

**Dispossessing Tribals and the Poor from Lands:
Land Laws and Administration in Andhra Pradesh, India**

Report Submitted to the IS Academy Land Governance
Utrecht University, The Netherlands

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Preface

The large scale acquisition of agricultural lands India in recent years for Special Economic Zones (SEZs), thermal power plants, irrigation projects etc., has become an issue of serious political and social contestation. One finds an element of large scale corporate landgrab in those projects where the private sector is involved in a big way. In the south Indian state of Andhra Pradesh (AP), land acquisition for irrigation projects (known as Jalayagnam) under public sector; and for SEZs, industrial and power projects in private sector have become major issues of contention. Majority of the land losers are small and medium farmers, and tribals whose livelihoods are adversely affected. There has been widespread resistance against forced acquisition of agricultural lands to the extent that the rural people were prepared to face police bullets and death rather than being cowed down by the might of the State.

The present study was taken up in this context with the objective of examining the land laws and administration in A.P and see how the existing laws are implemented, and how is the State responding to the protests by the affected people. Two case studies have been taken up for deeper analysis: Kakinada SEZ and Polavaram irrigation project. The findings of the study have been discussed internally in our Centre, and also shared with a wider audience in a state-level workshop on 5 February 2011.

We are highly thankful to the I.S. Academy Land Governance, Utrecht University, The Netherlands for sponsoring the study under the overall framework of “Land Governance for Equitable and Sustainable Development”. Our sincere thanks are due to Prof. Dr. Annelies Zoomers, Dr. Thea Hilhorst and Dr. Guus van Westen at the Utrecht University for their support in executing this project.

At our Centre, Dr. A. Venkateswarlu, who was our colleague and had retired recently, had worked patiently in gathering the required information for a study of this nature. We are thankful to him. He is the co-author of this report. We have received overwhelming support from many activists and academics in our field visits. Particular mention may be made of Mr. K. Rajendra Kumar and Mr. Rathna Raju of Kadali Network working against the Kakinada SEZ, and Dr. V. Venkatewar Rao, a Faculty Member in Economics, Government Women’s College, Khammam, and Mr. Ankita Ravi, a social activist, for guiding us in the Polavaram project area. Our thanks are due to them.

We are responsible for all the weaknesses that one may find in this study since the issue of land administration is a very vast and contentious subject to be covered in short-term study.

Dr. C. Ramachandraiah
Hyderabad.
6 April 2011.

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Acronyms

APIIC - Andhra Pradesh Industrial Infrastructure Corporation
APSALTR - AP Scheduled Areas Land Transfer Regulation Act, 1959
BC – Backward Class
BPL - Below Poverty Level
CPRs - Common Property Resources
GO – Government Order
GoAP – Government of Andhra Pradesh
GoI - Government of India
HRF - Human Rights Forum
IL&FS - Infrastructure Finance & Leasing Services Limited
KSPL - Kakinada Sea Ports Ltd
KSEZ – Kakinada Special Economic Zones
LAA - Land Acquisition Act, 1894
MoEF - Ministry of Environment and Forests
MoU – Memorandum of Understanding
NAPM - National Alliance of People’s Movements
NGOs - Non-Governmental Organizations
ONGC - Oil and Natural Gas Commission
PESA - Panchayats (Extension to the Scheduled Areas) Act, 1996
PAFs - Project Affected Families
PCPIR - Petroleum, Chemical and Petrochemical Investment Region
PDF - Project Displaced Families
PIL - Public Interest Litigation
R&R Policies - Resettlement and Rehabilitation Policies
SC - Scheduled Caste
SEZs - Special Economic Zones
SHRC - State Human Rights Commission
SPV - Special Purpose Vehicle
ST - Scheduled Tribe

