

Rationalising Dispossession: The Land Acquisition and Resettlement Bills

MICHAEL LEVIEN

The rapidly expanding demand for land under India's neoliberal regime has been confronted with a relatively inelastic supply. Farmers and other landholders are unwilling to relinquish their means of production to capitalists. This has led to a proliferation of pitched battles across India against all kinds of land acquisition. The Land Acquisition (Amendment) Bill (2009) and Resettlement and Rehabilitation Bill (2009) therefore need to be examined carefully. The proposed amendments to the Land Acquisition Act will only facilitate the State's new role as the land broker-in-chief. The Resettlement and Rehabilitation Bill will help the Land Acquisition Bill in "rationalising" dispossession by ensuring a more secure and predictable corporate access to land.

As thousands of small wars against land acquisition rage across the country, proposed amendments to the Land Acquisition Act (LAA) and a new Resettlement and Rehabilitation Bill await consideration by Parliament. With endemic opposition to land grabs for special economic zones (SEZs), mines, dams, power plants, highways, housing colonies and any number of "development" schemes across the country, reconsideration of India's land acquisition laws could hardly be more timely or important. Yet while the bills were first introduced in the wake of Nandigram and Singur and are ostensibly intended to improve resettlement and rehabilitation of the displaced, in their current form they would only make it easier for the State to acquire land for private companies. Moreover, they fail to provide an adequate framework for minimising displacement and for ensuring that displaced peoples are left with viable livelihoods. As India prepares to consider sweeping changes to its legal framework of eminent domain – the power of a state to confiscate private land for public purpose – this article seeks to place the Land Acquisition (Amendment) Bill (2009) and Resettlement and Rehabilitation Bill (2009) in their political economic context and examine their likely consequences.

Political-Economic Context

To understand the intent and probable effects of the legal and policy changes embodied in these bills, it is necessary to see them within the context of the political economy of land in neoliberal India. The central government recognised early on that liberalising the economy would require the intensified commodification and acquisition of land. A 1994 Rehabilitation Policy draft by the ministry of

rural development states that on account of liberalisation:

It is expected that there will be large-scale investment, both on account of internal generation of capital and increased inflow of foreign investment, thereby creating enhanced demand for land to be provided within a shorter time span in an increasingly competitive market-ruled economic structure (MRD 1994: 1.1-2).

It was thus astutely recognised that in a liberalised economy, private capital would require more land more quickly than had been the case under the Nehruvian development model.

This prediction has proven to be accurate. With liberalisation, increased demand for land has been driven by at least four sources – industry, resource extraction, infrastructure, and real estate – as private investment has flowed into these sectors in unprecedented quantities. In practice, these sources of demand for land are rather tricky to separate as infrastructure projects under the public-private partnership (PPP) model often contain real estate components (the Taj Expressway being a good example) and industrial development is increasingly taking place in SEZs that are justified on infrastructural grounds but double as high-end residential townships. But there is no doubt that demand for land has been increasing dramatically.

To take infrastructure alone, the Indian government has projected that the country's industrial growth will require a corresponding infrastructural expansion of massive proportions. It anticipates that in order to avoid bottlenecks and inflation, India's investment in infrastructure – everything from roads, power plants, railways and ports, to airports, container depots, SEZs, and water provision – will have to reach 8% of GDP, or around \$320 billion over the next five years (GoI 2007). However, in the neoliberal era, infrastructure development is not the public undertaking of yesteryear. The Planning Commission estimates that 75% of this investment will come from the private sector, largely in the form of PPPs (Rastogi 2008). The expansion of infrastructure, historically a public good provided by states, is thus being turned into a profit-making

Michael Levien (mlevien@berkeley.edu) is a PhD student in Sociology at the University of California-Berkeley.

enterprise, and rendered a commodity that can be securitised and sold on international financial markets. SEZs are simply one such form of privatised infrastructural development that incentivises private companies to develop land for industrial use by giving them surplus land that they can turn into residential colonies. Of course, all of this private accumulation through infrastructure provision is premised on access to land, most of which is in the hands of India's small-holding peasantry. Consequently, infrastructure – now occupying an ambiguous space between public good and private commodity – is becoming a gargantuan lever of “accumulation by dispossession” (Harvey 2003).

