



Development and Displacement: The Role of Land Acquisition Law

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DEVELOPMENT, DISPLACEMENT, STATE, LAND ACQUISITION

ANUP KUMAR DAS TALUKDAR

PH.D.RESEARCH SCHOLAR, UTKAL UNIVERSITY OF CULTURE, BHUBANESWAR, ODISHA

ABSTRACT *The problems of displacement start with the procedures undertaken by the government to acquire land for a project. This article discusses the various stages and the process of land acquisition, like how people come to know about the project. What was their first reaction, problem faced immediately after announcement, promised made by officials and their fulfilment, and acquiring land. The real agony of displaced people undergo during the process of the displacement. In recent scenario agitations are growing by civil society groups against land acquisition for various projects. Currently, the states acquire land on the ground of public interest; use the function of eminent domain power. Indeed, several such challenges have already been dismissed by the Supreme Court. Faced with protest against land acquisition the government has been forced to acquire the land under the rules of land acquisition act.*

The origin of the land acquisition goes back to the West Bengal code 1824. This code was primarily intended to enable the East India Company (EIC) to obtain land or other immovable property for public purpose. When the British imperialists felt that need of legalize the undisguised forcible seizure of land. The West Bengal regulation of 1824 was based on the principles of "Eminent domain" – the power of the state to take any private property for public purpose. Separate law that had evolved the territories around Calcutta, Bombay and Madras were consolidated into single law applicable to all the territories of British India by 1857.

This law is related to land acquisition. It must be understood that under the land acquisition Act, the land acquisition cannot be stopped or abolish. It will continue from decades to decades. It is not a free market and no one can choose to sell. The right is given to people under the act to challenge the price. To get for the land and other private owned asset.

This law evolved over a period of time under British rule and took the consolidated form of land acquisition Act, 1894. The end of colonial rule in 1947 and the constitution of the 1950 did not bring about any significant change in the land acquisition law. The constitution of India, by virtue of Article 372, allowed all colonial law to remain in force. There was an enormous increase in infrastructure building and industrial activities by the state after independence, as compared to the colonial period. Large numbers of dams, power plants, mines, steel and heavy industry came up on land acquired using the 1894 law.

The land acquisition Amendment Act 1962, at the time of Jawaharlal Nehru land acquired for company "which is engaged in or is taking steps for engaging any industry or work for public purpose". The "public purpose" was further diluted during the time of Indira Gandhi's government by the land acquisition (amendment) Act 1984, which included the acquisition of land for "planned development" and subsequent sale to private enterprise.

In the 20th century, there has been a considerable increase in the use of the power of eminent domain; major changes in the type of land use existing given area or in the quality

and quantity of the buildings are most often accomplished by use of this power. In India, which has the challenged right to take the land, no one can say that he choose not to sell. Under the land acquisition Act as amended in 1984, land can be acquired for a public purpose or for a company. The land acquisition Act was formulated at the time when the role of the state in promoting public welfare was negligible. Since the independence, the role of state in promoting economic development has greatly increased. The state and central government began to acquire land under the public purpose clause of the LAA for a variety of goal. The land acquisition Act includes the fragmentation of communities into individuals, and converts of rights and interest into computable claim. The law deals with individual claimants who endeavour to establish legal rights, which may result in the payment of compensation. The relevance of identifying the person from with an interest in the land or natural resources is merely to stop the right, using the device of compensation. The law does not have the provision to determine the effect of the public purpose on the person from whom the right and interest is being taken away. It does not allow for participatory decision-making. State law is the creation of the state. Land acquisition laws are instance of empowerment of the state through statute, and the potential of the law to legitimize that may exist between state action and justice. The function of the state is both to make laws and to enforce them.

The law effectively reduces all issues to fit this frame. This is evident in actions such as reinforcing the power of eminent domain of the state, narrowing the definition of interested parties, reducing every right and interest to claim, monetizing compensation, and making compensation the only logical response within the scheme of acquisition. There is little understanding for avoiding displacement, and even less for resettlement and social justice.

