



Informal land leasing in rural India persists because it is credible

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ABSTRACT

While insecure property rights are considered 'perverse' with respect to development, we examine what are the features most amenable for their persistence. Applying a Credibility Thesis framework in the context of rural land tenancy relations in India, that are largely held through private arrangements, we try to understand if there are inherent preferences to the existing informal structure of land leasing. An in-depth primary household survey across four states of India reveals that farmers rely on customary, informal mode of leasing arrangements because of their functionality in terms of no paperwork, easy accessibility, swifter modes of payment and prompt conflict resolution. Informality makes the existing institutional arrangement 'credible' in the eyes of both the tenants and owners. This raises the questions of whether policy prescriptions on intricate land related issues should entail appreciation of prevailing informal tenant customs, regulating them, or simply letting them be and realign agrarian support and delivery systems around this embedded informality.

1. Introduction

That land leasing plays an important role in farmland productivity (Deininger, 2003) is evident by the fact that more than half of all cropland in the US is rented (Bigelow et al., 2016), while in Western Europe, it varies between one-third and two-third of the total (World-Bank, 2006). In developing countries, land leasing carries huge socio-economic contestations, precarious informality and institutional tensions (Deininger and Jin, 2005; Ciaian and Swinnen, 2006). There has been a significant body of empirical work following the theoretical proposition that secure property rights are important to unlock necessary economic efficiency gains (Coase, 1960; North, 1990; De Soto, 2000). Besley and Ghatak (2010) formalized the negative influence of insecure property rights on incentives to invest, while Besley (1995) decomposed land property rights into different forms such as: buying, selling, renting, leasing and pledging. From data collected on the decisions to invest in planting trees in a cocoa growing region of Ghana, Besley found that the more secure the land rights were, the greater was investment in planting trees. Ali et al. (2014) provided support for this proposition through analysing a land regularization program in Rwanda. They found that beneficiaries of land reforms invested heavily in soil conservation measures, reduced the wave of distress sales and significantly increased access to land for legally married females.

Ho (2014) poses a strong challenge to this body of literature by arguing that the relationship between institutional *form* and *performance* is not necessarily as unequivocally clear. Sjaastad and Cousins (2009) find that informal property rights could facilitate vibrant economic exchanges and that formalization need not always lead to welfare enhancing impacts. Daley and Hobley (2005) find evidence that active land and housing markets exist in rural and peri-urban Botswana, Zambia and Trinidad despite not having conclusive, legal titles. Gilbert (2002) observe a slack in credit and market turnover after formalization of squatters in Bogota. Calderón (2004) witnesses a lack of willingness among formal title holders of Lima to go the bank and borrow for the fear of default. Hunt (2004) finds that in Uganda, formalization and privatization of land rights introduced new uncertainties in the form government overreach. Ghosh et al. (2021) note an unwillingness among Indian farmers to approach formal banking for agricultural insurance process due to high transaction costs such as government related paper work. Patil et al. (2017) find that access to formal property rights during land acquisition displacement are made difficult due to high legal costs and time spent on litigation. Benjaminsen et al. (2009) find that in Mali, limited access to formalization process played into the hands of those 'with power, information and resources'; in Nigeria, there was scramble for land and higher conflicts as a result of titling whereas in South Africa the very process of implementation created distortions in

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the allocation outcomes. In sum, this strand of literature argues for considering the localized politics and culture and not see formalization as independent of them.

Ho (2014) proposes a radical shift in the way we perceive the role of institutions through a Credibility Thesis which posits that:

“When certain institutions or property rights persist, they perform a certain function in society or a community. In so doing, they rally a given level of perceived support and are deemed credible by social actors or economic agents. Labeling such institutions as “inefficient,” “irrational,” or “perverse” clouds rather than explains their existence and persistence. In effect, the study of property rights and land-based institutions would perhaps benefit more from the study of institutional function instead of form.” (p. 15)

The general notion of a credible institution or property rights is that it has safeguards against appropriation by the state (North, 1990). Ho defines it differently as the “perception of endogenously, autonomously shaped institutions as a common arrangement.” It is different from ‘trust’ (Farrell and Knight, 2003) or ‘legitimacy’ (Mattei, 2003). It is about how those who stand to be impacted perceive it as a ‘jointly shared rule’. There is no binary in terms of a fully operational credible institutional equilibrium, but a continuum with different institutional structures having different grades of credibility. This notion of credibility accepts that all actors are internal and part of the game by which institutions evolve, and no external agency has the power to impose credibility, essentially making the credibility outcomes endogenous to the process. Further, credibility of an institution is not dependent on individual acceptance but on the aggregate perceptions about a common agreement.

We explore the Credibility Thesis framework in the rural land leasing context of India with historically and socially embedded agrarian relations. We expose the reader to those aspects of informal land leasing that lends credibility to the landowner-tenant relation using an in-depth household survey across villages in four states of India where the Model Agriculture Land Leasing Act in 2016 (henceforth, The Model Act, 2016) has been adopted. The Model Act (2016) accords legal status to leasing contracts for agricultural land since land tenancy in India is mostly practiced informally and has been on the rise over last several decades. More than half of India’s rural households are landless (SECC, 2011) as the net area sown has gradually declined by 2 % during 1990–2014. Nearly 21 million households in the country continue to cultivate about 10–11 million ha of land on informal lease basis as on 2012, even as this figure is likely to be under-reported (Choudhury et al., 2020). It is argued that lack of formal, written and registered tenancy contracts deprives tenants of government subsidies, credit, insurance and support prices. For instance, less than 1 % of households lacking land records have access to institutionalized credit like ‘Kisan Credit’ and PM-Kisan (Murty and Reddy, 2017, GOI, 2016, Rao, 2019, Stickler and Choudhury, 2020). The disadvantages accrue more towards women, who are discouraged to lease-in or lease-out land in their names, and even to secure agricultural credit from the banks on their own. Institutional reforms in the form of the Model Act (2016) have been introduced motivated by the idea that formalising land leasing will incentivize investments, improve utilization of inputs and increase access to land for the landless.