It is only in this context of extraordinary demand for land for industry, infrastructure, natural resource extraction, and real estate that we can understand the proposed changes to India's land acquisition laws and the problem for capital that they are intended to solve. The problem is the following: the rapidly expanding demand for land under India's neoliberal regime has been confronted with a relatively inelastic supply. Farmers and other landholders have proven unwilling in many circumstances to relinquish their means of production to capitalists. While some balk at the meagre prices being offered through the land acquisition process (usually based on past agricultural value rather than present commercial value), others refuse to part with their land at any price. This has led to a proliferation of pitched battles across India against all kinds of land acquisition, most recently dramatised by the controversies over SEZs and large private mining projects in eastern India. Many of these movements have succeeded as shown by the fact that many of the largest proposed SEZs have been scrapped, seriously stalled or face delayed clearances, from Reliance in Raigad to POSCO in Orissa. The recent victory against Vedanta's mining project in Niyamgiri is the latest in a string of victories by farmers and adivasis over capitalists. Aside from such high-profile clashes, endemic opposition to land acquisition has become a constant headache for private companies, urban development authorities, and industrial development corporations.

All this has led to an overwhelming chorus among business, bureaucrats, politicians and the mainstream press that India must do something to fix its land acquisition laws. While the government would most likely prefer to avoid the political cost of acquiring farmers' lands for large private corporations, it is rather clear that it cannot entirely do so if it wishes to continue with its current model of neoliberal development. As one SEZ executive told me, a state role in land acquisition is “absolutely necessary”. Outdated and inaccurate land records make it difficult for private companies to purchase large amounts of contiguous land. While companies could acquire some portion of the land themselves, there will always be holdouts that will prevent contiguity and drive up the price. Legal disputes over land sales can take a decade or more to resolve in court, indefinitely delaying projects. For large investments, private companies thus look to the State to acquire land for them. But with land acquisition now under political and legal attack, this avenue has also become fraught and many large projects have been stalled or scrapped. The elite consensus is clear: something must be done if the availability of land is not to become a constraint on India's neoliberal model of development.

Ironically, it was the Nandigram resistance and the uproar that followed which provided the opportunity for the reworking of the land acquisition framework required by capital. In a sort of political ju-jitsu, through which an opponent's momentum is used to your own advantage, the Indian state has proposed legal and policy changes that, while appearing to respond to the critics of land dispossession, will in fact make it easier for the government to acquire land for private accumulation. Ignoring a draft resettlement and rehabilitation bill prepared by the United Progressive Alliances' (UPA) National Advisory Council (NAC) in consultation with civil society groups, the current legislation will serve the interests of those acquiring land more than those being forced to surrender it. In order to understand why this is so requires a detailed look at the legislation itself.

The Land Acquisition (Amendment) Bill

In liberal democratic states, the forcible acquisition of private land by governments (eminent domain) typically requires that it serve a “public purpose”. The Land Acquisition Act (1894), as amended in 1984, specifically mentions the development of village sites, town and rural planning, the provision of land for state-controlled corporations, providing land for residential purposes to the poor and landless, and other planned development undertaken with government funds. One of its main uses in early post-independent India was zamindari abolition and land reform (Merillat 1970; Ramanathan 2008). However, the use of eminent domain to dispossess landlords and distribute land to the poor was rather short-lived. Under the Nehruvian development state, this more egalitarian use was quickly supplanted by the exigencies of displacing the poor for dams, mines, and other large-scale development projects. While the government never bothered to keep track, the most reliable estimates suggest that at least 60 million Indian citizens were displaced from over 25 million hectares of land between 1947 and 2004, among whom at least 40% were adivasis and 20% dalits (Fernandes 2004).

