

ECONOMICS OF LAND ACQUISITION

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Introduction

Our nation had experienced a high level of land acquisition in the name of public purpose. It is right to say that the country had developed highways, dams, mines, industries, airports, irrigation projects and several other areas of infrastructure. We generated lot of employment opportunities, infrastructural improvement, public resources and growth in the production and economy. The concept of eminent domain was arisen in many countries like Australia and U.S.A. for the public purpose with the idea that the state has an authority to acquire the lands forcefully from others to improve social benefits. However, such progress had taken place at the cost of millions of people. The land acquisition policies and government attitude to the victims of this process are not considerate enough to justify such development. Many issues have arisen on unfair compensation provided to land owners¹. This development without providing adequate justice to losers of land will not lead to Pareto improvement. This paper analyses the effects

of land acquisition and shows that there is a substantial imbalance between social and economic development due to this policy. In addition, it provides remedies and other alternatives for this policy to achieve Pareto improvement.

Brief History

Land acquisition had first began in the times of colonial period by British government in 1824. India struggled more than 200 years with this policy. For many years, the act didn't provide the meaning of public purpose and fair compensation. The law allowed government to acquire land and immovable property for public purposes at a fair value.² The right to buy, sell, or retain the property was removed from the fundamental rights guaranteed by the constitution. The 44th amendment of constitution led to amendment in article 300 that a person cannot be deprived of right to property unless it is acquired by the government. This act had undergone several amendments. The land acquisition act 1894

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¹ Dr Chetan Upadhyay "Research Paper on Land Acquisition in India" Vol 5 No 6, 2015 South Asia Journal of Multidisciplinary Studies available at www.gims.co.in/index.php/SAJMS/article/view/1098 last accessed on 21st July, 2016.

² Bengal Resolution I of 1824.

provided compensation based on market value but it failed to provide instructions to calculate the market value. The 2007 amendment provided a clause of compensation to pay for losses or damages incurred during the process of acquisition and a Land Acquisition Compensation Disputes Settlement Authority was set up at state and central levels to provide a proper frame work. The struggle of the thousands of victims of land acquisition led to progressive amendments in 2013. It included the instructions about the process to be used while acquiring land for public purpose. Consent shall be obtained from 80% of land owners of acquired land for private projects and consent from 70% of the land owners in case of a public private partnership projects. Compulsory social impact assessment shall be arranged to estimate the social impact and determine effected families. If the land acquire is sold to third parties, 40% of profit should be given to the land losers. 20% of the developed land should be given to the land losers if it's taken for urbanization. The urgency clause which can be used for acquiring the land without fulfilling any requirements of the provisions led to mass acquisition of land under this defense as there was no definition of urgency clause. 2013 amendment restricted such malpractice by stating that only national

security or events of natural calamity or any other emergency declared by parliament are eligible under this clause. Compensation is to be given at a rate of 4 times the market rate in rural areas and 2 times the market rates in urban areas. Families living in the lost land at least for the past 5 years are given a new house or financial grant if not agreed for the house. Restrictions were imposed on acquiring land of specific agricultural lands. Acquired land unutilized for 5 years or more than the specified time mentioned in the project is to be returned. It excluded acquisition of land for private hospitals and private educational institutes. This little progress lasted short. The 2015 amendment hampered this little hope showed in the 2013 amendments. It provided five exceptions to the consent clause included in the 2013 amendment. This exceptions includes acquired land for rural infrastructure, affordable housing, defense, industrial corridors and infrastructural projects. It removed the clause of excluding private hospitals and private educational institutes for acquisition. The land taker can be a private entity because it replaced the word private company with private entity. This increases the number of acquisitions by other organizations like corporation, partnership, not for profit etc. apart from the company. The word public

purpose remained vague for a long term. However, in 2015, the act provided a broad definition including roads, railways and ports constructed by public private partnerships, planned development or improvement of villages, government projects for public benefits, and residential spaces for poor and national security.

Problems of land acquisition

The land acquisition created lakhs of victims in many places of the country in the name of development. The case of Singur, West Bengal is an example of acquisition made by big corporate companies like Tata. The case of Durgapur steel plant is one example of steel plant displacements, Steel plants displaced up to 1, 25,000 people in between 1950-1960. Maharashtra's irrigation projects in Satara district alone led to displacement of 200,000 people. Upper Krishna project of Karnataka displaced 2, 20,000 people. The most effected people for urban development were from most of the states of India, especially from Delhi, Andhra Pradesh, Haryana and Tamil Nadu.

Despite of amendments in the policies over several years, the land acquisition act still has various demerits. One of the severe issue is to estimate the number of people affected by the acquisition of land for a particular project. It

was identified that the government often tend to undercount the accounts of displaced people and overstate the compensation and other benefits provided to them. The people who are displaced and suffered are often considered to be land owners. However, the families of land owners, other people depended on the acquired land for a livelihood by providing services at a wage rate, and families of such people too faces serious repercussions. They are mostly not compensated and not provided services of resettlement and rehabilitation.