However, land policy in India is decentralized at the federal state level. As of today, only a few states have introduced amendments to existing laws or promulgated new laws in accordance with the central government’s Model Act (2016), while in others, the reform process is still underway. Our intent is not to compare informal tenancy with formal land leasing but to understand if, and why, the former would continue to serve as the dominant mode through which rural land relations operate. We posit that informal rural land-leasing may persist given its credibility in the minds of landowners and tenants as provides important functionalities, that may be lost, become uncertain or get infused with bureaucratic hassles if the relationship is formalized. This

may happen through exogenous actions that do not appreciate the decentralized and endogenous nature of this agrarian relation, which has evolved as an adaptation to local biophysical, socio-cultural and micro-economic context.

In the next section, we present a few instances of how the Credibility Thesis has been operationalized to explain the existence of informal property rights. Specifically, on rural land-leasing, there has not been a notable attempt, apart from Ho’s own (2014) exposition, to apply the Credibility Thesis across diverse political spectrum. We, therefore, lay out some of the elements we think can be explicitly linked to functionality of informal land-leasing in the case of India. In Section 3, we summarize the existing status of rural land tenancy in India in terms of its informality as well as its evolution. Section 4 details the methodology and empirical approach and Section 5 connects the responses received from our primary respondents to the functionalities that the extant institution offers. Section 6 weaves the elements of Credibility Thesis with the Indian example. Section 7 offers the conclusion for the relevance and furtherance of Credibility Thesis which has opened an important aperture in the hitherto darkroom of institutional complexities of the developing world.

2. Understanding the credibility thesis

Ho (2014) defines credibility as “the collective expression of the functionality of institutions, or, more specifically, the reflection of actors’ cumulative perceptions of endogenously emerged institutions as a common arrangement” (p.16). Institutional change is seen to be in a constant state of ‘dynamic disequilibrium’ where an individual may prefer a private property right on an asset and simultaneously may lean towards collective right on another resource. Ho critiques the neo-institutionalist’s focus on appearance of an institution (aka formal or informal in the case of land property rights, or transparency indices in case of GDP) and says that it blinds the analyst to this dynamism, although it may support the purpose of straightforward modelling. He proposes an archaeological approach which is akin to discovery through all possible sources. The binaries of moral judgment of an institution, Ho claims, is a slippery path as it contains a ‘value-ladenness’ that brings subjectivity to the questions asked, data collected, and methods used. Analysis of institutional change should be free of such influences and a focus on functionality provides the necessary succour.

By providing a way out of the dualities of formal versus informal, secure versus insecure and private versus common, Credibility Thesis enables a positive approach of scrutinizing property rights as they are. It acknowledges that institutions lie on a scale that blends policy tools ranging from ‘prohibition to facilitating, and from co-optation to non-intervention’ (Ho, 2018). The idea necessitates that ‘enduring institutions’ are a result of ‘endogenous evolution’ and they are ‘functionally adapted’ making them, effectively, credible. Ho (ibid.) defines functionality as:

“The role of a set of rules as it has endogenously evolved in continuous adaption to the environment.” (p.645)

Interestingly, Ho’s functionality draws from the French naturalist Lamarck (1809) where the latter had suggested that a biological organ evolves as result of its function and use. The more an organ is used, the stronger and adaptable it becomes, the more it is ignored, the weaker it is and eventually is extinct. Just as change is inevitable to an organ; function is to an institution. It is important to understand what an institution *does* rather than what it should do as per a scholar’s own priors. By implication, understanding an institution means understanding its history, that is, knowing what changes it went through.

Ho (2014) substantiates the ‘Credibility Thesis’ through scrutinizing rural land-lease system in China. He finds that despite the institution being seen highly insecure, there is strong social support for it with inherently low levels of conflict. It provides the ‘functionality’ of social welfare provision, its informal ‘form’ notwithstanding and measures

credibility by distilling farmers' perception of local customs for land redistribution, their awareness of legal rules, and their views on land disputes. Subsequently, there is a rapidly rising number of empirical explorations of the credibility theory or institutional functionalism in a variety of settings, including land (Chen, 2020; Koroso et al., 2019; Clarke, 2018), informal settlements and urbanisation (Oranje et al., 2020; Liu and Zhang, 2020; Sun and Ho, 2018), natural resources rights (Tzfadia et al., 2020; Nor-Hisham and Ho, 2016), and institutional reforms (Lo, 2020; Yueh, 2021; Shi, 2021).

Simultaneously, a solid body of empirical assessment and, specifically, measurement of credibility is fast emerging. Several studies have used a Conflict Analysis Model which provides a complete understanding of a conflict situation rather than just focusing on the number of events (Yang and Ho, 2020; Krul et al., 2020; You et al., 2022; Wang and Liu, 2022; Arvanitidis and Papagiannitsis, 2020). The Formal, Actual, Targeted (FAT) institutional framework has been used in several contexts and countries to examine the credibility of property rights (Sun and Ho, 2020; Krul and Ho, 2020; Wang and Liu, 2022; Zeković et al., 2020; Ho, 2016) using the probe questions of what property rights are officially accorded, what are enjoyed in practice and what are perceived to exist. Fan et al., (2019, 2021) use endogenous transaction costs and indices to measure institutional credibility in the ecological governance policies of Inner Mongolia and China. Ghorbani et al. (2021) use an agent-based model that shows how different forms of common property institutions can perform in a similar manner, with the basic assumption that endogeneity explains institutional change better than causality.