In practice, separating public purpose from private profit has always been tricky; government-undertaken development projects have always stood to benefit certain classes at the expense of others. One can think, for example, of industries and large farmers getting the majority of water from dams or private developers building middle class homes on the ashes of demolished slums. Typically, the State's central role in these projects provided the demarcation line (justifiable or not) between public interest and private profit: if the State was undertaking the project, it was in the public interest. As the Narmada decision showed, the Supreme Court has been unwilling to question the government's prerogative in setting development priorities and defining the public interest. However, under the form of neoliberal capitalism that India has now embarked upon, using government involvement to differentiate public and private has become inconvenient as the State's role in

development now increasingly consists of catalysing private investment. Since the 1990s, states have increasingly taken on the role of acquiring land for private companies and courts have largely refused to entertain petitions questioning whether the promotion of private industry is a legitimate public purpose (Ramanathan 2008). Instead of reining in this practice by strengthening the notion of public purpose and making it justiciable, the proposed amendments to the LAA will only weaken it and thereby facilitate the State's new role as land broker-in-chief.

The manner in which the LAA Bill 2009 undermines the distinction between public and private interests is subtle and is clothed within a seemingly liberal concession to the opponents of land acquisition. The amended public purpose clause, while eliminating the ability of the State to acquire 100% of the land required for a project by a private company, states that wherever a private company has acquired 70% of the land necessary for a project deemed "useful to the general public", the government will acquire the remaining 30%. This so-called 70:30 clause, while seemingly minimising the State's controversial role in land acquisition will introduce several pathologies into the land acquisition process and deserves serious scrutiny.

While the 70:30 clause will somewhat reduce the State's politically polarising role in taking land from farmers for private companies, it nonetheless does not eliminate that role and, in the process, dilutes the public-private distinction that should be central to any use of eminent domain. Many of the specific instances of public purpose mentioned in the original act are removed, and in their place is left the ill-defined "any other purpose useful to the general public". It is nowhere specified how this determination will be made and with what criteria. Thus if a private person or company wants to set up a hotel, a water park, or high-end housing on current farmland and acquires 70% of the land they need, the State could acquire the rest for them if they deem it useful for the general public. Since neither "useful" nor "general public" is defined, what is to stop state officials from arbitrarily designating a hotel or water park as "generally

useful" enough to some section of society that building it should override other people's right to their land and livelihoods? One fears that the increasing tendency to equate the public good with GDP can justify anything. The example of Gorai, Maharashtra where the State is trying to acquire a whole island from farmers and fisher people to give to the SL Group for a "special tourism zone" is illustrative. Such decadent cruelty is reminiscent of the 17th century English enclosures that turned peasant common lands into deer parks for the idle entertainment for the nobility. Surely some more robust and specific set of criteria is required if a democratic state is to usurp land from one set of individuals and give it to another. The notion of public purpose, already diluted in case law and bureaucratic practice (Ramanathan 2008), should be clarified and strengthened in a new LAA, not obscured and weakened.

It may be argued that if a company is able to acquire 70% of the land required for a project, then this suggests that a majority of people in the affected area support it. This is misleading. The law only requires that a majority of *land* be purchased, not that a majority of *landholders* agree to surrender their land. It need not be said that in the context of unequal landownership these are entirely different things. This kind of "market democracy" is no democracy at all, especially when one factors in non-landholders living and working on the land who would also have no voice. Moreover, the 70% criteria appears a lot less daunting for companies when one considers that any government land they are given would count towards the 70% they need to possess before the state will take the rest through eminent domain. Such transfers of state land (almost always used as commons by local communities) or land from land banks to private companies is a regular occurrence, and is not even subject to the procedural requirements of public comment required by the LAA. Theoretically then, the State could transfer 70% of the land required for a project from its own reserves and then require the remaining 30% from farmers. With no choice in the matter, communities could thus be robbed of their common and private land. A truly democratic process would subject

approval for land acquisition to gram sabhas, something proposed in the NAC draft but strenuously avoided in the current legislation.

