



Changing Contours of Dispossession and Accumulation in Contemporary Capitalism- A case study of the Land Acquisition Law in India

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Introduction

The idea of the economy's development cannot be free of any political moorings, both in the discursive sense and in the sense of realpolitik, as the economy is an overdetermined totality of a variety of processes—social, economic, and political—and is the scene of various contestations. Although there have been attempts to depoliticize it by referring to it only as "capital accumulation" and stripping it of its roots in class processes, the inevitable conflicts it engenders highlight the stark inconsistencies in this depoliticization. This depoliticized kind of growth has served as a disguise to promote capital accumulation. In this context, the late-industrializing former colonies like India seem especially intriguing. Not only did they lack access to colonial privileges (drain of money, access to resources, etc.), but the post-colonial example is also tainted by a marriage between the bourgeoisie state and civil society operating under the restrictions of relative autonomy, human rights agencies, etc. In an attempt to examine the nature of capitalism's development in these nations, the discursive terrain of political economics has consequently floundered and changed. One of the most captivating elements of this relationship between depoliticization of 'progress' and contemporary capitalism has been the violence of dispossession and its legitimization. Sadly, the epistemic brutality of the 'development' literature has served to keep it concealed (Dhar and Chakrabarti, 2011). In this light this paper discusses the shift in the law on land acquisition in India and views it as an attempt to secure capital's hegemony.

Land Acquisition Act, 1894

While all acquisition of land since 1894 took place under the Land Acquisition Act, 1894 (referred to as LAA subsequently), there was no central law providing for rehabilitative measures. Some states had their own sector specific policies for it before any central policy came into being (Saxena, 2008). With the growing use of the LAA in the independent India, the demand for rehabilitative measures in addition to compensation also reached new heights. The fight to incorporate them in the process of acquisition was a part of the continuous process which finally culminated into RFCTLARR. Locating the events of that

process in a chronological order allows us to draw a context for understanding its design and genesis.

1980s and 1990s- 1980s witnessed initial efforts to build a uniform law as the first draft of R&R (Rehabilitation and Resettlement) was tabled in 1985. However, most of them remained specific to certain sectors and a nationwide policy continued to be absent. Sustained efforts to frame a national policy started only after pressure from the World Bank, whose funding was conditional on the declaration of a rehabilitation policy (Saxena, 2008).

2000-2010- It was in 2003 that the National Policy on Rehabilitation and Resettlement of Project Affected Families was formulated. The main purpose of the policy was to ensure compulsory attention of the state and private capital towards resettling the households affected by its actions (both voluntary and involuntary). The policy was subsequently replaced by National Rehabilitation and Resettlement Policy 2007 on the account of revisions to some issues (quantification of costs and benefits, special attentions to marginalized sections etc.). However, a policy is a soft law in the legal vocabulary and it was no guaranteed legal mechanism to be implemented. The contents of a policy could be regarded as suggestions and the policy itself could be dispensed with. As a consequence, it failed to act as a panacea to the violence of land acquisition.

It was only after the three consecutive years- from 2006 to 2008 which bore witness to the violence of Singur, Nandigram and Greater Noida, that this effort received a final push. In Singur and Nandigram, the communist government of the time was accused of forcibly acquiring agricultural land for building a chemical hub, a Special Economic Zone and a car factory. Opposition to the acquisition by peasants caused a violent confrontation with the state and the brutal use of police force and party cadre on the peasants invited the wrath of the farmers all over the country.* This incident added to the seething anger that was already deepening its roots in the aftermath of the Greater Noida land acquisition. Following the growing furore across the nation, the state was obliged with attempts to frame a new law in order to calm down the growing tensions and control the growing contradictions. Consequently, the Land Acquisition (Amendment) Bill (2007) was framed along with the R&R Bill (2007) to create an impression of just and fair land acquisition (since it was followed by R&R measures, over and above the monetary compensation). The former sought some significant changes with regard to the amount of compensation, the process of

* See Nielsen (2015)

acquisition, use of land, special attention to the already marginalized sections etc. It ended up giving way to new channels of capital accumulation by expanding the definition of 'public purpose' and legalizing state support to land acquisition for private companies in some cases while failing to alter the malefic nature of the acquisition itself. The latter also failed to put forth assured measures to substantially address the painstaking outcomes of land acquisition. It suffered from serious drawbacks on account of ensuring culpability of the state for its failure to provide R&R. Sanctioned bypassing of Social Impact Assessment in selective cases and making other relief measures contingent upon state's ability and availability further damaged its prospects.[†] Both bills were tabled in the parliament in 2009 and lapsed with the dissolution of the Lok Sabha in 2009 (after the completion of the 5 year tenure by the government).

