

The economics of land acquisition act: A critique

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Abstract

In India, Land is not just a plot but a way of living for a farmer. There are a lot of sentiments associated with a piece of land, losing the land for “economic growth” is something that cannot be easily understood a farmer. Land acquisition by private companies or the state has raised vital questions for India, where half of the workforce is dependent on the agriculture. This paper argues that while such acquisition is necessary for industrialization, which in turn is absolutely essential for the long-run development, its success depends on the compensation and rehabilitation program, which suffers from major flaws. Land acquisition has become one of the most complexed problem for policymakers in India. Names like Singur, Nandigram, Kalinganagar, Jaitapur and Bhatta Parsaul have become a topic of social conflict. The 1991 reforms have left much scope and space for urban extraction of natural resources, while at the same time there have been continuous protests and agitations by the tribals whose land have been taken away. The biggest challenge for our democracy is to find a way which balances the need of economic growth, equitable distribution and human rights.

Keywords: eminent domain, land, development

1. Introduction

Land acquisition can be described as a process through which the government acquires land from the landowners and provides them compensation for the same. The land is generally acquired for development purposes, mostly for urbanization of the rural land by through industrialization and betterment of infrastructural facilities. There have been many issues with the land acquisition bill since last fifty years. The land acquisition Bill finds its root in the concept of eminent domain. Eminent domain is the right of the government to seize private property for public use. The landowners are given compensation for their land in return. This may sound like a simple give and take where the landowners sells his land and gets the market price for the same from the government. However, it is not that simple. India is an agrarian economy, when farmers get displaced from their land, they loose their livelihood. Most of them are not even skilled to do anything else other than farming, so even if they are evenly compensated for the land they are not properly able to utilize the money.

Though the bill has been amended many times, it still contains many flaws and has always been a cause of conflict. The new bill passed in 2015 has laid emphasis on fair compensation to the famers but the ground realities are different. This paper is divided into into three sections. Section 1 discusses the highlights of the bill. Section 2 gives a brief review of the historical evolution of the bill in India. Section 3 reviews the problems associated with the land acquisition in India. Section 4 contains the conclusions and way forward.

2. Highlights of the Bill

The Bill replaces the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014. It also enables the government to exempt five categories of projects from the requirements of: (i) social impact assessment, (ii) restrictions

on acquisition of multi-cropped land, and (iii) consent for private projects and public private partnerships (PPPs) projects. The five categories of projects are: (i) defence, (ii) rural infrastructure, (iii) affordable housing, (iv) industrial corridors, and (v) infrastructure including PPPs where government owns the land. • The Act would apply retrospectively, if an award had been made five years earlier and compensation had not been paid or possession not taken. The Bill exempts any period when a court has given a stay on the acquisition while computing the five year period.

The Act requires consent of 70% of landholders for PPP projects, and 80% for private projects. The 2015 Bill exempts the five categories mentioned above from this provision of the Act.

3. The need for an efficient Land acquisition bill

Investment in physical and human capital is required for the development of any nation. But, in our country land is a serious constraint to development. It can be safely said that land required for the establishment of industries is very small. At the macroeconomic level, assigning a small portion of land for building up industries, services and infrastructure like roads, townships, seaports, airports or bridges is not a major problem. There is, however, a serious microeconomic problem. When land is acquired for the aforesaid purposes, it invariably entails eviction of people from their traditional livelihood and surroundings.

One of the problems in the agricultural land market is the Problem of Land fragmentation. With industrialisation, many people shift to the industrial and the services sectors. Thus, pressure on agricultural land will fall and average landholding will increase as some of the emigrants going away from the rural sector will sell off their land to the people who would stay back. An increase in average landholding in the agricultural sector would, in turn, help consolidate fragmented pieces of

landholding, which again would make possible the use of modern technology

In developed countries, 2 per cent to 4 per cent of the population is engaged in agriculture. But this small fraction of people is able to feed the entire country. This is made possible with high levels of technology and improved productivity of labour in the agricultural sector. If India can also improve technology, the increase in productivity of labour in the agricultural sector can indeed compensate for the loss of production due to loss in acreage.

This bill has been introduced for the purpose of growth and development. The economic growth should be aimed at removing the existing inequalities rather than creating new ones. In a scenario where the government or the powerful corporations are asking the poor peasants to leave their land for the sake of growth, I believe that the problem of inequality still remains. The growth does not necessarily has to make someone worse off. In most of the cases, the poor peasants and tribals are not even properly compensated for their land.

