

Addressing the issue of Land acquisition through Human rights perspective

By Vidya Bhushan Rawat

Interesting stories are emerging for Africa. That the big Indian companies are buying huge track of lands in Kenya, Uganda, Ethiopia and other African Countries. A news report suggested that India becoming a new colonizing country but our agricultural minister 'termed' it pure 'business'.

Two years back, I was in the General Assembly meet of International Land Coalition, in Uganda. Coincidentally, the struggle against the acquisition of the famous Mabira forest became a national issue where an Indian Company was granted the right. The stories emerging from mainstream Indian media was about 'hatred' against Indians in Uganda. But none tried to introspect as why the native people develop hatred.

Let me be very candid here. India is a big country.. one of the most diverse countries of the world. The Indians who are dominating in these regions of Africa are actually those who mistreated their fellow countrymen in India as untouchables or tribal. Today, the poor of India are under the threat. It is a threat not just posed by the multinationals but our own domestic giants. The Permit-quota raj allowed the middlemen and the chums of the political class to go on land grab. In the past 60 years more people have been displaced because of the developmental projects than land reform being implemented in India. As a person working on the Economic Social Cultural rights of the marginalized in India, I can say with firm conviction that the Indian state has made all the great laws which are required to empower the marginalized communities but it has failed to implement them. As UN General Secretary Kofi Annan said in his report 'in larger freedom, ' But without implementation, our declarations ring hollow. Without action, our promises are meaningless. Villagers huddling in the fear at the sound of government bombing raids or the appearance of murderous militias on the horizons find no solace in the unimplemented words of the Geneva Convention, to say nothing of international community's solemn promises of 'never' again, when reflecting on the horrors of Rwanda a decade ago.'

Problem is that land has become a very complex and violent issue in India. The reason for this is the state failure to implement land reform. At the central level the government has not done anything except developing some 'entitlement' based 'poverty alleviation' programmes like NREGA or the proposed new 'Right to Food Act'. It seems because it does not really want to address the land issue or because it feel somewhere in its heart that land acquisition is the necessity for India's becoming a 'giant'. The Indian government has formulated acquisition policy but it is mostly developed by the 'bureaucrats or their favorite 'statisticians or economists. There is no role for activists or the people who are involved in it. It talks great about rehabilitation but one need to see the realities of rehabilitation.

I never really believed in those beautiful statistics provided by the planning commission as during our work with people's movement, we have seen, how 'people' become subject a subject for 'research' for these commissions and have lost faith in them.

This is what I term as great Indian betrayal. The betrayal with the Dalits and Adivasis who were victim of not only indigenous caste system, worst then racial discrimination in Africa. Some of them felt that when the world would open, information technology will pave the way for elimination of the rigid social order and abolition of Zamindari System. Our states brought that legislations in the 1950s but 60 years, we are now revisiting and feeling as if that Zamindari was not enough. We want Big Zamindars in the form of the industrial houses taking over huge track of land. Even many years after acquisition the land remain unused. Basic question is also important as why such big land for acquisitions. And land is being acquired for everything. For big dams, for big parks, for big SEZs, for State industrial Corporations, for National High Ways, for local roads, and for so many things where people are given new dreams that never fulfills.

So, today's acquisition of land is not just in the form of big dams, amusement parks, resorts, tiger projects or privatization of water resources, it is now developing new enclaves or new autonomous colonies in the state. Yes, I am now talking about the Special Economic Zones in India for which a minimum of 2500 acres of land is required at one place.

The Special Economic Zone Act was passed by Indian parliament in 2005 and it became act in June 23rd, 2005. The main objectives of the SEZ Act are

- a. generation of additional economic activity
- b. promotion of exports of goods and services
- c. promotion of investment from domestic and foreign sources
- d. creation of employment opportunities
- e. development of infrastructure facilities

There is an approval mechanism and administrative set up for SEZ comprising 19 'eminent' persons with Secretary in the department of Commerce, its chairman. Basically all the 19 members of government bureaucrats in different ministries. There is no process of talking to the people first and then taking a decision. There is no process of independent evaluation of environmental concerns as all of the board members are government voices. The process of land acquisition is not only partisan in nature but dictatorial. Let us first see what the government offer through this :

- a. duty free import/domestic procurement of goods for development, operation and maintenance of SEZ units
- b. 100% tax exemption on export income for SEZ units under section 10AA of the income tax for first 5 years and 50% for next five years and 50% of the ploughed back export profit for next five years.
- c. Exemption from minimum alternate tax under section 115 JB of the IT act.