Post 2010- The Uttar Pradesh state government, out of desperation to appease the farmers' lobbies, was forced to frame a new land acquisition law in 2011 with a promise to provide generous R&R measures in addition to a much higher compensation. It also claimed to address all concerns raised in the Greater Noida land acquisition case by ensuring employment, regular sources of income, share in development benefits along with many other non-transferrable grants etc. Even this proved inadequate as the ruling party went on to lose the state elections in 2012.

The incident of Singur, Nandigram and Greater NOIDA acted as a catalyst for pushing the central government to work out a new law that would break away with the unjust land acquisition law of 1894 (Ramesh and Khan, 2015, p.73). As an outcome of the mounting pressure, in 2011 the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR henceforth) bill was tabled in the parliament. Debates ensued in the Lok Sabha and Rajya Sabha over different aspects of the LAA and RFCTLARR Bill (2011), particularly the use of eminent domain, change in land use, rates of compensation, definition of public purpose etc. and after much consideration by political parties it was passed into the RFCTLARR Act in 2013. A careful analysis of the new law clearly reveals that the incident of Greater Noida left clear imprints on the framing of the new law (as could also be seen in the parliamentary debates over it).[‡]

[†] For a more detailed discussion on it see Levien (2011b)

[‡] <http://loksabhaph.nic.in/Debates/Result15.aspx?dbsl=10604>

New Land Acquisition Law

The new law RFCTLARR was purported to be a departure from the draconian provisions of its predecessor and gain legitimacy amongst those it affected, it claimed to have proposed an inclusive process of land acquisition. A landmark change in the new Act was the forced legal marriage of the land acquisition law to the R&R provisions. This combination of compensation and R&R measures, together, was framed as a 'right' to the affected families, as the title of the Act suggests. Moreover, compensation was deemed to be 'fair' in the title of the Act, hinting at a revision in the calculation of the compensation. This inextricable linkage of the land acquisition and its antidote into the same legal topography was feigned as a 'win-win' alternative purported to make everyone better off. This formed an important moment of capital's hegemony undertaken with the purpose of facilitating capital accumulation in the event of growing resistance. This is the central point of the discussion in this section, but before that it is important to understand how the RFCTLARR was marred by continuities and also 'projected' as a break from the LAA.

As an inclusive measure, in the new Act, all households whether owning land or not (and residing in the area for not less than 3 years) were treated as affected households. Moreover, like all its predecessors the liberal account on forced land acquisition found a rationale in arguing that it served a public purpose. However, the RFCTLARR defined 'public purpose' in a more expanded manner than its predecessor. In addition to planned development of village sites, rural planning and residential purposes etc. (which were all there in LAA) it also included industrial corridors, national investment and manufacturing zones, projects for sports, tourism and transportation.[§] Besides this it also gave space to open ended provisions like "any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament" and housing projects for "such income groups, as may be specified from time to time by the appropriate Government" (Government of India, 2013, p.6,7). Given such open ended provisions it isn't a coincidence that 'national interest' and 'public purpose' in the legal lexicon have always eluded restrictive and concrete definitions in the LAA. The ambiguity that is embedded in the usage of these terms despite multiple amendments is an important source of scope for capital and state to operate. A number of initiatives could be undertaken as fulfilling a 'public purpose' which actually create conditions for capitalist reproduction and expansion. This was evident in the new law, which counted tourism and space programs as public purpose, making a mockery of the concept (Levien, 2011b, p.69).