4. Land acquisition Laws in India: A Brief history

The conflicts and debates round the Land acquisition in India are not new, the land acquisition can be traced back to more than 200 years now.

The first land acquisition legislation in India was enacted by the British government in 1824 in Bengal presidency ^[1] and later in Bombay and Madras. The law enabled the government to obtain, at a fair value, land or other immovable property required for roads, canals or other public purposes.

The bill was further amended in 1861 and then 1963 which eventually led to enactment of Act of 1870 due to various reasons like incompetence and corruption and unsatisfactory compensation

The act of 1870 was found to be unsatisfactory, therefore it lead the government to pass the Land Acquisition Act, 1894 ^[2]. This act permitted the government to forcibly acquire land from private landholders for projects of public purpose. The price for the land was determined by the government.

After gaining the independence in 1947, India adopted the Land Acquisition Act of 1894 by the "Indian Independence (Adaptation of Central Acts and Ordinances) Order" in 1948.

In 2007, UPA amended the existing Land acquisition Act and introduced a bill in the parliament. This bill focused on compensating the landowners on the basis of existing market prices. This bill was passed in Febraury, 2009 as as the Land Acquisition (Amendment) Bill.

In 2011, the UPA government further introduced the Land Acquisition Rehabilitation and Resettlement Bill, 2011, based on the previous version of the bill. The bill was passed in 2013 and came into effect in January 2014.

After coming to power in 2014, the modi government further ameneded the bl. According to the new bill, the consent clause and the social impact assessment was no longer necessary if land was acquired for national security, defence, and rural and social infrastructure. Mr. Arun jaitely quoted "Such projects are vital to national security and defence of India including preparation for defence and defence production,"

5. Other problems with the implementation of Land acquisition Act in India

Acquiring land in India for building any large project that requires lots of land is very difficult because of high transactions costs. The industrialists to negotiate with thousands of farmers, sift through incomplete land records and settle disputes that may move through courts at a glacial pace Social impact assessment gives enormous discretionary powers to bureaucrats and experts, with potential for delays and corruption. It is a paternalistic device. The consent requirement, unlike SIA, actually empowers farmers, but only to a degree. Some problems with the market price are easy to see. In many regions, transactions are few and not well documented, leaving considerable room for officials to manipulate the figure by use of selective sampling or fake deals. Distress sales constitute a bulk of the transactions, and the full value is often concealed to escape stamp duty. Furthermore, any industrial or development project will cause significant appreciation of real estate prices, making it impossible for displaced farmers to buy back land with compensation money if they so wished.

The value of land cannot be homogeneous for all the farmers. This because farmers differ in their endowments of skill, knowledge, capital, farming assets like bullocks or tractors, market access, access to alternative methods of earning a livelihood, etc. Moreover, there are many other potential sources of value for land – collateral for loans, assured source of employment for family labour, insurance against food price fluctuations via self-consumption and even social prestige associated with landownership. Different owners are likely to impute these values very differently.

In most of the cases, when government acquires land for Special Economic Zones, most of the land is used for the real estate and not for industrialization. It means that the land is not used for industrialization and to create new jobs, the way it should have been.

6. The way forward

The fact still remains that the government needs land to set up new industries and to develop infrastructure for the urbanization This will help to create more jobs, increase the GDP and enhance the economic growth and development The government will keep facing protest from the farmers and the tribals who loose their land. There will always be losers and winners, but we cannot just ignore the poor for the sake of development.

The land acquisition bill should be revised in such a way that the farmers are fully and efficiently compensated for their land. Any method of acquiring land from the farmers should be transparent. In addition, the role of the government should only be limited to the facilitator of the transactions. The government needs to bargain for poor and uneducated farmers. Instead of providing subsidies to the industries the government should help farmers to find new jobs and start vocational training for the farmers for their skill enhancement.

I would like to conclude by saying that I don't have any problem with land acquisition as long it is carried out in an efficient and transparent manner. By efficient I mean that the farmers should

¹<http://www.livemint.com/Politics/T2tN2OWzJly9SuFgsGsmHN/The-evolution-of-the-Land-Acquisition-Act-from-1824-to-2015.html>

² <http://jlsr.thelawbrigade.com/wp-content/uploads/2016/08/Kritya-Neha-Singh.pdf>

be fully compensated for their land and rehabilitation program should be carried out properly.

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