Executive Summary

1. This study has been taken up in the context of the large scale acquisition of agricultural lands for Special Economic Zones (SEZs) and other projects in India in recent years. There has been widespread resistance against forced acquisition of agricultural lands in several parts of India. In the state of Andhra Pradesh (AP) land acquisition for irrigation projects, SEZs, and industrial and power projects have become major issues of contention. Land administration and the land rights of the vulnerable groups of people have become major issues of public concern. Majority of the land losers are small and medium farmers, and tribals whose livelihoods are adversely affected. An attempt has been made in the present study to analyse the land laws, land administration, assignment of lands, land acquisition, resettlement & rehabilitation policies in A.P. Kakinada SEZ and Polavaram irrigation project have been selected for a deeper understanding.
2. The debate regarding land acquisition for various purposes has become intense in the last decade in India. The Land Acquisition Act (LAA), 1894 enacted by the British in India has been followed by the Indian governments also with some modifications/amendments. The Act gives prominence to the 'eminent domain' principle i.e. pre-eminence of the State.
3. The state of Andhra Pradesh was formed on 1 November 1956 by merging the Andhra state (formed in 1953, on separation from Madras Presidency) and Telangana region of the erstwhile Hyderabad state which was under the Nizam's rule. Being under different set of regimes before 1956, the two regions experienced different land tenures in agrarian and land relations. The main aspects land reforms are: (i) Abolition of Intermediaries, (ii) Tenancy Reform, and (iii) Ceiling on Landholdings. The first major ceiling law, the Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 was so weak that it could not achieve the desired results.
4. After the peasant uprisings in 1960s and 1970s in India a new ceiling law, the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 was enacted. It could achieve better results compared to the earlier one. It was felt that the Government

and the ruling elites in India brought out land reform measures as radical ideology to stay on paper, but there was reactionary programme in implementation. The Land Committee (2006) appointed by the Government of AP to study various aspects of the land issues in the state made recommendations on ceiling surpluses, land and tenancy.

5. The Fifth Schedule of the Indian Constitution provides protection to the tribal people living in the Scheduled Areas (SAs) of nine states in the country from alienation of their lands and natural resources to non-tribals. The Sixth Schedule applies to the tribal areas of the North-eastern states in India. The Scheduled Tribes (STs), also referred to as adivasis (original inhabitants), have certain constitutional protections. There are also specific laws to protect tribal lands.

6. The AP Scheduled Areas Land Transfer Regulation (APSALTR) Act, 1959 proscribed the transfer of tribal lands to non-tribals and also provided for retrieval of tribal lands illegally acquired by the non-tribals. To make it more effective, stringent amendments were made later which came to be known as Land Transfer Regulation-I (popularly known as Regulation-I) of 1970. It provided that the non-tribals could transfer their lands only to tribals or to the government, and could not sell them to other non-tribals. It also assumed that, unless the contrary is proved, any land in the possession of a non-tribal in the SAs would be deemed to have been acquired from tribals. But it was not given a retrospective effect.

7. With a view to conferring 'patta' rights (legal titles) on tribal farmers and putting in place proper land records, the GoAP made three regulations in 1969 and 1970. It turned out that the motive of these three regulations was to convey to the non-tribals that if they could produce some evidence to show that they were in possession of the lands in the preceding eight years, they could automatically get legal titles. It was very easy for the non-tribals to produce such evidence. In course of time, successive governments passed a series of executive orders, which further diluted the provisions of the Regulation-I of 1970. The stark reality is that about 50 per cent of cultivable land in the SAs of AP is under the occupation of non-tribals. To safeguard the welfare of the STs the government should amend the Regulation-I of 1970 so as to give it retrospective effect

and to make it override other Acts and Regulations, and enforce it effectively. The non-tribals continue to occupy the lands due to the connivance of the revenue officials and the non-tribal landlords.