- d. External Commercial borrowings by SEZ units to USD 500 millions in a year without any maturity restriction through recognized banks.
- e. Exemption from Central Sales Tax
- f. Exemption from Service Tax
- g. Single window clearance for Central and State level approvals
- h. Exemptions from state sales Tax and other levies as extended by the respective state governments

What is current status:

Total Number of approved SEZ in the country are 531 as on Feb 10th, 2006
 Out of 531, 260 have been notified. The total land for formal approval is 67680 hectares. 109 approvals for State Industrial Development Corporations. For 270 notified SEZs the land is about 31405 hectares.

Total land area in India is 2973190 square kilometer in which agricultural land is 1620388 (54.5%). For 270 SEZs the agricultural land is about 314 square kilometers. The formal approval granted also work out to be 676 square kilometers.

According to official data available from the SEZindia site, the growth rate for Export is very high.

Year	Value	Growth Rate (over previous year)
2003-2004	13,854	39%
2004-2005	18314	32%
2005-2006	22840	25%
2006-2007	34615	52%
2007-2008	66,638	92%

The total investment so far is Rs 83450 crore and total employment is 1,13,426 persons.

Uncomfortable Questions :

No where in the government documents we hear the issue of the affected people. Whether they have been asked before acquiring their land. While we abolished Zamindari in India, there is new Zamindari system in the form of SEZ. Why has there been no ceiling on the land acquisition. Companies have brought huge track of land. The government is behaving as a 'property agent' and is facilitating. It is not taking consent from the people and communities. They are simply given option to leave the place. Accept the terms being offered by the government or face the action. In fact many economists have questioned the loss of revenue to exchequer from SEZ. At the end what is the government getting from it.

Political parties have not raised the issue. It is not a matter of conviction for them but matter of convenience. The left parties of West Bengal can slaughter people opposing the SEZ or land acquisition in Nandigram and Singoor but will oppose the same in Andhra Pradesh and Delhi.

India is passing through a tough period. WE celebrated the victory of democracy. Power transfer in India have been usually smooth without any hassles but at the same point of time nearly one hundred districts in several Indian states including Chhattisgarh, Jharkhand, Orissa, Maharashtra, Andhra Pradesh, Bihar and West Bengal are infected with Maoists intervention. To say that they all force people into anti national activity is to convert a serious into a discussion forum without open mind. It is a fact that in the places where the Maoists have been operative, the governance and democracy failed to deliver. All those areas are rich in natural resources inhabited by the Dalits and tribals. These are the areas where big companies are eyeing rich natural resources on a throw away price and state governments are ready to bend rule for them. The compensation has never been adequate. The struggle against SEZ and big dams are continuing. Governments treat every 'resistance' as a threat to its sovereignty but what about people's sovereignty. In Maharashtra people actually voted against the SEZ in Raigarh. Goa has already scrapped its SEZs because of political pressure. West Bengal has seen the worst ever violence in both Nandigram and Singur.

In Manglore SEZ, the government could acquire about 1800 acres in the first phase against a total 2500 acres.. Actually the big land holders are ready to sale their land as they understand the bargaining power but it is the small and medium size farmers who are dying. All those who got land under the land reform act are also facing the same problem as government acquired their land on much below the market prices. They are forced to do work in the labor market for their survival.

One does not understand why the government wants to give thousands of hectares of land which is agricultural land, for non agricultural purposes. Where are farmers in the entire structures? Where are the Dalits and tribals in the entire structure of SEZ. In fact, shamelessly, the government document does not talk of their participation. It talks of Job growth but it does not talk of how many thousands of people are uprooted from their homes and culture. If these were easy questions to answer, there would not have been any problems.

In Andhra Pradesh, just 150 kilometer from Hyderabad is an SEZ which took attention of the state but nothing happened. 16 Dalit-tribal people fought loksabha election as independent candidates and gathered about 1,20,000 votes. They lost their elections but they showed that people are resisting it different way. Polepally's Dalits and tribal did not pick up guns to resist their forceful occupation by the government yet following the constitutional means got them nothing. In fact, the community leaders, supporters of the movement are facing threat.

