)

³⁹ Gurudev Singh , Crop Insurance in India , Working Paper 2010 -06-01, Indian Institute of Business Management available at <http://www.iimahd.ernet.in/publications/data/2010-06-01Singh.pdf> pg -12-13 (last visited on 28.10.2011)

*Commodities Act, 1955, Forward Contract (Regulation) Act, 1952 and Prevention of Black-marketing and Maintenance of Supplies of Commodities Act, 1980*⁴⁰, but the crop insurance and ancillary to it the weather insurance is more of a policy framework and till date does not have any law in operation. This present chapter will focus on relevance and shortcomings of crop insurance and weather insurance under following heads-

(4.1) CROP INSURANCE: CHALLENGES AND PROSPECTS

(A) Crop Insurance in India (Pre NAIS) –

S Chakravarthy, an agricultural scientist in 1920s by introduced the crop insurance concept to Indian farming community.⁴¹ Post- Independence era witnessed following crop insurance schemes:

(1) Individual Approach (1972-1978) – It was primarily based on *H-4 cotton* in Gujarat. The scheme covered 3,110 farmers for a premium of Rs. 4.54 lakhs and paid claims of Rs. 37.88 lakhs.⁴²

(2) Pilot Based Crop Insurance Scheme (1979-1984) – After the individual approach turning to be a failure, *Professor Dandekar* introduced '*Homogeneous Area*' approach which covered oilseeds, cotton and potato. The scheme was implemented in 13 states and covered 6.27 lakh farmers, for a premium of Rs. 196.95 lakhs and paid claims of Rs. 157.05 lakhs⁴³.

⁴⁰ K G Sahadevan ; Risk Management in Agricultural Commodity Markets :A Study of some selected Commodity Futures pg1-2 available at <http://dilbert.iiml.ac.in/~devan/comex-up.pdf> (last visited on 28.10.2011)

⁴¹ Crop Insurance For Sustaining Agricultural Production , Policy Brief 5, pg – 7 available at <http://dhan.org/cpp/pdf/policybrief5.pdf> (last visited on 28.10.2011)

⁴² Supra at note 4, pg -36.

⁴³ Ibid.

(3) **Comprehensive Crop Insurance Scheme (1985-1999)**- This Scheme for the first time made compulsory participation for loanee farmers : being implemented in 16 States and in 2 Union Territories covered nearly 7 crore farmers against indemnity claim of 2, 319 crores .⁴⁴

(B) Crop Insurance under NAIS: A Critical Estimation

The present *National Agriculture Insurance Scheme* or *Rashtriya Krishi Bima Yojana* has been implemented in all the States except *Punjab, Arunachal Pradesh, Manipur and Nagaland*, offering insurance coverage under the threshold yield of estimated 10 years and particularly applying high actual rates for *Annual Commercial and Horticultural Crops* (ACH).⁴⁵ Further, the government insurance agencies implementing such provided indemnities for 100% and 150% in case of food and other commercial crops respectively. There had been region wise diversifications in its implementation. *Gujarat* accounted for the highest claim ratio and *Madhya Pradesh* on other, having the lowest indemnity pay out.⁴⁶

Further, four major drawbacks of NAIS had been –(a) due to inadequate previous yield data , insurance companies faced problems in indemnifying the damages in proper time : (b) indemnity payouts were made easier in case of subsidized food crops rather than in Annual Commercial and Horticultural Crops (ACH)⁴⁷ ; (c) since crop insurance required mandatory opening of bank account even for non loanee farmers , the marginal uneducated farmers being unaware of such , could not access its benefits⁴⁸; (d) Extending

⁴⁴ Supra at note 4, pg -37.

⁴⁵ National Agriculture Insurance Scheme , Indian Agro- Industry available at <http://agro.indiamart.com/agro-programme-schemes/credit3.html> (last visited on 28.10.2011)

⁴⁶ Reshmy Nair , Risk Mitigation and Crop Insurance in India : a performance analysis available at <http://www.freepatentsonline.com/article/Journal-Social-Economic-Development/253535290.html> (last visited on 28.10.2011)

⁴⁷ Ibid.