Other questions concerning the 70:30 principal abound: will the threat of being in the 30% to have their land acquired by the State coerce people into selling to private parties lest they get a lower price? This is already a regular occurrence in cases of land acquisition where people feel that they have no choice but to sell to private companies or land brokers because they do not trust the State to give them adequate compensation. Since governments rarely consult with affected people nor provide them adequate information about projects, it is common for farmers to thus sell their land cheaply out of fear. The 70:30 clause will undoubtedly increase this indirect form of coercion, effectively displacing people without formal land acquisition. Those coerced and tricked off the land in this way will then not even be entitled to the compensation provisions (inadequate as they are) contained in the new R&R Bill.

Easing the Path

While seeming to limit the circumstances in which eminent domain is used for private companies, the 70:30 will remove more hurdles for capitalists than it creates. In interviews with SEZ developers, executives told me that they are fully in support of the 70:30 clause. While it may mean some more work in acquiring land on the market, it would eliminate one of their biggest worries, which is holdouts refusing to give land, thus driving up the cost and preventing them from attaining contiguity. Moreover, it might help to remove legal and political challenges to acquisition. As the lawyer for an industrial development corporation told me, the new bill may clear a substantial amount of litigation against land acquisition out of the courts by reducing the (already narrow) scope for challenging it on the basis of public purpose. This would be very significant for industrialists, as it would reduce the uncertainties and delays of litigation. The greater predictability provided by rationalised land acquisition laws would more than compensate for the hassle and cost of having to purchase 70% of land on

the market (especially give the loopholes mentioned above, such as counting state land towards that total).

But the bill also appears to leave open a very significant backdoor through which the State could still acquire 100% of the required land for private companies. While removing the list of specific public purposes contained in the original Act, the new amendment provides only two: “strategic purposes” and “the provision of land for infrastructure projects of the appropriate government, where the benefits accrue to the general public”. Infrastructure is subsequently defined to include power generation and transmission; construction of roads, highways, bridges, airports, ports, or rail systems; mining activities, educational, sports, healthcare, tourism, transportation, space programme, and housing “for such income groups as may be specified from time to time by the appropriate government”, and water supply projects, irrigation projects, sanitation and sewerage systems. The inclusion of mining – the extraction of resources underlying peoples’ lands by private companies – is egregious and hardly needs comment. The inclusion of real estate industries like tourism and housing (for unspecified income groups) as public purpose makes a mockery of the concept. It also so happens that every single one of these other “infrastructure” activities is now being undertaken for profit by private companies through the PPP model. Often they are allowed to undertake real estate development on excess land abutting the infrastructure. The LAA amendment would thus give clear legal sanction to taking land from farmers and giving it to private players for real estate profiteering. To take another example, many SEZs (which are largely real estate projects) are being built through joint ventures between state industrial development corporations and private companies. If the State is a partner – even with a minority stake – in such projects, does this mean that the use of eminent domain is justified? In an era in which the provision of public goods is being privatised and the State is increasingly a business partner with private capital, the amendments to the LAA would helpfully jettison the inconvenient notion of public interest and legally equate it with

private accumulation. It would thus fully legitimise the State’s role as land broker for capital.

To make matters worse, the new legislation explicitly permits “urgency” acquisitions for most of the purposes defined in the Act as infrastructure. Under urgency acquisition, land can be acquired within 15 days of notification without even hearing objections from the public. Urgency has nowhere been defined, and we have seen that urgency acquisition has been misused in many cases, such as the Anil Ambani SEZ in Dadri, where land was acquired for a private company with no plausible claim to urgency (except perhaps for its shareholders). Moreover, the Act allows the acquisition of land within 48 hours not only for emergencies like sudden changes in navigable rivers, but wherever “the appropriate government considers it necessary...for the purpose of maintaining any structure or system pertain to irrigation, water supply, drainage, road communication or electricity”. This definition is so expansive that it leaves ample opportunity for governments to short-circuit the mandatory process of public hearing – not to mention social and environmental impact assessments – and uproot people from their lands within an reasonably short amount of time.