8. It is estimated that about 48 percent of land in the SAs has gone in to the hands of non-tribals. Some of the reasons that led to this situation are: no access to the record of rights (ROR); incompetence and inexperience of the revenue officers; money lending; lack of investigation into the occupation by non-tribals; the non-tribal men entering into marital relationships with the tribal women and purchase land in the names of tribal wives; purchasing land in the names of their tribal servants; procuring false caste certificates as STs; industrialisation and privatization; setting up of power projects; right to property being a mere legal right i.e. not a fundamental right; and fictitious adoption of the non-tribal children by the tribal families etc.
9. In a landmark judgment the Supreme Court of India, in the case *Samata vs. Government of Andhra Pradesh* (1997), viewed that the transfer of land in the SAs by way of mining leases to non-tribal people or companies is prohibited by the Fifth Schedule. Yet, the state government is pursuing a policy of inviting private bidders and investors into the tribal areas in the name of economic development. The Forest Rights Act, 2008 recognized the land rights of the dwellers who have been residing in such forests for generations but whose rights could not be recorded. This Act also gives primacy to the Gram Sabha in deciding several aspects of the development in tribal areas. However, the attitude of the authorities has not been positive in conducting the Gram Sabhas.
10. Lands at the disposal of the government should be assigned only to landless poor persons who directly engage themselves in cultivation. The assigned lands shall be (i) heritable but not alienable, and (ii) shall be brought under cultivation within three years. Over the years it has been found that a lot of lands assigned to the poor people were not in their possession. To prevent this trend, the Government of AP brought out The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. This Act is retrospective in operation and applies also to transactions of sale prior to the commencement of the Act. The transfer of assigned lands is not possible under any circumstances and under any

other law in force. The poor are known to have sold their lands due to exigencies in their family problems. The Land Committee in AP (2006) noted that there is a lack of effective executive machinery at field level to ensure that poor do not lose lands. It recommended some amendments to the existing Acts to suit the present day requirements. It felt that the community should be involved at all stages of land management, especially of the government lands, through the Gram Sabhas and the necessary changes in the legislative and administrative measures.

11. The phrase 'public purpose' was neither explained properly in the LAA, 1894 (as amended in 1984) nor interpreted by the Government itself in the right sense. 'Public purpose' is the justified reason for the acquisition of land. Under Section 3(f) of the Act, land acquisition for public purpose includes: provision for village sites; provision of land for town or rural planning; land for planned development from public funds; land for a corporation owned or controlled by state; land for residential purpose or landless poor, people affected by natural calamities, or to persons displaced; provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by government etc. It does not include acquisition of land for private companies. Section 44(B) of the Act provides that except for construction of houses for their employees to live in, Government cannot acquire land for a private company for any other purpose. Till date section 44(B) has not been amended. The land that is now being taken away by the Government from the farmers under the provisions of this Act is handed over to private developers for SEZs or other projects. The Supreme Court of India found that the power to determine a public purpose is primarily that of appropriate Government, yet it can be questioned on substantive grounds.

12. The Land Acquisition (Amendment) Bill, 2007 proposes to amend the LAA, 1894. Regarding the definition of 'public purpose' it proposes to include three kinds of projects: (1) Projects that are of strategic defence purposes; (2) Infrastructure projects which include construction of roads, highways, bridges, mining activities, generation of electricity, water supply projects etc.; and (3) Projects for 'any other purpose useful to the general public' which is to be carried out by a 'person', which essentially means

companies or private individuals. These new proposals have been widely criticized by the civil society groups in the country. Some of the critical points are: land acquisition on behalf of a 'person', now brings private purpose into the definition of 'public purpose'; the wordings like "any other work vital to the state" can be misused to legalise acquisition of land for any purpose; further, the proposed amendment allows private persons to acquire huge tracts of land to the extent of seventy percent of the requirement and then ask the government to help them acquire the remaining thirty percent; there is nothing in the Bill to suggest that housing for the urban poor by the state or educational, health and other institutions will be covered in 'public purpose' which indicates a bias against the rural and urban poor; and clauses relating to previous consent and enquiry by the Government under Sections 39 and 40 of the LAA, 1894 have also been done away with now, giving more scope for acquiring land for private companies etc. In view of these provisions, the proposed Bill has become more controversial and has been termed pro-industry and anti-people by the activist groups. In the popular psyche a certain kind of refrain came to the fore – that is, the 'public purpose' under the colonial regime was more public whereas the elected governments in India have become more anti-people.