[§] For the complete list see <http://extwprlegs1.fao.org/docs/pdf/ind132616.pdf>

Recalling the narratives from the field, one of most interesting parts of all the interviews was that all respondents seemingly justified the acquisition of land under the urgency clause in cases of ‘national interest’ and ‘public purposes’ (at the same time expressing scepticism about what constituted the two). A paradox of the situation was that despite the justification, all respondents expressed dissatisfaction about its usage in their own case- in which the ‘urgency’ was supposed to be ‘planned’ industrial development (ironically). According to one of them-“*the plots of land that were acquired in 2007 and 2008 are still lying vacant so where was the urgency?*”. It sums up the tyranny that is embedded in the ambiguity of such legal tools that successive amendments have failed to address, albeit deliberately. The problem here was the metaphysical abstraction of the terms like ‘public’ and ‘development’. The idea of public is often assumed to include all people and the development of a nation is translated as being equivalent to the indiscriminate development of all its inhabitants. These lax definitional changes were addressed in the new Act with a curtailment in the powers of the state in cases of urgency. According to the new law, the draconian urgency clause which was often used to acquire land without the due process was hailed as an anachronism since it abandoned the principle of natural justice. It dealt with the clause of urgency by cutting through its bite and also limiting the domain of what constituted ‘urgency’. Nevertheless, it also left sufficient scope for the Parliament to decide what cases could count as emergency (Government of India, 2013, p.23).**

Furthermore, in a significant move, the new law also legitimized the intervention of the state in cases of land acquisition for PPP (Public Private Partnership) projects as well as for private companies serving a public purpose. If private companies had the prior consent of atleast 80% of the affected families and PPP projects had the prior consent of atleast 70% of the affected families then the state was legally eligible to acquire the rest of the land required (Government of India, 2013, p.7, 8).†† This established the state as a ‘legitimate land-broker’ and empowered it to lawfully intervene in selected cases, leading to an enormous concentration of power with impunity. A relatively obscured implication of this was the implicit nod to private companies to use illegal and immoral means in order to

** It restricted the use of power in case of acquiring minimum area required for the defence forces or national security, emergencies arising out of national calamities and other emergencies deemed fit to act on by the Parliament.

†† In the Land Acquisition (Amendment) Bill (2009), it was 70% of the landowners instead of affected families which in effect excluded non-landowning families that were affected by land acquisition.

broker the consent of 70% of the affected families.^{‡‡} Not only did this blur the lines between ‘public’ and ‘private’ spheres but also purposefully projected private capital’s interests as coinciding with public purpose. This was visible in the real estate sector, where construction for housing was actually held to be a public purpose undertaken by private builders.

Apart from the above mentioned changes, the RFCTLARR was also a reflection of the state’s initiative to accommodate the demands of the protesting farmers. Taking account of the widespread dissatisfaction over the compensation rates, the formulae for the calculation of the compensation was changed and as a result the compensation rates increased manifold.^{§§} This was accompanied by the provision of housing units in case of displacement or a one-time grant of Rs.1,50,000 in lieu of it. In case land was acquired for urbanization purposes, 20% of the developed land was to be reserved for landowning project affected families (at a price equal to cost of acquisition and the cost of development) (Government of India, 2013, p.42).^{***} If the land was acquired for irrigation projects, then each affected family was to be allotted a minimum of 1 acre of land in the command area of the project. In case of scheduled caste and scheduled tribe families, the land equivalent to that acquired or 2.5 acres (whichever is lower) was to be allotted.

In order to accommodate the demand for a regular source of income the affected individuals were given the option to choose from the following:

- a) If jobs are created then atleast one member from the affected families must be given employment at rates not lower than the minimum wages. If the job requires some skills, then skills must be imparted to them.
 - b) A one-time payment of 5 lacs per affected family
 - c) Annuity not less than 2,000 per month for 20 years (adjusted with inflation)
- (Government of India, 2013, p.42)

Additionally, the affected households displaced from land were to be given monthly a subsistence amount of Rs.3,000 for one year from the date of award. Displaced families from Scheduled Castes and Scheduled Tribes were to be given an additional amount of

^{‡‡} It is important to note that even in the case of Greater Noida, some respondents recalled that the Authority hired several people of the village as its agents and tried to persuade the landowning families to give up their

land without protest

^{§§} See Schedule I of RFCTLARR (2013)

^{***} If this offer was availed, the equivalent amount was to be deducted from the financial compensation.