Perhaps just as important as the legal obstacles to land acquisition the LAA amendments would remove, is the political opposition that the bills seem aimed at short-circuiting. Land acquisition has become a political problem for state governments who on the one hand want to attract capital to their state and on the other would like to avoid the wrath of angry farmers and not appear to be forcefully redistributing land from the poor to the rich. While one hears the opinion often among bureaucrats, corporations, and economists, there is little electoral support for transferring land from farmers to multinational corporations because it is “the highest and best use”. Yet, doing so is integral to the neoliberal model of development that state governments are almost unanimously committed to. The LAA Bill is above all a clever solution to the contradiction between the political exigency of placating farmers and the economic interests of capital: it creates the appearance that

the State is backing out of its role as chief land broker while in fact strengthening and rationalising its ability to provide land to business.

In all likelihood, the Land Acquisition Act (Amendment) Bill will facilitate rather than hinder the ability of the State to acquire land from farmers and other landholders for private purposes. It will likely increase the number of people displaced from various kinds of development projects, reduce their ability to resist, and perhaps insulate the state from responsibility. As we will see, the accompanying Resettlement and Rehabilitation Bill also fails to guarantee adequate protection for those who will be dispossessed under this new land acquisition regime.

The Resettlement and Rehabilitation Bill

Of the more than 60 million people displaced for development projects since independence, it is estimated that less than 18% were resettled, not to say rehabilitated with alternative livelihoods (Fernandes 2008). This amounts to an expropriation – theft is not too strong a word – of enormous proportions, turning millions of independent producers into propertyless labourers. The immiseration of generations of people making their livelihoods from the land with no or poor compensation has constituted a huge effective subsidy of India’s development project. It is only with the agitations of people’s movements in the past 30 years that any attention has started to be paid to those who have disproportionately paid for India’s industrial development with their dispossession, and who are rather clinically referred to as “project affected persons”. For years, social movements of displaced persons and other civil society groups have been calling for national legislation on resettlement and rehabilitation to no avail. It was only after the violence in Nandigram and the huge controversies over land acquisition for SEZs that the centre finally introduced a bill to create a national resettlement rehabilitation law. Unfortunately, it is quite inadequate to the task.

The Resettlement and Rehabilitation Bill undoubtedly contains some progressive measures for displaced people and will give these rights the status of law rather

than policy, which will help to strengthen their enforcement. In a significant move, the bill recognises the rights of the landless and artisans to compensation rather than just landowners (although only if they can prove residence in the area for at least five years). The bill mandates that those having their land acquired must receive a house plot and money for construction, compensation for cattle sheds, moving costs, a monthly subsistence allowance at minimum agricultural wages, and a pension of Rs 500/month. These are not insignificant and represent improvement over the paltry or often non-existent compensation that most displaced peoples have received since independence. But this is improvement only in relation to an abominable historical standard. In themselves, these measures are not capable of redressing the fundamental economic (not to mention social and cultural) losses that accompany displacement. While perhaps no compensation can, coming closer would require making significant and binding provisions regarding not just cash handouts, but replacement land, employment, and profit-sharing – things which are left suitably vague in the bill.

The bill suggests that those whose agricultural lands will be acquired are compensated with replacement land “if government land is available in the resettlement area”. Project-affected people are to be given preference in employment in the industries for which land is being acquired “subject to the availability of vacancies and suitability of the affected person for the employment”. In lieu of employment or agricultural land, oustees for land development projects can receive developed land “subject to limits as may be prescribed”. Rather than being guaranteed equity stakes in the projects they are providing the land for, the bill says that families shall be given the option to have 50% of their cash grant in the form of shares or debentures. Thus when it comes to economic fundamentals – land, employment, equity – the bill does nothing to guarantee that the long-term economic assets that people are being dispossessed of will be replaced with equivalent sources of livelihood. The bill *requires* nothing beyond cash compensation, which has time and again proven to be an ephemeral and inadequate substitute for land.