13. As per the LAA, 1894 only compensation can be fixed but not for overall opportunity costs of their uprooting from habitats, i.e., complete social, religious, cultural and material ways of life. Most of the pre-1980 projects in India did not have a clear-cut Resettlement and Rehabilitation (R&R) plans. The existing R&R policies are the result of concerted struggles by social activists, people's movements, academicians and NGOs.
14. At the instance of the Kakinada Sea Ports Ltd (KSPL) the GoAP had recommended the setting up of an SEZ at Kakinada in 2002 with private sector investment. Later the public sector Oil and Natural Gas Commission (ONGC), KSPL and the Infrastructure Finance & Leasing Services Limited (IL&FS) entered into a Memorandum of Understanding (MoU) on 31 August 2004 to set up an oil refinery and a port-based Special Economic Zone (SEZ) at Kakinada with ONGC as the single largest shareholder. In the next month, the ONGC had signed an MoU with the GoAP to set up the refinery. About 9869 acres (3994 ha) of land was to be acquired for this purpose in 16 villages. The GoAP issued

notification for acquisition of lands for the ONGC. The compensation was to be paid by the ONGC. The farmers started protesting in various forms. Later the ONGC withdrew from establishing the oil refinery and KSEZ. At this juncture, K.V. Rao entered into the scene as the promoter of KSEZ Pvt Ltd. The notifications for land acquisition for the ONGC were used to acquire lands for the KSEZ even after the ONGC withdrew. There was a growing opposition from the farmers to the forcible takeover of their lands.

15. The revenue officials and the police, aided by the local politicians at the behest of the KSEZ promoter, have lured, threatened and publicized among the local farmers with an offer of Rs. 3 lakh/acre if sold to the KSEZ promoter individually, otherwise the Government will take over in any case by paying only half the amount. The farmers were threatened that they would be denied the welfare schemes of the state government if the lands are not sold. The farmers were left with little choice. In the process thousands of acres of land has been forcibly sold/taken from the farmers and the same was registered in the name of K.V. Rao with the collusion of the officials and not in the name of KSEZ. By 2006 about 7000 acres (2833 ha) of land is known to have been transferred in favour of K.V. Rao out of the 9869 acres (3994 ha) that has been targeted for acquisition. This kind of transaction of properties is illegal once the said properties are notified for acquisition under the LAA. The present situation is that about 4750 acres (1922 ha) of land is still in the possession of the farmers though it was forcibly sold to KV Rao and the money was paid. The farmers are refusing to part with their lands.

16. Resistance against SEZ (*SEZ vyathirekaporatm*) started with the awareness campaigns led by human rights activists and non-governmental organizations (NGOs). People were formed into village organizations (*grama sanghalu*) and were enlightened on land laws. Kadali network, a local NGO played a crucial role in organizing the resistance movement. The Struggle Committee against KSEZ (*KSEZ Vyathireka Porata Committee*) is another initiative to protest against the KSEZ. It included farmers, agricultural laborers and fisher folk. Many farmers who were compelled to sell their lands to K.V. Rao approached courts.

17. The media played an important role in spreading the awareness about the movement. One such instance is live coverage by several television news channels when the police swooped on the villages and put several leaders in jails. Support of the well-known social activists in India like Medha Patkar, Sandeep Pandey and Balagopal was very helpful in getting the resistance get a wider visibility in the country. Many intellectuals extended support to this struggle at Kakinada, Hyderabad and also at Delhi in different capacities. Many leading personalities in legal circles like Syed Salar, Ramdas, Bojja Tharakam, Hema Venkat Rao, Vidya Kumar, A. Lakshmana Rao and Muppala Subba Rao either visited the area or/and extended support to represent the case of the farmers in the National Human Rights Commission, Andhra Pradesh State Human Rights Commission, Legal Service Authority, Hyderabad, and A.P. High Court. Such interventions were extremely useful when villagers were arrested and put in jails in the movement. Some legal proceedings are still continuing against the SEZ at several levels of the legal system including the A. P. High Court.
18. After the ONGC's exit the GMR Group, an infrastructure major, is known to have entered the KSEZ with 51 per cent equity. While the original plan was to develop an SEZ and oil refinery, the GMR seems to be interested in building a huge thermal power plant in the acquired lands. The agitation against the KSEZ is picking up again with the thermal plant coming to the fore. This is especially so with the fresh memories of the valiant struggles of the farmers and fishermen in Sompeta and Kakrapalli in Srikakulam district in which some protestors were shot dead and scores were injured by the police (July 2010 and February 2011). The affected people are feeling confident that, with an already a protracted and heroic struggle behind them against the KSEZ, they will be able to fight the thermal plant proposed by the GMR Group.
19. The Polavaram project (across Godavari river in Andhra Pradesh) is expected to submerge about 276 tribal villages spread over 9 mandals in the agency areas of Khamam, East and West Godavari districts. About 237,000 people are estimated to be displaced. About 53.17 per cent of the displaced people will be tribals. The natural resources, cultural systems and traditional knowledge etc. of all these people are closely