Nearly 50 men committed suicide in the past three years in Polepally after the SEZ started working. The government provided compensation of Rs 16,000/- per acre to those who got land under land reform act, and those who owned land got Rs 18,000/- per acre. The market price was much higher about 40 lakh per acre. In Polepally, this is the biggest loot. People are still struggling through democratic means yet democracy has failed to provide results.

Democracy in India is fastly becoming a majoritarian concept. Politicians taking shelter under it. ' We need water they say. WE need development yet at the same point of time they propagate that some people have to die for the welfare of the state. These are dangerous questions. Why should the poor die for the rich?

Indian Courts have given historical judgments on various occasions yet they also do not get implemented on time. I was involved in a case of 1167 acres of land which was declared ceiling surplus two decade back but despite winning battle from the highest court the authorities were hell bent to give the land to the big companies and not to the people. Why is that land is available for SEZs and other purposes but not for redistribution purposes.

In the 1990s, Supreme Court gave a historic verdict which is called as Samata Judgment. It was the rejection of the rights of private companies to mine in the tribal dominated areas (Scheduled areas) without the permission of tribal Panchayats. But now the government misinterprets the verdict and recklessly conniving with private quarry owners to destroy the bio-diversity in the forest.

In the aftermath of the recession, many companies have acquired land but have not even started construction work. Reliance Industries, is acquiring about 25000 hectare land in Haryana. Question is why they want this big land... Now, Reliance has approached the Supreme Court that they are unable to start the work on stipulated time period and hence they should get some more concessions. The Supreme Court has rejected it. The thing is that brother Anil Ambani acquired 2,500 hectare land in Bajhera khurd village for a gas

based power plant. Every body was asking this question as why this much of land. The state government facilitated the land prices to mere Rs 105/- per square ft.. While market price went around Rs 5000/- square feet. Till date, no work has started for the power plant.

The government claims that the SEZ are growth oriented and job oriented. One must not forget that big companies today are claiming for every small thing. These SEZ might be producing even the smallest things which once upon a time a street vendor would do. Thousands of vegetable venders in India are on the verge of losing their livelihood once Reliance, Wall Mart and other companies started joining the lucrative vegetable markets of India. The question is why the victims are excluded from our growth oriented pattern. What is the rehabilitation package.. When we go to the market, it is the seller who decides the price whether we pay according to his/her rate or negotiate for it but in the land market the poor seller is victim of the state's dictatorial regimes. They have to accept what ever is given to them. Their livelihood is crushed, their dream shattered and their culture destroyed.. What is the price for doing all this?

Just when Indian democracy was throwing 'strange' results, I was travelling with my friends to some of the remotest areas of Andhra Pradesh, Chhattisgarh and Orissa. Government of Andhra Pradesh is planning to develop a big dam on river Godavari in Polevaram district. The dam is supposedly resolving the water crisis of Andhra Pradesh but the cost in term of human and environmental life is enormous. An estimated 300000 tribal are going to lose their habitat. And then there are environmental concerns, but then the chief minister and developmental experts believe that 'some' people will have to be 'sacrificed' for the 'development' of the state. The government has no plan. It does not have anything to offer to tribal and when they resist against this onslaught on their culture and habitat then the police is there to kill them. They are termed as Maoists. And if they succumb to government, the Maoists term them as the government agent. Today, the Koya and Gutti Koya tribal in Chhattisgarh are sandwiched between the two.. between the state police and Maoists.

When so much is happening and the government does not listen, how to believe that investment is coming for good purpose. The very word 'investment' is perceived to be as a market agent and against the interest of the tribals and Dalits. Every body wants development. Every one wants to get benefit from that but not at the cost of losing their livelihood and cultural practices. Poverty is the biggest violation of human rights and we need strong UN mechanism to monitor it. All those who are losing their land are mostly the Dalits and tribal in India and they suffer in humiliation, indignities and hunger. They become victim of politics as their vote does not matter or their leaders are co-opted in the bigger political structures. The NGOs can not raise their voice as to lose their status and international grants. People distrust them and hence Maoists are the easy one who waits for them to provide instance justice.

I know many cases where people have not got justice for even when the highest court of the land have given order in favor of them. In Uttarakhand state, the Dalits are still waiting for a court order to be implemented which was delivered in 2004 for which we

fought for last 15 years. It is of implementing the ceiling law on 1167 hectares of land. The government did not give land to the landless people but want to establish an industrial hub there.