Moreover, the bill lacks strict timelines for completing the resettlement and rehabilitation of the dispossessed. It should be absolutely mandatory to complete all R&R *prior* to displacement. There is no justification for displacing people from their homes and livelihoods until alternative homes and livelihoods (and not just shacks in resettlement sites) are made available to them. As the Narmada case and many other examples make abundantly clear, governments have little incentive to rehabilitate farmers if they are allowed to proceed with a project regardless. This is related to another fundamental flaw of the R&R Bill in its current form: there are no penalties for lack of compliance. Without timelines or penalties, the R&R Bill is a paper dragon that may look liberal at first glance but in fact has no teeth to enforce even the weak entitlements that it would make mandatory.

The bill also contains a very strange and arbitrary clause which limits the R&R entitlements (as well as social and environmental impact assessments) to projects displacing more than 400 families en masse in the plains or 200 in hills and scheduled areas. That people being displaced for a smaller project should not be entitled to the same rights as those being displaced by a larger project defies reason and any notion of fairness. Moreover, if social and environmental impact assessments are not done for smaller projects (which still might be quite large, especially when one considers that land acquisition might only be for 30% of the project),

there is no way to evaluate whether the projects’ benefits merit the costs and whether the least displacing alternative has been chosen.

The intention behind the changes to the definition of “public purpose” in the LAA (Amendment) Bill also becomes clearer when read alongside the authority that the new R&R Bill would give to a vast resettlement and rehabilitation bureaucracy. For example, the R&R Bill states that it will be in the hands of a National Development and Resettlement and Rehabilitation Commission to, among other things, assess “the validity of requests for public purpose”. An unaccountable bureaucrat will thus be invested with the power to determine the validity of projects. Moreover, an ombudsman appointed by the state government will have the power to “dispose of all petitions relating to resettlement and rehabilitation”. It thus appears that these bills would seek to weaken avenues for challenging projects in court and limit opposition to the filing of individual administrative grievances over compensation. By funnelling the widespread resistance to land acquisition into administrative channels and diminishing legal avenues for opposition, the R&R Bill would help the LAA (Amendment) Bill in “rationalising” dispossession by ensuring more secure and predictable corporate access to land.

Conclusions

The Land Acquisition (Amendment) Bill and the Resettlement and Rehabilitation Bill, as currently drafted, will strengthen

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the power of the State to, in words of Karl Polanyi, “subject the surface of the planet to the needs of an industrial society” (2001 [1944]). The bills are attempts to overcome the contradiction for capital generated by the increased demand for land driven by neoliberal policies and the inelastic supply rooted in farmers’ unwillingness to sell. This conjuncture has given rise to a land broker state, in which state industrial development corporations and urban development authorities compete with each other to forcibly transfer private land from the poor to private companies. This land broker state is distinct from the old developmental state which expropriated vast amounts of land for state-run dams, mines, and heavy industry in that it now increasingly transfers land from one class to another for unabashedly commercial purposes. This reverse land reform is justified by the “efficiency” of taking land from “less productive” classes and redistributing it upwards to capitalists who can be counted on to commodify it.

But the land broker state is facing major political blowback. The use of the State machinery to expropriate resources from farmers and transfer them to large private companies for projects of dubious public purpose has unleashed intense farmer resistance across the width and breadth of India. Given the bleak non-farm opportunities available to most farmers in India’s current economy, and the unlikelihood that they would benefit from much of what is being proposed as “development”, resistance to land acquisition is understandably endemic. High-profile clashes between farmers and the State (most notoriously in Nandigram) have attracted national attention and politicised land acquisition to an unprecedented degree. Essentially, there is a contradiction between the requirements for land generated by the neoliberal economic model and the exigencies of electoral democracy. While the state bureaucrats and the private sector see the need for a state role in land acquisition, they are facing political pressures to minimise that role. I have argued that the proposed Land Acquisition (Amendment) Bill and the Resettlement and Rehabilitation Bill are their response to this dilemma. They appear to minimise the State’s role in land acquisition and offer liberal concessions

to the displaced, while in fact strengthening the ability of the State to acquire land for the private sector and offering insufficient entitlements to the dispossessed. They would rationalise dispossession in the double sense of both justifying it and rendering it procedurally predictable: they will project the false impression that farmers are getting a “fair deal” while in fact ensuring that private capital gets timely access to land.