A multitude of studies have used multi-angulation, qualitative methods and surveys to empirically examine institutional archaeology and the role of credibility and institutional performance in a variety of contexts such as China, Serbia, South Africa, Israel, Turkey and Mexico, among others. Ho's approach requires identification and mapping of institutional history, change and dynamics either over time or across space. It must be a careful exercise in distinguishing external influences from endogenous changes and identify the appropriate scale for analysis. In studying artisanal mining in Ghana, which is largely an informal activity without adhering to any licensing fees or environmental norms, Fold et al. (2018) use a primary survey based upon semi-structured questionnaires to elicit response from both plot workers and owners. The objective is to describe in granular details the organizational practices in these mining sites with the ultimate purpose to demonstrate the 'endogenous nature, main features and complexity of the prevailing institutional structure'. Sun and Ho (2018) use multi-angulation of documentary analysis, stakeholder interviews, participant observations and primary questionnaire surveys, to understand the perceptions of economic, social and psychological credibility and the social welfare functionality of informal housing market in China.

Even though there is a solid body of studies on the credibility thesis, the empirical work in the specific context of India is limited to Zhang (2018) who studies the functionality and persistence of urban slums in Mumbai; and Mollinga (2016) who subjects the 'form' vs. 'function' debate to the case of canal irrigation system in the south of India. Mollinga points out that de-jure, there are clear and legal entitlements that delineate the right to water use by different actors in canal irrigation systems of India. However, they have negligible implication on the actual water distribution and de-facto rights, which are driven greatly by access, social relations and government agency. It presents a clear case that a formal and secure property right can have low credibility and functionality. Measuring credibility therefore requires a contextual assessment about how the functionality of an institution owes itself to endogenous evolution and continuous adaptation to make it 'functionally adapted'. The following table can help place some of the features of functionality in empirical context:

The second column in Table 1 lists a set of probe questions that need to be falsified for showing that the functionality of an informal institution is a) derived from external factors or b) that there are elements in its adaptation that prevent favorable exchange among the participants. If

Table 1

Contextualizing functionality in rural India's land leasing.

Criteria	Probe questions	Institutional artefacts for India's rural land leasing
Endogenous evolution	Do actors want to change their traditional conventions? Have changes been influenced by an exogenous factor or policy? Will their access to resource improve when mediated by external agency?	Aspects of paperwork in informal leasing Response to vetted contracts in formal leasing Ease of finding suitable land for cultivation (leasing in) and tenants (leasing out)
Continuous adaptation	Does the nature of the institution or any of its features deter the actors from participating? What is the level of contestations experienced? Does the institution not allow easy exchanges among the actors?	The additional benefit from a legal contract; ease of executing a legal contract; Ease of accessing dispute redressal authorities Conflicts between owner and tenant; difficulty in having longer lease tenure Any problems in making or receiving payments or crop-share; difficulty in exiting from tenancy contract; problems in changing terms and conditional of contract

Source: Adapted by authors from Ho (2014, 2016, 2018).

the actors continue to use long standing conventions, then it indicates absence of external influence. In the context of informal land leasing in India, if oral agreements continue to be the extant mode of contracting, then it falsifies the probe question and validates endogenous evolution. If the nature of the institution or some of its features prohibit actors from entering or exiting from an agreement, then the institution has not adapted itself to the needs of the actors. Thus, if we find evidence that landowners and tenants find some additional benefit from having a legal land-leasing contract, then it validates the assumption that there is no continuous adaptation. On the contrary, if there is less perceived benefit and more risk perception from a formal instrument, then it indicates functional adaptation of the informal institution. The rest of the table can be read in a similar manner, and we use this structure to administer questions to our respondents. Note that while the framework suggested in Table 2 is exhaustive, and our probe questions are constructed across all the framework, given the context and location of our study, we excavate some probe questions deeper than the others. Hence, the contextual inquiry in our fieldwork distils levels of endogeneity and adaptability, although with varying nuances. We do place them against tenancy practices in India and explore how the functional nature of prevailing informality makes them credible.

On the other hand, while the theoretical framework we employ

Table 2

Legal restrictions and tenancy (1981–2012).

State-wise legal restrictions on tenancy	Change in farm-holding of tenancy (1981–2012)	Change in area under tenancy (1981–2012)
No explicit or implicit restrictions (AP, TN, Rajasthan, WB)	23.1 %	110.3 %
Lease term restrictions and/or tenant purchase rights (implicit restriction) (Punjab, Haryana, Gujarat, Maharashtra, Assam, Odisha, Rajasthan, TN)	- 25.2 %	25.9 %
Complete ban with exceptions (Bihar, HP, Karnataka, MP, Odisha, Telangana, UP)	29.1 %	91.2 %
Complete ban without exception (Kerala, J&K, Manipur)	62.6 %	223.0 %
Overall, India	- 9.8 %	41.7 %

Source: NSSO 1981–82 and 2012 (GoI, 1983 and GoI, 2013)

allows us to observe credibility in prevailing institutional structures, it is also limiting because in streamlining several complicated questions on land issues in India, the framework is unable to deal with some subtle nuances buried within the probe questions. For instance, globally there are many cases where land values increased significantly once 'titles' were confirmed on them (Alston and Mueller, 2008). The Credibility Thesis does not fully explain such observations. Another weakness is its exclusive focus on functionality that precludes comparative efficiency assessments, across different forms. More empirical applications will provide grounds for a granular and probably, critical, examination of the theory's predictions.