The fact is that land has become a revenue generation exercise for the government and hence they do everything to violate the law. The bureaucrats are forward looking friends who will don the chairmanship of big companies after retirement and use their contacts in the government to get everything illegitimate to strengthen the companies. The nexus is too big. The mechanism is smaller. People are fastly losing faith, still as Tom Cambell writes in his essay ‘ Poverty as Violation of Human Rights’,’ The categorization of poverty as violation of human rights may also be seen as a move to bring new social mechanism to bear on the elimination of poverty. In addition to more stringent and forcefully expressed UN monitoring of state performance with respect t social and economic rights, we may be led to contemplate extending such surveillance to the activities of non state actors , such as multinational corporations, and bringing the focus of human rights NGOs, more on the issue of poverty.’

(Freedom from poverty as Human Right: Who owes what to the very Poor : Edited by Thomas Pogge, OUP 2007)

Efforts have been made for voluntary guidelines on right to food at international level. There were talks of Optional Protocol on Right to Food and we all are talking on the issues by addressing the issue only and not the cause of it. As a person working on hunger and poverty, I have found through my work that most of the people who are dying of hunger are those who have lost their livelihood right and have no land, forest or water to work on. It is important that we develop some mechanism which are already there in the Covenants on economic Social Cultural rights. Protective mechanism are there but have become redundant. In India the Supreme Court has longed said that no private company can mine in the Scheduled Areas without seeking permission of tribal in the historic Samatha Judgment but today the government have found ways through its own corporations to mine and destroy the climate and tribal lives there. What we do when those responsible do it?

I repeat here which would be further guidelines for us to discuss to protect the rights of the indigenous people, Dalits and adivasis

1. With regard to social and economic human rights the obligation to respect requires state not to intervene in the private sphere in any way that hinders the enjoyment of social and economic rights. This precludes, for example, that the state engage in forced evictions that deprives people of their necessities of life.
2. The obligation to protect demands from state that they prevent violations by third parties, for example corporations that do not respect basic working standards.
3. And finally the state should work towards the fulfillments of these rights by implementing budgetary and judicial measures as well as creation of

appropriate legislations that guarantee social security for a stable period of time. (Maastricht Guidelines, 1998, paragraph 19,698)..

Actually, all these are there in our statutory work. These are new challenges when state become a party in throwing people away. It is time when we go beyond these state actors and develop international measures as Regina Kreide writes in ' Poverty as a Violation of Social Autonomy', All non state agents who affect people's essential interests have enduring duties to respect, protect and fulfill social and economic human rights with in their functional domain of influence. For TNCs, to respect these rights means that the establishment of their production sites and the pursuit of their enterprises should not destroy local, essential living conditions, nor obstruct access to economic and social rights. Protecting economic social human rights mean that TNCs have an obligation to prevent third parties-mainly their subcontractors – from violating these rights. And finally, TNCs, should contribute towards fulfilling economic and social human rights by, For example, respecting international labour laws and or participating in voluntary agreement on labour standards.

It is important that while at the international level, TNCs are still a welcome statement to discuss but so much blood has spilled on the ground that the very name of not only of TNCs but also of the local corporate giants have caused deep resentment among the communities. You can not really work with people. The reason for that is that all the big corporations are responsible for destroying the livelihood of the communities and hence it is difficult. One dose not knows why they not opt for waste land. The situation in India is alarming as the way government is going to attract these investment which are causing the problems for rural poor living in naturally rich areas, is a matter of grave concern. No industry should be allowed to develop if it results in mass destruction of people's habitat and their livelihood. India's agricultural production is reducing and hence farmers will commit suicide. Ofcourse, the big corporate farmers are now buying land or colonizing Africa for their own petty business interest. We oppose acquiring land by these big corporations both with in India as well as out side India. Any kind of colonization will have to be opposed. In democratic societies, you make people partner in development and not force them to get away from the mid way, if they do not like you. It is wake up call for all of us. Democracies in third world are actually serving the purpose of the powerful and therefore people are taking laws in their lands. International community which means involvement of the tribal, Dalits and indigenous people too, must act fast to save people from disaster. You have not fulfilled your promises which were given. In 1998 the promise was to reduce global poverty to half but given the nature of acquisition and loot of the resources and livelihood, I am sure, the poverty will increase and the poor will either commit suicide as they are doing in many places or pick up guns to get instance justice.

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