tioned to the forest and the land they inhabit. This has been one of the highly controversial projects in AP. The upper riparian states of Chattisgarh and Orissa are not fully agreeing with the views of the government of AP. The human rights groups are especially opposed to the displacement of such a large number of tribal people from their habitations when the entire beneficiaries are going to be elsewhere. Even as several issues are pending with the Ministry of Environment and Forests, Government of India, the GoAP has gone ahead with acquisition of tribal lands, fixing and paying of compensation. Some resettlement colonies also have been built.

20. A number of NGOs raised awareness among the people against the project and, together with representatives from political parties, carried out a 'padayatras' (walks through the villages) across all the tribal villages that are going to be affected by this project. The brunt of the problem is going to be faced by Khammam district wherein 205 habitations (122 revenue villages and 83 hamlets) spread over seven mandals are facing displacement. About 64 settlements have 100 percent tribal population. Of the 73,025 acres (29552 ha) of land requisitioned in Khammam district, nearly 50 percent has been acquired.
21. The people in the affected villages are very clear in their perception that the Polavaram project is going to benefit other regions of AP while they are going to lose everything. The officials are promising that the government is going to give a good R&R package with good facilities - house, school, temple, hospital, drinking water and drainage etc. in the new settlement. The villagers do not believe that the government will implement its own R&R package, let alone as demanded by them. They feel that the government is trying to deceive them through false promises of providing better facilities. They have a settled life at the present places and are psychologically disturbed by the unilateral decisions of the government. A tribal family may be cultivating 3-4 acres of patta land and, simultaneously, an additional 5-6 acres of forest land (*podu* land) without having a patta. If they go to outside areas due to displacement, they will not be able to enjoy the fruits of forest land.

22. Gram Sabhas were held in some villages only that too as rituals without following the spirit of the PESA, 1996. The villagers were simply told by the officials that the project will be built, that they have to accept compensation for lands and be mentally prepared to shift to the R&R sites. There was an element of pressure and threat by the officials. Normally the Gram Sabhas are meant to be an assembly of the villagers themselves to debate and decide what they want or don't want. The officials have no role in that. But the ignorance of the villagers, the role of officials and the middlemen have reduced them to rituals.
23. In some villages certain kinds of development works are being taken up: main roads, internal roads, school buildings, government office buildings etc. but pucca houses to the poor are not sanctioned on the ground that the village is going to be submerged. The villagers suspect that such acts are done with ulterior motives of swindling public funds by the officials and contractors. In some villages the development works have also been stopped, including additional investment on drinking water, due to the impending project. The banks are not giving loans to the farmers because the lands were taken over by the government.
24. As the land records have not been prepared and updated from time to time several problems, and sometimes violent situations also, are arising in the affected villages. This is so especially when the land titles are held in the name of the eldest son after the father's death. When there is more than one son, the eldest receives the compensation amount. The problems arise while sharing the money which depends on the goodness of the eldest son, otherwise it is leading to violence among brothers. This was also the case where the lands transacted prior to 1970 were not updated in favour of the purchasers. With the land acquisition several years/decades later the compensations are awarded in the name of the earlier owners. If the old owners were good, they shared the money with the purchasers in different ratios, mostly on 50:50 basis. The purchasers were helpless and could not do anything if the previous owners did not give any share. While the official compensation was Rs.1.15 lakh per acre the market rate of the lands in adjoining areas has gone up to Rs.4-6.00 lakhs/acre.