3. Land tenancy in India

Access to agricultural land in India is limited and highly skewed, with landlessness ranging between 35 % and 75 % across different states (Bharti, 2019). The share of own land with respect to total landholding has declined by 20 % during 1961–2012. In parallel, the proportion of farm labour and tenants have increased. The National Sample Survey Organization's (NSSO) 70th round data indicates a compounded-annual-growth-rate increase of 2.9 % in leased-in areas during 2002–12 (GOI, 2014). The proportion of tenant holdings among all operational holdings range between 0.3 % and 42.3 % across states, averaging at about 13.65 % for the country overall. However, these numbers are severely under-reported as in most of the Indian states, tenancy is not permissible legally. This is further complicated by the fact that government land records do not include tenancy data. As for the composition, about 86 % of tenants are small farmers operating less than 2 ha of land accounting for more than 50 % of leased-in holdings. Large farm holdings account for the highest increase in tenancy during 1990–2012 as compared to medium and small farms (Bansal et al., 2018).

After Indian Independence in 1947, most state governments implemented land reforms to, inter alia, eliminate historical, semi-feudal and exploitative agricultural tenancies. Restrictions took different forms ranging from complete ban to tight restrictions on the type of farmers who will be eligible to lease out. In many places, states made it difficult for landowners to terminate leases. Yet, informal and 'concealed' lease agreements have kept increasing over time. This, in turn, has undermined tenants' rights and their access to institutional finance discouraging them from making long-term investments (GOI, 2014). In fact, states with greater restrictions on tenancy tend to see larger increases in tenancy incidence over this period. As Table 2 illustrates, the landholding under tenancy has increased with the highest rise in the states where it is completely banned. Since tenancy practices¹ are informal and customary in nature with most land leases legally unregistered. For instance, 12.8 % of the total leased-in area during 2012–2013 was recorded, compared to 9.2 % in 2002 (Rao, 2019). The extent of recording of lease agreements varies widely across states, ranging from 3 % to 5 % in states like Andhra Pradesh, West Bengal and Odisha up to 35–40 % in Kerala, Tamil Nadu and Rajasthan. See for instance, (Rao,

¹ These informal tenancy relations have adapted to the diverse environmental, socio-cultural and legal contexts in India, displaying pluralistic tenancy practices, even in the same village. In rainfed areas sharecropping has been the major form where the risk of crop cultivation is shared between the landowner and the tenant, while in agriculturally intensified area, the fixed rent system is prevalent where the rent amount depends on factors, such as land fertility, irrigation facility, crops grown in the area, etc. Within these major systems, there are also sub-systems that have evolved and as a response to local agrarian contexts, in terms of labour, inputs and outputs and also the tenure of the contracts. During last decades, tenancy is witnessing changes to the changing ecosystem of agriculture, for instance, increase in fixed-rate tenancy, an increase in the number of high-tenancy holdings (where leased-in land represents a large share of the overall farm holding), a move towards longer-term leases, and the increasing role of larger farm size classes in tenancy.

2019; Stickler and Choudhury, 2020). The next section details our empirical approach.

4. Methodology

We conducted a detailed qualitative survey that included detailed focused group interviews and a structured questionnaire. Since it is not enough to simply ask the respondent whether s/he considers a certain institution credible, one needs representations to locate and observe it. Our questions, therefore, examined their practices and identified whether the credibility of certain institutions prevailed or not. In particular, we attempted to inform the framework through six questions, namely, (1) do farmers employ any paperwork in their informal leases, (2) would they prefer to have a written agreement, and if so, what type, (3) how easy is it to access land through the informal leasing practice, (4) whether lack of formal legal instrument discourages them to not engage in informal leasing, (5) how conflicting the leasing relations are in their villages and (6) what are the payment modes and terms. Each of these questions helped determine whether the Credibility Thesis framework can be employed to our context.

4.1. Survey and interviews

The study was conducted in the four states of Uttarakhand (UK), Uttar Pradesh (UP), Madhya Pradesh (MP) and Andhra Pradesh (AP). These are large states, collectively claiming almost a quarter of India's total area and 28 % of its population and contributing around 18 % to national GDP. Each of them is primarily rural and relies extensively on agriculture. Geographically, they reflect huge diversity. UK is largely a Himalayan (hilly) terrain, UP rests on the river basin of Ganges, MP lies in the middle of the country with extensive forests and AP is a southern Indian state with relatively better agricultural conditions. These are also the states where the Model Act 2016 has influenced corresponding changes in local legislations. For our analysis, we pooled in multiple methods and data sources. The most important data came from our primary surveys across selected villages of the four states. We conducted in-depth interviews and engaged with different stakeholders to validate the responses from the interviews. The tools included a range of focused discussions as well as informal conversations to build familiarity with the respondents. In addition, we also drew from a range of secondary sources, national level surveys and literature.

4.2. Sampling

A stratified sampling method was adopted to identify the representative villages and districts. The idea was to conduct the surveys in agriculturally heterogeneous locations within a state. We looked at factors such as the state of agricultural development, context of tenancy, access to entitlements, caste composition and gender. Since reliable, granular data at village level does not exist easily, we selected two villages in each district by engaging with our local partners who work at the grassroot level in these districts, and who helped us identify the blocks and villages which are geographically and culturally distinct. As a result, in total, our surveys took place in 16 villages. We interviewed 12 households in each village with an appropriate representation of their type, including landowners, tenant farmers with own land, women farmers, and landless tenants. The average age of our respondents was 50 % and 28 % were women (see Table 3).