⁴⁸ Ibid.

to 100- 150% insurance coverage in crop insurance posed serious issues to the Government since the magnitude of moral hazards increases⁴⁹.

(C) MODIFIED NATIONAL AGRICULTURE INSURANCE SCHEME (POST NAIS)

Recently in 2010, the Government approved some new changes in NAIS renaming it as the Modified National Agriculture Insurance Scheme or MNAIS. This new Insurance Scheme which is yet to be implemented embraced provisions like – reducing the insurance unit to village panchayat level and that of threshold data to 7 years, providing immediate claim settlement to 25% , covering pre sown and post harvest crop loss etc⁵⁰. Still, such Scheme cannot be said flawless and following improvements can be done like-

(a) For quite a long time, there had been dissatisfaction among the Governmental administration of Minimum Support Price (MSP) which had been limited to selected crops. Recent inclination of farmers' suicide revealed the necessity of crop insurance as income guarantee for farmer's daily livelihood. Farm Income Insurance can be a solution by linking production risks with market risks through insurance package at subsidized premium. Although such Scheme had once been started in 2003-04 and withdrawn later⁵¹, but government must re -think to incorporate such. Although insurance law strictly covers only pure risks are covered and not consequential loss, but rural Indian farmers in the name of crop insurance actually needs financial stabilization.

(b) The State Level Crop Insurance Coordination Committee's role in indemnity calculation and in dispute settlement appears to be less impressive and more delay is likely to occur in transferring the claim disputes to the insurers.⁵² In this context, the

⁴⁹ Ibid.

⁵⁰ FAQs on Modified National Agricultural Insurance Scheme available at <http://agricoop.nic.in/MNAIS.pdf> (last visited on 31.10.2011)

⁵¹ Supra at note 23, pg 8-9.

⁵² Ibid at note 50.

government needs to think of any alternative administrative body representing the farmer's interests.

(d) The policy framework of MNAIS reveals that it being structured only to provide benefits to educated rich farmers. There has been a provision that in case of specialized peril like *cyclones or even during post harvest losses*, the farmers would have to serve a *written intimation* to the insurer within 48 hours and the company would reimburse the loss after supervision by individual loss adjusters.⁵³ However, the misfortune is that the past history of individual loss adjustors indemnifying the loss revealed manipulative records.

Thus, it is too early to draw an inference how far these idealistic proposals will be carried into effect.

(4.2) WEATHER INSURANCE: MIXED RESPONSE

The weather insurance can be regarded as narrower part of crop insurance, being based on the 'rain fall index' but measuring variables like- humidity, hail, windfall.⁵⁴ Private insurance companies like *ICICI Lombard*, *IFCO –Tokyo*, *Reliance*, and *Cholamandalam* have widely participated along with Agriculture Insurance Company providing *Varsha Bima* since 2005.

The weather based insurance approach in India has been welcomed with a mixed response. This Scheme is highly dependent on previous meteorological data and indemnity pay outs are made in any fall of index calculation.⁵⁵ Such kind of insurance

⁵³ Supra at note 50.

⁵⁴ Ramesh B Golait and Narayan C Pradhan , Relevance of Weather Insurance in Indian Agriculture available at <http://cab.org.in/CAB%20Calling%20Content/Financial%20Cooperatives%20in%20India%20-%20Where%20are%20the%20Members/Relevance%20of%20Weather%20Insurance%20in%20Indian%20Agriculture.pdf> (last visited on 1.11.2011)

⁵⁵ Ibid.

scheme although has more enhanced claim settlement process involving lesser administrative expenditure, but poses problems in respect to higher premium rates and that of basis risks difference⁵⁶, due to variation in rainfall records between villages and the Weather Station. Furthermore, there are difficulties in setting up of the weather stations to get the accurate data in villages.⁵⁷

⁵⁶ Benjamin Collier, Jerry Skees and Barry Barnett Weather Index Insurance and Climate Change: Opportunities and Challenges in Lower Income Countries , The Geneva Papers, 2009, 34, (401–424) 2009 The International Association for the Study of Insurance Economics 1018-5895/09 available at <http://www.agriskmanagementforum.org/farmd/sites/agriskmanagementforum.org/files/Documents/Weather%20Index%20Insurance%20and%20Climate%20Change.pdf> , pg 405 (last visited on 1.11.2011)