After the amendment of 1984, in the 52 years of India's independence. It is now possible for the public sector to acquire land directly and for the private companies to acquire it through the Government. The public sector is seen as an extension of the Government but there is not even that legal fiction for private companies. Their aim is to make money and to maximize profit. Companies exist for

and the open market. This enormous power available to government under the Act has led to much open business.

Land Acquisition Bill, 1988

The land Acquisition Bill, 1988 the 74th amendment to the constitution grants decision making power to the gram sabha in tribal regions. The government of India has decided to amend the land Acquisition Act, 1894, an act enacted by British to acquire land for economic exploitations of the country. The Indian state took over the colonial law with its colonial understanding of land and carried on since Independence.

The first step from a colonial understanding to a people's understanding of land came through Bhuria Committee report submitted to the Government in 1995, Based on it, and the Government of India in part IX of the constitution extended the tribal self-rule provisions with effect from December 24, 1996. The Gazette of India, 1996, reads "4(c). Every village shall have a gram sabha consisting of persons, whose names are included in the electoral rolls for the Panchayat at the village level. Every gram sabha shall be competent to safeguard and preserve the tradition and customs of the people, their cultural Identity, community resources and customary mode of dispute resolution.

Role of gram sabha:

- Approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level.
- The gram sabha or the Panchayat at the appropriate level shall be consulted before making the acquisition of land in rural area for development projects and before resettling or rehabilitating person affected such projects in the rural area, actually planning and implementation shall be co-ordinate at the state level: (The Gazette of India)

The law gives the power to gram sabha or the people of the community to approve or reject a development plan or project according to needs of the community. Without consulting the gram sabha, no development project can be initiated. With the extension of part IX of the constitution to scheduled area. The Act has established community right of ownership of land; such rights however are not yet given to the non-tribal communities. If the democracy means of people's participation, people should be the ultimate lord over their land.

Land Acquisition (Amendment) Bill, 1998

The contrast of previous bill, the land acquisition (Amendment) bill 1998 aims to speed up land acquisition by vesting powers in the district collector, displaced due to acquisition say any in the development process. This bill has brought easier land acquisition for private interest.

The land Acquisition (Amendment) bill, passed by the parliament, represents a major breakthrough in peripheral area. It goes long way in bringing about transparency, cut-

ting down on delays and providing resettlement and rehabilitation. The basic philosophy of the bill still remains colonial.

The bill has approved the following short coming: The collector has been given extra ordinary powers to organize public hearing of all objections received from each village and finalize details of the area to be officially acquired.

Both the acquire land and compensation. The collector's role is decisive. The collector is agent of the state. The bill has no provision for compensation prior to displacement, the bill seeks to shift responsibility to the affected persons, who within three weeks have to file a claim and justify the reason for compensation. File their claim is permitted in the provision.

The bill allows an appeal against the award only in the high court. The power of the lower court is to be transferred to a tribunal made up of bureaucrats that may include the collector. People can't approach direct to the high court.

The LAA gives to the affected person's one month after the notification under 4.1 to file objection. When are illiterate and hear about the notification several month later. This is being reduced to 21 days. The existing law requires the notice to published two news paper, one of them in the local language. It has to be displayed in the Panchayat office. The amendment bill states that the notification under 6.1 should be published in one local news paper, preferably to the local language. And final acquisition will be complete within one year.

Land Acquisition Act 2007

The 2007 policy define to be another key driver of these conflicts related to land acquisition. Land Acquisition under the land acquisition Act, 1894, as amended from time to time or any other law of the Union or state for the being in force. Clause 718 the 2007 policy implies that land can be acquired under section 17 of the land acquisition act, 1894, being provided the affected families in rehabilitation and Resettlement scheme or plan.

There is also no provision for consultation with the affect families during the final preparation of social impact Assessment and Environmental impact Assessment reports, their views are reflected in the report to be examined by the independent expert group. Expert group members are nominated by the Govt.

The first and objective of the policy 2007 is to 'minimize displacement and non-displacing alternative but the 2007 policy allowed further displacement is the same of developed rehabilitation of the project affected families.

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