The distribution of households across the four states is shown in Table 4. The landholding pattern was generally consistent across the states allowing for reliable inter-state comparisons.

In terms of land size, majority of respondents owned or leased small sized lands (see Table 5). Almost all land owned, regardless of size engaged in both leasing-in and leasing-out with the latter decreasing with increasing size. The field work was executed during November 2020 through January 2021 following all Covid-19 protocols.

Table 3
Age and share of female respondents.

State	Average age of the respondents (Range)	Female respondents
Andhra Pradesh	47 (19–70)	34 %
Madhya Pradesh	47 (24–72)	17 %
Uttar Pradesh	58 (24–85)	25 %
Uttarakhand	49 (25–80)	35 %
Total	50 (19–85)	28 %

Source: Own survey.

Table 4
Land ownership patterns across states (in percentage).

States	Landless	Own Land	Leased-in land	Leased-out land	Possess other land (govt/private)
Andhra Pradesh	10.8	46.2	24.6	13.8	4.6
Madhya Pradesh	13.0	48.1	24.1	7.4	7.4
Uttar Pradesh	14.1	47.9	23.9	11.3	2.8
Uttarakhand	1.5	61.8	23.5	13.2	–
Total	9.5	51.9	23.9	11.4	3.4

Source: Own survey.

Table 5
Landholding size.

	Own	Leased in	Leased out	Possessed	Landless
Less than 1 hectare	94.0	34.5	17.9	4.8	–
1–2 hectare	97.3	32.4	24.3	–	–
2–4 hectare	100.0	46.2	38.5	–	–
4–10 hectare	100.0	25.0	12.5	–	–
More than 10 ha	100.0	–	–	–	–
Landless	–	40.0	–	14.3	71.4

Values are in percentage and indicate their share for each row separately. For example, 46.2 against 2–4 ha indicates that of all the farmers with land size between 2 and 4 ha, 46.2 % leased in some of their lands.

Source: Own survey

The next section discusses the core insights and results from the survey.

5. Results

5.1. Formality and paperwork

We inquired about the prevalence of any paper-document used (formally or informally) for leasing. Paper carries a special bureaucratic significance in the Indian mindset, particularly acting as a unique signifier of how formal a process is (Mathur, 2016). Written words fossilize a process in time, thus lending a strong perception of formality. If people do not record their leases on paper, it indicates low penetration of formal land leasing. We found that almost 93 % of tenant farmers did not use any form of paper to record their leases (see Figs. 1 and 2). Interestingly, these responses were relatively consistent across all the villages in four states suggesting the resilience of the functional importance of the institution, across geographies and societies. We also noted the perception of farmers for whom the external validation does not necessarily lend any legitimacy, thereby making the credibility of the institution endogenous.

One may argue such a response could also be due to the power differentials in a village, where tenants are compelled to have an unwritten lease by the lessor. In order to understand their preference for the type of 'form', we inquired from the respondents (this time both lessor and lessees) if they would prefer to record their leases on an agreement, and if affirmative, what type of agreement it should be. In other words, we

Do you possess any kind of document (formal or informal) to show your tenancy

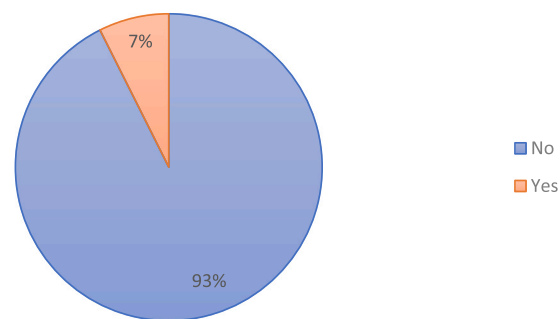


Fig. 1. Documentation and tenancy.

Are you interested in having written agreement for land leasing?

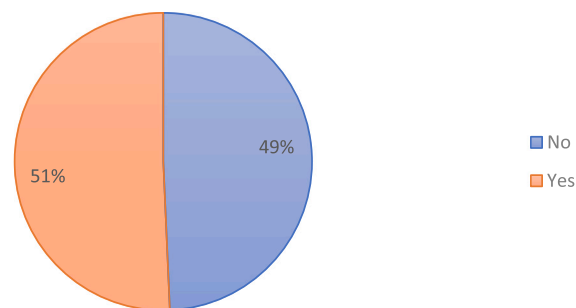


Fig. 2. Written agreement for tenancy.

attempted to find out what 'form' they perceive as credible and if that is indeed the formal legal instrument. See Figs. 3 and 4.

Almost half the respondents said they would prefer the agreement of lease in writing, even though the other half preferred no recording whatsoever. When inquired from the former half, what type of agreement would they prefer, 40 % preferred to merely write the terms mutually without any need for a witness or a third-party vetting; 30 % wanted the agreement to be vetted by local village leaders; and 20 % preferred registering the agreement with a notary or with sub-registrar (the actual formal route). It emerged that the need to write was perhaps a way of record keeping rather than evolving a legal remedy for future protection.