⁵⁷ M Karthikeyan Insuring Small and Marginal Farmers against Crop Losses in a Large Scale : A Note For the Twelfth Year Plan , Dhan Foundation available at http://www.indiawaterportal.org/sites/indiawaterportal.org/files/Insuring_Small%20&%20Marginal%20Farmers_Crop%20Losses_M%20Karthikeyan_DHAN%20Foundation.pdf (last visited on 30.10.2011)

CHAPTER 5

JUDICIAL APPROACH TO CROP INSURANCE

The present Chapter will now focus on judicial redressal mechanisms of crop insurance disputes through High Courts and Consumer Forums. Following are two related cases:

(1) Sindhu Flowers Pvt Ltd vs. New India Assurance Co Ltd 1999 II CPJ88⁵⁸ -

In this case, the complainant who was insured under floriculture crop coverage, on sudden outbreak of hailstorm requested the insurer to indemnify the loss after waiting for two months. The insurance company instead of reimbursing damages cancelled the continuing policy. However, the complaint was allowed and insurer had to compensate the loss both in pecuniary value and mental harassment suffered by the complainant.

(2) Suggi Devi and Ors vs State Of Bihar (AIR 2008 Pat 75)⁵⁹ -

In this case, thirty -four petitioners filed a PIL in Patna High Court against the respondent General Insurance Company, which collected heavy amount of premium from the farmers but failed to reimburse the loss. Although the insurance company rebutted the claims of premium collection, but later accepted their liability and agreed to compensate the loss.

(3) Gudasi Rajanna vs. the General Manager, Agriculture Insurance Company Ltd and Ors (March, 2009)⁶⁰ -

⁵⁸ V Blakrishna Eradi , Consumer Protection Jurisprudence , Lexis Nexis Buttersworths , 2005 pg -399

⁵⁹ Suggi Devi and Ors vs. State Of Bihar (AIR 2008 Pat 75) Available at <http://www.indiankanoon.org/doc/988637/?type=print> (last visited on 14.11.2011)

This case is in contrast to earlier cases pointing out the farmer's liability in a complaint against the insurance company on the event of his incurring loss in groundnut production due to severe drought. However, the complainant's claim was found to be time barred and he could not substantiate his claims against the insurer's deficiency in service under section 12 of the Consumer Protection Act, 1986, the complaint stood dismissed.

Thus, there lies underlying responsibility among the farmers, insurers and bankers in alleging the claims and substantiating such. However, the judicial bodies must cautiously handle the cases ensuring that particularly farmers are not prejudiced in any manner.

⁶⁰ Available at <http://www.consumercourt.in/insurance/8935-agricultural-insurance.html> (last visited on 14.11.2011)

CHAPTER 6

SUGGESTIONS FOR AVAILING BETTER CROP

INSURANCE FACILITIES -

Finally, before concluding this research paper, it would be prudent to discuss following suggestions or recommendations that can be undertaken by the Government for a better solution for a fruitful crop insurance programme in India.

(1) NEED FOR A SEPARATE CROP INSURANCE LEGISLATION:

At present micro insurance concept has gained much prominence under socio –economic Indian landscape. *Micro-insurance* under *Micro Insurance Regulations, 2005* aims to insure low-income people all kinds of coverage and undeniably crop insurance/weather insurance is its vital product.⁶¹

In India, the *National Agriculture Policy* and *State Agricultural Policies* has only theoretically mentioned about crop insurance but neglected its practice⁶². So what is needed? A proper legal regulation is needed and not mere recommendations. *State wise crop insurance legislations* can to some extent be implemented imposing binding norms on the insurance companies in timely payouts.

(2) IMPLEMENTATION OF MUTUAL INCOME INSURANCE IN INDIA:

⁶¹ Poonam Arora , Insurance made available to Socially Backward People , pg1-3 available at <http://www.indiastat.com/article/04/parora/fulltext.pdf> (last visited on 2.11.2011)

⁶² Supra at note 41 , pg-2

To make uneducated, poor Indian farmers acquainted or familiar with the framework of any new insurance scheme, the role of self help organizations and micro insurance Agents is really significant.⁶³

In many remote areas of rural India, the concept of mutual insurance funds similar to that of Netherlands can be beneficial to poor non-loanee farmers having no credit access and victim of natural calamities. NGOs like Dhan Foundation have already received appreciation for conceptualizing such model in South India⁶⁴. Further, the regional NGOs motivate the farmers with more mechanized techniques to cope up the perils like- crop diversification, soil conservation⁶⁵ etc.