Rs.50,000. Besides this, compensation was to be made for every loss or cost incurred as a result of the acquisition-

- a) Transportation cost of Rs.50,000 for displaced families
- b) Minimum financial assistance of Rs.20,000 for shop/cattle owning families
- c) A minimum one-time grant of Rs.25,000 to artisans, small traders, self-employed persons or affected families owning non-agricultural or commercial land
- d) A “Resettlement Allowance” of Rs.50,000 to each project affected family (Government of India, 2013, p.43)

Focussing on the issue of food security, the new law forbade the acquisition of irrigated multi-cropped land other than under exceptional circumstances and only up to a limit. In these cases too, the state was to make up for it by converting an equivalent amount of wasteland into agricultural land (Government of India, 2013, p.14).

Building on the experience of the Greater Noida case, Section 99 of the new law prevented any change in the purpose for which the land is acquired. Under the old law there was no way preventing the state from acquiring land for one purpose and then changing it without involving the original landowners. The massive protests led by farmers and other interest groups had put pressure on the state to include this clause in the new law. Parliamentary debates also show that uproar in the aftermath of the change of land use following the acquisition proved to be major influence in the formulation of the new law (Ramesh and Khan, 2015). Added to this was the provision that any acquired land lying unutilized for over 5 years should be returned to the original landowners or to the government land bank (Government of India, 2013, p.36). In addition to this, keeping in mind the alienation of the original landowners in the Greater Noida case, the new law also stipulated that in case the acquired land was resold at a higher price 40% of the profit on resale was to be shared with the original landowners. The purpose of this was to prevent the enrichment of the state or private capital at the cost of the landowners.

Thus, we have seen that the RFCTLARR broke away from the LAA in some significant and insignificant ways. It was different in many more ways but I am constrained to focus on selective aspects of it discussed above.

From the old to the new- continuities, breaks and the ‘passive revolution’ of capital

Essentially, one needs to understand the shift from LAA to RFCTLARR as a continuous process. While we have addressed the ‘what’ and ‘how’ of this change, it’s imperative to answer the ‘why’ which requires us to deconstruct the transition from the old to the new. Every new arises from the contradictions of the old. As the contradictions inherent in the old grow strong enough, the new destroys the old but the old doesn’t simply disappear. It leaves traces of itself and the new carries over the remnants of its pasts. Thus, the process of change is always dialectical as the interplay between the thesis and the anti-thesis produces a synthesis (Cornforth, 2015). The ground realities, however, differ from this simple articulation of change. The interaction of capital and its anti-thesis, labour, is ridden with different forms of struggles and any process of change is shaped by capital’s conscious attempt to secure its interests and block any change that hampers its expansion. In such a case capital attempts to negotiate a parallel existence by incorporating some demands of the exploited classes in its own agenda. This happens because the simple hegemony of capital cannot remain uncontested forever, especially since the dominated groups are continuously confronted with the violence of dispossessive policies (Chakrabarti and Cullenberg, 2013, p.143). In such a case, the hegemony of capital has to take an indirect route- a more complex form in which the thesis (here capital) appropriates a part of the anti-thesis (the dominated classes) to produce a surrogate synthesis (the new law in this case). The creation of this space i.e. a surrogate synthesis allows a hegemonic construction of capital’s rule, but in a different form. This *passive revolution* (Gramsci’s italics) of capital as an attempt to establish bourgeoisie hegemony is representative of a crucial historical juncture in Indian capitalism. It comes about in the event of a growing contradiction between capital and its ‘outside’ that results in a blockade in which capital cannot directly overcome pre-capital (or non-capital) and is forced to give space to some precapitalist elements in its own agenda.

The transition from LAA to RFCTLARR documented in the last two sections is an expression of this passive revolution in which the RFCTLARR was defined as the projected universal capable of accommodating the demands of the affected individuals as well as capital. The only way to reconcile these two seemingly contradictory impulses was to disguise the oppressive nature of the law in the event of growing resistance and thus it was inevitable that continuing land acquisition (and capital accumulation) required a solution. According to Chatterjee (1993) “in India the object of this strategy of passive revolution of capital was to contain class conflict within manageable dimensions, to control and manipulate the many dispersed power relations in the society to further best as