It becomes more difficult to ascertain the displaced persons in cases of acquisition of common property resources as the identity of users of land becomes difficult without ownership. These are mostly places of forest and water resources which are jointly consumed in common by group of people. Marginalized communities like tribal and Dalits are the most evident people to suffer in this cases as they generally lack private property. Adivasis are the most effected people due to this problem. It is also important to note that 40% of land acquired belongs to tribal communities. They are the worst victims of all. They neither have the skills to work in a new occupation or legal education to fight for their rights.

The compensation mechanism of paying higher amount as reward to the land owners compared to non-owners is a detriment to the egalitarian practices of adivasi communities because they were historically been alienated from ownership of land.

The rehabilitation and resettlement policies of allocating government, offering grants for construction of houses, and other allowances were not pragmatic.³

Land ownerships, especially agricultural are viewed as a good of an asset, status and insurance by many people. The utility for such good is derived not just from the income it produces but also from the fact that it is the only income which an unskilled farmer can generate. It is also seen as a means of credit, old age insurance and an inheritance of future generations or remembrance of inheritance from past generations. This aspects develop an emotional affection to the property which cannot be replaced for a price. The government's logic of fair compensation cannot hold in this place because it is only based on objective criteria rather than these subjective elements.

The state cannot defend itself in the name of economic development and job creation because the jobs created by industries are for other skilled people and generally not the losers of land. Development at the cost of others is not a good principle of the state.

The victims of this process can appeal to court if they are not satisfied with the compensation. The Haryana and Punjab high court took around 5-7 years to decide the case. Most of the cases shows that the compensation given by courts increased by a massive rate. However, this cases shows that it involves a lot of years to deliver the judgments. Many people are not aware of their legal rights and such long procedures restrict them from involving in a legal action. Lack of financial capacity would not help them afford good lawyers for fighting against such unjust compensation.

Unfair valuation of land – Firstly, the fair value is considered to be the one decided by the government. There is a high level of increase in land prices if you consider the years like 2012. These kind of speculations shows that the opportunity cost of not earning interest with the money compensated is better because of such markets.

³ Saxena K.B. (2011); "*Rehabilitation and resettlement of displaced persons*". Chapter 3 in *Development Induced Displacement, Rehabilitation and Resettlement in India*.

Alternatives to the scheme

Town planning scheme: This is a method, which should be mainly used in the case of acquiring land for town development activities like construction of buildings. This is a method, which can be recommended from the development project of Magarpartta Township, Pune. The land owners do not lose their ownership of the land. However, the land owners get encouraged to participate in the development process. This process not only helps them to get a share in the sale of final project. This project generally takes a lot of time. So, it also helps them acquire skills of development after involving in such a long term procedure. This further helps them to be a part of other development projects to earn a living. This would lead to maximize the welfare of both the losers and gainers of the land. The government should try to ensure that they involve these people in all its further development projects to ensure continued employment opportunities to them. The government shall provide some part of the estimated share in their profits in advance. This is to be done in the cases especially where the land acquired is from the persons depending on that for survival.

Land pooling: This is the method used by Australia in many of its acquired projects. This can be useful in the cases of land acquired from people in urban villages for development. A large area of land is taken for development of infrastructure like highways, schools, government buildings etc. After the development of the projects, the land remained shall be given to the landowners in the proportion of their land given. Now, Landowners can use this land to associate with developers for constructing residential spaces or commercial complexes. This makes the land losers gain substantially higher profits than what they would earn if land were sold without the development of that particular area. This ensures both social and economic justice.

Annuity Compensation: This compensation scheme is inspired from Haryana, which provides the land losers an annual compensation for 33 years apart from the price paid to them for land.⁴

Land Leasing: This option would lead to regular generation of income to land losers and this is the correct way to develop the projects without losing the land ownership.

⁴ Sukhpal Singh. "Land Acquisition in India: An Examination of the 2013 Act and Options." *Journal of*

land and rural studies 66:78 (2016: Pg. 75) SAGE. Web. 1 Nov 2017.

Reallocation of common resources or providing unskilled jobs: The above-mentioned reforms might not be useful for tribal people. The government shall take measures to reallocate these people to other regions with similar common resources. If this is not feasible, the government shall provide them with appropriate jobs.

Professional valuation: This shall be done only if the above options are not feasible. The land should be valued based on the evaluation of professionals in the market. These professionals should not be arbitrary and an independent organ, not being part of the

government, should be setup to ensure fairness.

Conclusion

There shall be an equal balance between social welfare and economic development. Many land losers have suffered due to the unjust policies. It is already late but we ought to implement changes. Ending the land acquisition itself cannot be a good idea because there should be progress in the country's standards. However, developing methods like the ones suggested would ensure that development is not done at the cost of other lives. This leads to social welfare and an increase in Pareto efficiency.

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