Concrete Reforms

While this analysis points to structural problems in India’s political economy, one should not refrain from offering concrete reforms to the existing bills. First and most fundamentally, states should not be acquiring land for private companies. Land acquisition should be limited to those government projects that demonstrably serve a well-defined public purpose that is not to be confused with the contributions of private profits to GDP. That public purpose should also be justifiable in courts, giving potential oustees avenues for redress. Second, the bills should subject land acquisition to the prior and informed consent of gram sabhas. These two changes would in themselves greatly reduce the instances of land acquisition and the number of people displaced. Finally, any acquired land not used for the stated public purpose should be returned to its previous owner.

A substantive R&R Bill – which could be merged into the LAA – should make binding commitments to compensate all those affected by any project of any size with some combination of land, employment, and equity shares. There is also no reason why farmers (instead of corporations) should not be made the landlords of projects and be entitled to collect rent. The bottom line is that under no circumstances should people be compensated with cash alone as this cannot provide long-term assets for an alternate livelihood. Any cash component, moreover, should be pegged not to the land’s past agricultural value (as is the current practice) but to its commercial value factoring in the proposed development. This would require amending the LAA. There is no logical or moral reason why farmers should be deprived of this share in the

land’s appreciation (which is now captured as windfall by the private companies after buying it cheaply from the state). Otherwise, the government must admit that private companies capturing this land appreciation is the real “public” purpose of land acquisition. Finally, all commitments in the R&R Bill should have time frames for completion (before projects begin) and contain stiff penalties for non-performing agencies and officials. Some – though not all – of these provisions are spelled out in the sidelined NAC draft of the bill, which could replace the present drafts as a basis for discussion.

The reopening of India’s land acquisition laws to amendment is a historic opportunity for the myriad struggles against displacement across the country. These laws can either be amended to facilitate the forceful transfer of land from farmers to corporations or they can be amended to give people greater security in their land and resources and to ensure that they get a fair deal in the few instances when their land is acquired for a truly public purpose. If they are to solve a problem for people rather than capital, the Land Acquisition Act (Amendment) Bill and Resettlement and Rehabilitation Bill must be substantially altered from their current form.

REFERENCES

- Fernandes, Walter (2004): “Rehabilitation Policy for the Displaced”, *Economic & Political Weekly*, 39(12), 1191.
- (2008): “Sixty Years of Development-Induced Displacement in India” in H M Mathur (ed.), *India Social Development Report 2008: Development and Displacement* (New Delhi: Oxford University Press), 89.
- GoI (2007): *The Report of the Committee on Infrastructure Financing*, Ministry of Finance, Government of India, New Delhi.
- Harvey, David (2003): *The New Imperialism* (Oxford: Oxford University Press).
- Merillat, H C L (1970): *Land and the Constitution in India* (New York: Columbia University Press).
- Ministry of Rural Development (1994): “National Policy for Development-Induced Displacement and Rehabilitation of Persons Displaced as a Consequence of Acquisition of Land” (New Delhi: Ministry of Rural Development, Government of India).
- Polanyi, Karl (2001 [1944]): *The Great Transformation: The Political-Economic Origins of Our Time* (Boston: Beacon Press).
- Ramanathan, Usha (2008): “The Land Acquisition Act 1894: Displacement and State Power” in H M Mathur (ed.), *India Social Development Report 2008: Development and Displacement* (New Delhi: Oxford University Press), 27.
- Rastogi, Anupam (2008): “The Infrastructure Sector in India, 2007” in *India Infrastructure Report 2008* (New Delhi: Oxford University Press), 1.