possible the thrust towards accumulation” (as cited in Chakrabarti and Cullenberg, 2013). Thus, the idea of continuity and change embedded in RFCTLARR is an execution of capital’s passive revolution- to continue with what helps in capital accumulation (urgency clause, ‘public purpose’, ‘national interest’ etc.) and to incorporate new forms of alleviating measures (higher compensation, R&R measures etc.). The changes in the new law discussed above reflects the ruling class’ efforts to project its own class interests as universal and elicit the consent of those it rules. The RFCTLARR needs to be seen as an attempt in the same direction i.e. to continue doing for capital what it cannot do for itself directly and to do that with least possible resistance. As a result of this, it laid down the framework for a much greater compensation along with a range of benefits without doing much about the problem itself- the nature of land acquisition. Many such counter-balancing actions have been discussed in the previous section. This creates the imagery of a moral beam balance where the hardships of land acquisition must be matched by compensation and R&R measures, in order to be accepted by the masses. Therefore, every outrageous act of dispossession (such as the Greater Noida case) worked to serve capital’s interests by putting more weight at one end, but was also obligated to ‘appear’ to be balanced by relief measures or other concessions at the other end. If this appearance could create a spectacle of fairness with some precision, the work of the capital was done (before one could know who held the beam balance!).

In a post-colonial capitalist society this solution could have been achieved only through the mediation of the state and the surrogate synthesis that is produced as a reconciliatory measure gains acceptance in the society usually through its political legitimacy. Since the state in a bourgeoisie democracy is constructed as the representative of different parts of the society, it is unavoidable that capital legitimizes its rule through the apparatus of the state. The legal sponsorship of land acquisition in the case of RFCTLARR is evident of how state legislations form a legal fix to ensure capital’s reproduction and unfettered dominance. Chatterjee (1993) (as cited in Chakrabarti and Cullenberg, 2013) writes that “a development state operating within the framework of representative politics would necessarily require the state to assume the role of the central allocator if it has to legitimize its authority in the political domain” (p.143) and that “capital establishes its hegemonic rule by hiding behind this state so that, through the legitimizing process of capital accumulation processed through the state, it can proceed with accumulation without facing any fundamental challenge from other precapitalist communities” (ibid). Chakrabarti and Dhar (2009) also reiterate that primitive accumulation must transpire in or at least create an

imagery of peaceful existence and the onus of it lies on the state. The state also needs an alibi for all its authoritative i.e. for the violence of primitive accumulation to be insulated from the sight of common sense.^{†††} This is done by finding refuge in the project of nationhood and development, unified in the idea of a ‘post-colonial development state’ which operates by balancing the rigours of capitalist accumulation through its welfare mechanisms (Chakrabarti and Cullenberg, 2013, p.138). An important function of all organs of this development state (GNIDA in this case) is to produce a consensus on the creation of a modern nation through capital accumulation.

Since so much clamour has been created around development, it is obligatory to understand how the idea of ‘development’ is appropriated to secure conditions of production and reproduction for capital. The first step in that direction was the construction of ‘development’ as a politically neutral process of change. One of the labours that Sanyal (2007) undertakes is to diagnose the imaginary of development process as capital’s hegemony and consequently foreground the hidden and repressed aspects in its depoliticized version, thereby politicizing it. He goes on to discuss the origins of the post-colonial development discourse and how ‘developmentalism’ was always a political project, which stemmed not so much from its humanitarian concerns but from an impending need to fight communism (p.127). As a result the writings produced by the early batch of development economists- Rosenstein-Rodan, Hirschman, Leibenstein, Nurkse and Lewis, Solow, Harrod and Domar shared a common approach- they were all rooted in capital accumulation devoid of all political moorings (Sanyal, 2007, p.131, 132). He further argues that this ‘development as capital accumulation’ was the depoliticized version of primitive accumulation since it erased traces of conflicts and contradictions among classes and was reduced to the sequence of savings-investment and capital formation (Sanyal, 2007, p.112). As capital accumulation was the overarching logic of development, state was fixated to function as an instrument to facilitate it and also