It is interesting to note that despite the emergence of various

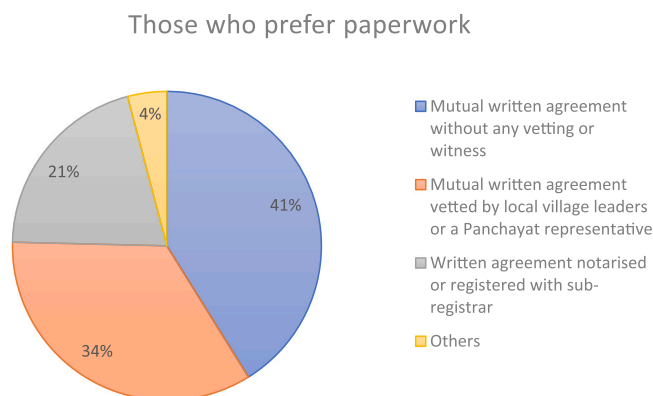


Fig. 3. Preference for paperwork.

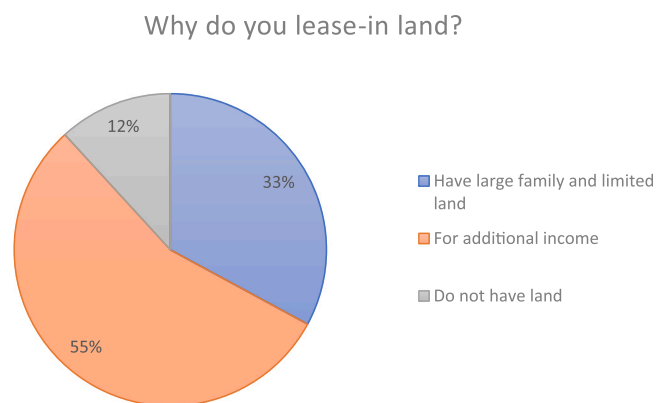


Fig. 4. Reasons for leasing-in land.

documentary requirements for availing state-provided entitlements (various farmers' credit cards or identity cards like Aadhaar) and the continuous evolution of state-citizen relationships hinging on documents and papers, most respondents wanted to remain away. Those who preferred, were perhaps adapting to this evolving nature of state-citizen relationship which centralizes record keeping and written word, in an otherwise informal ecosystem. For the majority who preferred to do some paperwork, the adaptation continued to disregard a vetting by third party, especially from the bureaucracy, thus retaining its endogenous nature.

5.2. Accessibility of land

An important measure of credibility of the prevailing informal tenancy institutions is to find out how accessible land is for leasing. This would be best viewed if we engaged with those tenants who want to use the land for perennial crops, because the need for those crops is highest. In other words, if land is accessible for perennial crops, it will likely be even more available for seasonal ones. This question allowed us to see the prevalence of customary norms of land leasing. It directly responded to the functional element of our framework. Table 6 shows that only 5.6 % of those tenants who needed land for cultivating their perennial crops found it difficult to rent land with a vast majority (80 %) finding it moderately or very easy. Even lessors had similar experience.

5.3. How discouraging is informal leasing?

One wonders as to whether lack of a formal mechanism for leasing lands in villages, deters farmers from leasing land. Or does it even disable those who need the land, to lease in? To answer this question, we asked those who do not lease out (or lease in) lands. Instead of simply asking them the impact of informal land tenancy relations on their decision not to lease in or out, we asked them why they do not engage in leasing. In doing that, we find out how much the absence of state or formal legal mechanisms discourages them from leasing out (or leasing in).

The responses of those who did not lease out lands indicated that most of them (69 %) would have indeed leased out their lands if they had

Table 6
Difficulty levels in leasing in or leasing out of land for perennial crops.

How easy is it to access land on lease or lease out land for a given perennial crop?	Difficult	Easy	Moderately Easy	Very Easy
Leased in	5.6 %	13.9 %	36.1 %	44.4 %
Leased out	7.1 %	14.3 %	35.7 %	42.9 %
Weighted Total	6.0 %	14.0 %	36.0 %	44.0 %

Source: Own survey.

some surplus land. Interestingly, for 4 % of respondents, there was a fear that tenants may occupy the land and appropriate it from them. Not a single lessor mentioned about the nature of leasing practice as a bottleneck to him or her not leasing out. Note that for those whose land was held up as a mortgage already, informal mortgage was more frequent. Table 7 illustrates the responses. Amongst the farmers who did indeed lease out, prominent reason for leasing out was possession of surplus land and lack of manpower to till the land (not shown in the table). No respondent hinted at leasing practice as a consideration in their decision.

From amongst the farmers who do not lease in, we found no significant mention of lease customs or informal practice of leasing that discouraged them from leasing in. Nearly 4.7 % attributed the reason to their dislike of the terms and conditions of the lease, and 1.6 %, to their inability to influence these terms. Yet, their indication was more towards price rather than the mode of the lease process per se. Table 8 illustrates the main reasons farmers gave for not leasing in. Interestingly, when we asked the existing lessees their reasons to lease in (Fig. 4), only around 12 % said they leased in because they don't have land. The others indicated that they needed it because what they were earning was not enough for their sustenance. In illuminating the reasons for leasing in and out, the question also reflected on the functionality of the customary norms of tenancy. Many big and small farmers used it as a coping mechanism, which acts as an important aspect of functionality.

5.4. Conflicts in the customary form

Prevalence of disputes is a useful indicator for examining credibility, because conflict will be lower if credibility is high (Ho, 2014). The Conflict Analysis Model indicates this, and has been shown in agricultural land security issues (Ho, 2014; You et al., 2022), commons in urban spaces (Arvanitidis and Papagiannitsis, 2020), grassland management (Fan et al., 2019), forest rights (Krul et al., 2020) and mining (Yang and Ho, 2020). Credible institutions, even if informal, will likely attract little conflict as compared to formal ones which are not credible. In fact, Kumar and Kerr (2013) have shown that elsewhere in India, when formal land tenure was imposed in forest lands, it led to considerable exclusion and conflict, rather than recognizing the rights. In this question, we decided not to go into the details of the nature and type of conflict, unless the instances were large. As can be seen in Table 9, it turned out that more than 99 % respondents emphasized that they never experienced any conflict with respect to their leased in or leased out lands. These overwhelmingly low instances of conflict underscore the likely credible nature of informal leasing. Farmers who lease in, do not feel threats against evictions, given the credibility of the leasing practice without the presence of the state.