(3) NEED FOR MORE PUBLIC –PRIVATE PARTICIPATION:

Greater cooperation among government and private players is needed integrally in particular areas like – reinsurance support, installing weather stations and micro-irrigation projects⁶⁶.

⁶³ Dr A Amarendra Reddy Agriculture Insurance in India – A Perspective , 6th Global Conference on Actuaries 2004 , New Delhi available at http://www.actuariesindia.org/GCA/6th%20GCA/pdf/Agricultural%20Insurance%20In%20India%20_A%20Perspective.pdf (last visited on 30.10.2011)

⁶⁴ P Palanisamy , Mutual Insurance in RFDP, Development Matters available at <http://www.dhan.org/development-matters/2010/09/mutual-insurance-in-rfdp/> (last visited on 1.11.2011)

⁶⁵ Supra at note 57.

⁶⁶ Supra at note 41, pg-10-14.

CHAPTER 7

CONCLUSION

Thus, from 1972 -2011 Indian scenario of crop insurance is still progressive with modification of policies and schemes .The future of Crop Insurance is riddled with future uncertainties and one can only wish for a better legislative devise and appropriate decision making by the Government and its implementation by a systematic decentralized regulatory body .

BIBLIOGRAPHY

BOOK REFERRED-

- V Blakrishna Eradi , Consumer Protection Jurisprudence , Lexis Nexis Buttersworths , 2005

WEBSITES REFERRED –

- <http://planningcommission.nic.in/aboutus/committee/wrkgrp/agricrdit.pdf>
<http://www.ifpri.org/sites/default/files/publications/eptdp55.pdf>
- http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_risk.pdf
- <http://www.wisegEEK.com/what-is-crop-insurance.htm>
- <http://www.ikisan.com/Rural%20Insurance/Rural%20Insurance.htm>
- http://www.momagri.org/UK/focus-on-issues/Index-insurance-an-innovative-tool-for-poor-farmers_571.html
- <http://www.oxfamindia.org/content/weather-insurance-boon-farmers>
- <http://www.fao.org/docrep/008/y5996e/y5996e03.htm>
- http://www.card.iastate.edu/iowa_ag_review/summer_04/article3.aspx
- <http://www.jurisint.org/pub/06/en/doc/13.htm>
- <http://www.agroinsurance.com/en/analytics?pid=10872>
- <http://www.ifpri.org/sites/default/files/publications/ifpridp00792.pdf>
- http://www.fao.org/docs/up/easypol/764/risk_mngmnt_pllrfp_policy_india_cs_209en.pdf
- <http://webcache.googleusercontent.com/search?hl=en&q=cache:9aesFbe1PLIJ:http://fcamin.nic.in/dfpd/EventDetails.asp?EventId=211&Section=high%20level%20committee%20report&ParentID=0&Parent=1&check=0+challenges+in+implementation+of+FARM+INCOME+INSURANCE+IN+INDIA&ct=clnk>
- http://www.aseandrr.net/Portals/0/OK/DRF/India_mNAIS_Final.pdf

- 25

- http://www.indiawaterportal.org/sites/indiawaterportal.org/files/Insuring_Small%20&%20Marginal%20Farmers_Crop%20Losses_M%20Karthikeyan_DHAN%20Foundation.pdf
- <http://www.indiankanoon.org/doc/988637/?type=print>
- <http://www.consumercourt.in/insurance/8935-agricultural-insurance.html>
- <http://www.indiastat.com/article/04/parora/fulltext.pdf>
- http://www.actuariesindia.org/GCA/6th%20GCA/pdf/Agricultural%20Insurance%20In%20India%20_A%20Perspective.pdf
- <http://www.dhan.org/development-matters/2010/09/mutual-insurance-in-rfdp/>