^{†††} Which is why the provisions like the ‘eminent domain’ clause (which gives the state the right to use its coercive powers to acquire the private property of its subjects without approval) are conditioned on the usage

of that land for ‘public purpose’ in the larger interests. The ambiguity that has survived even after successive

amendments in the land acquisition law also forms a conscious tool that the state requires to manoeuvre and prolong capital’s hegemonic status. This becomes extremely important keeping in mind how critical aspects of

successive land acquisition laws (like public purpose, national welfare, urgency etc.) have continued to escape

concrete definitions.

normalize the violence of development in the progressive logic of historical change (sometimes by deeming it inevitable) (Chakrabarti et al, 2018). This (mostly unchallenged) conflation of capitalist accumulation and development symbolizes an important moment of the discursive hegemony of capital (Sanyal's italics). This hegemonic discourse of development is assisted by the state's legal power to create conditions under which a particular class can reproduce itself (Sanyal, 2007, p.143). As a consequence of this hegemony, the ethic of land acquisition according to RFCTLARR is defined solely in terms of the amplexity of the compensation and resettlement rather than the act of acquisition per se (Chakrabarti and Dhar, 2009, p.131).^{†††} This becomes clearer from the parliamentary debates over the making of the new law (Ramesh and Khan, 2015). The central arguments of most political representatives revolved around ensuring a just compensation along with other things to make up for the loss to the landowners, without giving much weight to the will of the landowner. Thus, the socio-political aspects of the land acquisition are subordinated to the concerns of compensation and landowners' well-being (which includes his right to a just compensation but not his consent on giving up his land, sadly!) (Ramesh and Khan, 2015). Consequently, the bourgeoisie ideology that disguises its agenda in the idea of 'development' (in the sense above) is indoctrinated into the masses, preventing them from seeing anything abnormal in this (Mandel, 1969).

Conclusion

The major point of the study is that the move from LAA to RFCTLARR was essentially an attempt by the state to address the concerns not of the affected individuals but of capital, i.e. to assure ongoing capital accumulation in the case of increasing opposition to land acquisition. This was accomplished by presenting the RFCTLARR as a compromise that accommodated everyone's interests, including those of affected individuals and capital, without altering the character of the acquisition itself. The notable incidents of land acquisition after 2013 (such as the acquisition of land for the Jewar airport in Uttar Pradesh, for the Statue of Unity, and even the proposed acquisition for the bullet train in

^{†††} The preamble to the RFCTLARR defines it as an Act to ensure a "humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with least disturbance to owners of the land" and at the same time providing a "just and fair compensation to the affected families along with rehabilitation and resettlement.

Gujarat, etc.) have all been met with protests and opposition, indicating the dissatisfaction of those affected by the new law.

It also signified that primitive accumulation cannot always play the role that has been historically attributed to it - that of producing a "free" mass of wage labour and capital. This failure or incomplete development of capitalism is the historical foundation for the passive revolution of capital. It leaves behind precapitalist institutions that capital could not absorb and that capital must absorb at some point to allow its reproduction on a larger scale, casting doubt on a teleological view of capitalist evolution (Chakrabarti and Cullenberg, 2013, p.137). This passive capital revolution is carried out by constructing a 'universal' that can tolerate various 'particulars,' but remains biased in favour of one. Promises of 'freedom' and 'progress' are used to gain the permission of those who would be impacted, while their violence is rendered invisible. Thus, capital's claim that it liberated these people from feudal servitude and opened the doors to the "free world of capital" seems absurd in light of the reality that they were (and continue to be) forcibly thrust into this new "free" world (Sanyal, 2007, p.124). The whipping's wounds were and continue to be erased, and the erasing is celebrated as a sacrifice. Therefore, it is essential to continue to oppose the hegemony of capital and the normalisation of its violence in everyday actions, particularly by incorporating it into our worldview. This is only possible through the attainment of a higher degree of consciousness. Moments of counterhegemony must be recognised and developed into continuous movements. In this view, the contribution of this article is to demonstrate that the law continues to be an instrument for the theft of people's land, albeit in a different form, and to challenge the rhetorical hegemony of capital by this demonstration. This careful examination of the relationship between the state and capital in contemporary capitalism (as highlighted in the paper) is the first step in that direction and is essential for locating one's place in the daily struggles against capital's oppression and cultivating the concept of resistance. To ensure that the tragedy of the first time does not continue to be reenacted as a farce, all people must battle and oppose on all levels.

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