When we inquired about the duration of lease (Table 10), and the general trends of lease tenures in the villages, we realized these values to be considerably high, particularly when these leases were done through oral, informal contracts. Larger land parcels attracted longer leases. Our interviews also showed that even if the parcel of land may not be fixed for the entire tenure, the landowner is, and vice versa.

Table 7
Leasing practice and decision to lease out land.

Why do you not lease out land	Response
Do not have enough land to lease out	69.1 %
Fear of losing land to the tenant (due to history of land laws)	4.1 %
Land is mortgaged already (formally)	1.6 %
Land is mortgaged already (informally)	2.4 %
Have a large family so cannot share the produce	8.1 %
Obstacles to find the best lessee	1.6 %
Want to avoid haggling and monitoring	1.6 %
Any other	11.4 %

Source: Own survey.

Table 8
Leasing practice does not impact farmers' decisions to lease in lands.

Why do you not lease in land	Response
Have enough of owned land	44.2 %
Do not have enough resources	33.3 %
Terms of lease unsuitable	4.7 %
Unable to influence lease negotiation process	1.6 %
Not enough land available in my village	16.3 %

Source: Own survey.

Table 9
Informal land leasing and conflicts.

Did you experience any conflict with respect to your leased in/leased out land?	Response
No	99.2 %
Yes	0.8 %

Source: Own survey.

Table 10
Tenure security of informal leases.

What is tenure of informal leases for different land size class?	Average years of leasing in for a tenant family	Average years of leasing in for a particular parcel of land
Less than 1 hectare	12	9
1–2 hectare	10	7
2–4 hectare	19	4
4–10 hectare	21	6
More than 10 ha	20	20
Grand Total	14	7

Source: Own survey.

5.5. Payment mode and terms

Finally, in order to understand informal leases, we attempted to find out the dominant payment mode and conditions. Through this question, we aimed to understand how well the functions of prevailing institutions respond to the surrounding financial ecosystem. Table 11 illustrates that the dominant payment term was either fixed cash or share of produce. Farmers did not use any institutionalized mechanism of payment mode, through any financial intermediary, and the relation was usually direct, and informal. This is largely demonstrative of the payment terms embedded in the customary designs of leasing relations. In fact, over 11 % farmers who engaged in leasing ended up leasing out to their relatives with no specific terms, thus emphasizing the prevalence of informal norms in the communities.

6. Discussion

The various questions posed to our respondents tried to capture the essence of functionality, and thus credibility, of tenancy practices in India. Credibility is the 'perception of endogenously, autonomously shaped institutions as a common arrangement' (Ho, 2014: p.16). The key determinant of credibility is how is the nature of institutions (and

Table 11
Payment mode for land leased in or out.

Payment Terms of the Lease	Response
Fixed Money	38.6 %
Fixed Produce	0.9 %
Share of Produce	39.5 %
Share of Produce along with other terms	7.0 %
Usufructuary mortgage	2.6 %
Leased out to Relatives under no specific terms	11.4 %

Source: Own survey.

property rights) perceived by the actors, commonly? One needs to therefore understand shared beliefs in a community about how the 'game' is played (Aoki, 2007), or the tacit knowledge about institutions which remains otherwise uncoded (Goyal and Heine, 2021). Our questions, thus, attempted to draw the perception of the respondents – tenants and landowners – about the tenancy institutions as practiced. If one plugs the responses we received in our survey, into the anxieties and puzzles posed in the literature on land tenancy in India through the lens of the Credibility Thesis, we believe the gap starts getting filled up.

Consider endogeneity, a characteristic feature of functionality. Like most prevailing customs in rural India, land leasing has evolved endogenously in this predominant agrarian society. This is reflected in the fact that lease agreements in our surveyed villages are overwhelmingly orally executed. Although half our respondents felt they will benefit from some form of written agreement, their perception of agreement's physicality did not invoke external or formal validation. Amongst those who preferred some form of written agreement, three-fourths of them wanted to retain the agreement's endogeneity (either scribbling it down themselves, or in presence of village panchayats). Only 20 % wanted to follow the formal route, which would take these agreements outside their villages to the regional land official. Tenancy relations are endogenous also because without any third party, or external intervention, many of our respondents found it easy to engage in leasing practice. Coming to accessibility, which is a crucial determinant of functionality, only 5–7 % found difficulty in accessing land or tenants. Tenancy serves as an important coping mechanism, especially for the poor, who can access land through leasing and among them who want to exit farming by leasing out. For the landowners, those have less hands to farm, leasing out their land is also found to be easier.

In fact, none of the respondents who do not engage in leasing activities in the villages argued that their absence from land tenancy is because of lack of a formal, governmental oversight. No institutional feature of the prevailing tenancy customs emerged as a reason to not participate in the market. Endogeneity facilitates functionality here. Scholarly literature on land tenancy in India also points to a similar story. The unchanging land ownership patterns in India dominated by smallholder farming can perhaps also be explained by the endogenous tenancy arrangements. The skewed land distribution in India with high land Gini coefficient remaining immutable over time is likely (also) because the endogenous tenancy institutions are functional, and thereby credible. Various exogenous efforts like the massive tenancy reform driven by most of the states during post-independent land reform have not quite worked in practice (Murty and Reddy, 2017; Stickler and Choudhury, 2020).

The literature claims that informal practices continue to persist in land tenancy because they act as access strategy for productive producers. In fact, scholars have argued that increase in the number of operational holdings is not only because of population rise (leading to subdivisions) or ceiling on surplus land, but also because of increased land transactions in leasing (Lipton, 2009). It is the functional nature of customary tenancy which has the potential to explain the dominance of small and landless farmers in India (GOI, 2014). In fact, informal conversations with our respondents led us to believe how credibility has no connection with security. We also learned that in terms of land tenancy, the villages surveyed were nearly conflict-free, indicating the presence of a credible system in place. In fact, the average tenure per tenant family was as high as almost 14 years, and 7 years for the leasing parcel. This is similar to findings by Sun and Ho (2018) and Arvanitidis and Papagiannitis (2020) that credible and functional property rights arrangements lead to low conflicts.

In this context, we feel that the dominant institutional narratives on land governance which prescribe formal property rights as the only means to unlock efficiencies end up eclipsing other ways of thinking. Evidence shows that the promise of such an approach has not been realized in those parts of the world where binaries of formal-informal are not as neatly organized on the ground. In fact, policy designs can

be greatly enriched by adopting diverse approaches and frames of thinking to understand land governance. For many cultures land is not just a commodity but also carries significant cultural capital, the valuation of which may simply change from place to place. Instead of labelling inexplicable institutions as perverse or irrational, the scientific and policy communities can do much better by finding newer, wider lenses to view (and consequently, understand) the world.

7. Conclusions and Policy Implications

In this paper, we used Ho's (2014) framework to advance the argument that the persistence of informal tenancy practice is attributed to its 'credibility'. Our objective was to understand from users themselves the reasons for their continued use of old, informal arrangements of land leasing. We selected the survey villages using a stratified sampling strategy in four geographically and culturally diverse states of India where formal land leasing law has been passed. Drawing lessons from Ho (2014) we framed the questions in a way not to directly ask landowners and tenants about their reasons but to distil how they perceive the prevalent institutions. How functional they are gets reflected in their endogeneity and adaptability. Responses strongly indicate presence of a shared belief and perception of prevailing institutions as 'credible'.

This has significant policy implications, particularly when the Model Act (2016) is being promulgated in various parts of India. The question remains in terms of whether policy prescriptions should entail appreciation of prevailing informal tenant customs, regulating them, or simply letting them be and realign agrarian support, public services delivery and market systems around this embedded informality. It is important therefore, that in considering such policy options, the government takes cognizance of the reasons behind persistence of informal land leasing in India. In fact, various states have attempted to intervene land tenancy albeit with little success (World-Bank, 2020). In 2011, for instance, under the AP Land Cultivator's Act, the state began registering the tenants for allowing them institutional credits through loan eligibility cards. The take up was discouraging, and the government repealed the Act, replacing it with another one in 2019. The state of Odisha has allowed tenants to sell their paddy to the government at support price, when they are formally identified by the landowners or the Panchayat leader. The state government has also begun using informal agreements along with land records of the owners to pass on crop loans (or Kisan Credit Cards – another similar government scheme) from public sector banks. Through popular farmer support schemes like KALIA and Balaram, the state also intends to extend to sharecroppers, direct benefit transfer and formal credit respectively. In general, the impact of these efforts has been discouraging (Murty and Reddy, 2017; Stickler and Choudhury, 2020). In spite of the *de jure* tenancy reform, *de facto* informal tenancy continues and even expands across India's agrarian landscape over last decades. Mandal et al. (2019) in a recent study confirm this by underscoring the high degree of continued prevalence of informal land leasing in the state of Uttar Pradesh, India.

A deeper understanding of the functionality of prevailing informal institutions will therefore help governments to develop more creative policy designs. Several suggestions can follow from this framework indeed. For instance, any formalization policy in land matters must be accompanied by empowering and decentralizing local bureaucracy and participation, which are currently understaffed, underfunded and overburdened (land revenue departments in India are saddled with considerable non-land matters). The process of local consultation and participation must begin at an early law-making process itself so that local solutions come to fore and can be embedded within the proposed laws. It also creates much-needed faith in the target population and resolves the problem of communication crucial to achieve adoption of new institutions. There needs to be a continuous monitoring of the adoption as well. Finally, and perhaps most importantly, all the relevant stakeholders need to be encouraged to follow the new law. For instance, unless banks are willing to accept the new land leasing papers as proof of

income, credibility will remain weakened.

Our study is, to the best of our knowledge, the first attempt to apply the Credibility Thesis to agricultural land tenancy in India. While the credibility thesis has been empirically examined in a variety of fields with focus on property rights, like land, slums, natural resources, urbanization or commons, its understanding in the context of agricultural land leasing is limited. The study supports the findings of credibility thesis in literature, generally, and advances the frontier of its knowledge. It shows that the formal nature of legal reform interventions is not necessarily guaranteed to fulfil the policy expectations. The paper, therefore, hopes to add to the ongoing discourse in the context of legal reforms around the developing countries, particularly motivated to unlock capital through enabling the leasing of unused properties. More of such research, perhaps with larger surveys will lend further support to the ideas proposed here. The article therefore calls upon for more serious interdisciplinary and open-minded research on one of the most intricate issues on land policy, namely, the persistence of informality. In addition to triggering policy suggestions, our expedition to pull out institutional artefacts of land tenancy in India has also hinted at the possibility of unearthing many theoretical strands of inquiries on informality using the tool of the Credibility Thesis.

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