25. The non-tribals get cash compensation irrespective of the extent of land owned by them. Whereas for tribals, the compensation is provided in two ways: (i) land to land compensation up to the extent of 6.25 acres; and (ii) cash compensation for the land in excess of 6.25 acres. That is, a tribal family will not get any cash compensation if the land owned by them is 6.25 acres or less. It is (unofficially) assured to both the tribals and non-tribals that they would be allowed to cultivate their lands till the dam is constructed though officially the land is acquired by the government. In such a case, the non-tribals have double benefits: (a) they get cash compensation immediately and (b) they can enjoy the land so long as the dam construction goes on, say for 10 or 15 years. But tribals who mostly own less than 6.25 acres will get only a single benefit, that is, of cultivating their existing lands till the dam is completed but will not get any cash compensation.
26. In order to get the benefit of cash compensation also the tribal farmers in some villages seem to be now colluding with brokers, revenue officials and lawyers. In a village, some families within a lineage come together and execute the sale of their lands (mostly brothers/cousins with a common surname) in the name of a single person. For instance, if eight persons have a total land of 50 acres, then a single person on whose name this sale document is executed would become the owner of 50 acres. Then this person will be entitled to a compensation for 43.75 acres (i.e. land in excess of 6.25 acres). Then all those persons who executed the sale will share the amount in proportion to the land owned by them.
27. There is a long term danger here. When the land-to-land compensation is to be provided, it will be done only for the one person in whose name the sale deed was executed. Are the tribals not aware of this? They are. Many of them feel that this project may not be completed in the foreseeable future. That feeling is making them take the risk of registering their lands in others' name for the short-term benefit of cash. The collusion of officials is a key component of this. Because the lands notified for acquisition cannot be transacted privately.

In sum, one may infer that the existing constitutional provisions for preventing transfer of tribal lands into the hands of non-tribals are not implemented in Andhra Pradesh with the required seriousness that the issue deserves. Similarly the assignment lands going out of the hands of the poor, despite the laws prohibiting the same, has not been addressed seriously. The many recommendations made by the Land Committee in this regard may not see the light of the day given the lack of political commitment to protect the lands of the poor. Regarding the land acquisition, one finds that the State's determination to take possession of lands from the rural people at any cost either for irrigation projects, for SEZs or for thermal plants etc., is not matched by its responsibility to respect and follow the existing laws and procedures. The affected people are least consulted let alone respecting their views, including in Tribal areas who are covered under the Fifth Schedule of Indian constitution.

The approach of the State towards land acquisition has been that of coercion, threat, intimidation and use of disproportionately large police force towards the affected people. Where the private corporate companies are the project promoters, one finds the revenue and police administration colluding with the private company. The mainstream political parties are seen to be hand in glove with the private companies. It is the civil society organizations, advocacy groups and public spirited individuals who have played a very crucial role in raising awareness levels among the affected people and provided legal support. It appears that this is the trend at all-India level also, in the post-liberalisation phase, as the dominant political parties and the also State are increasingly seen to be siding with the private companies.

1

Introduction

The large scale acquisition of agricultural lands for Special Economic Zones (SEZs) in India has become an issue of serious political and social contestation in recent years. In the south Indian state of Andhra Pradesh (AP), land acquisition for irrigation projects (known as Jalayagnam) under public sector; and SEZs and industrial and power projects in private sector along the east coast (with the Bay of Bengal) have become major issues of contention. Land administration and the rights of the vulnerable groups of people have become important issues of public concern. The majority of land losers are the small and medium farmers, and tribals whose livelihoods are adversely affected. The intended benefits of the SEZs and other projects have also been seriously questioned beginning from their decision-making process, the background of the promoters and the unusually large stretches of land acquired for them. Beginning with the famous struggles of Nandigram and Singur in West Bengal (in 2009) to that of Sompeta (July 2010) and Kakrapalli (Februray 2011) in Srikakulam district of AP, there has been widespread resistance against forced acquisition of agricultural lands. The rural people were prepared to face police bullets and death. Several people have died in police firings and many more have been injured in these struggles. The upsurge of public activism against SEZs in Goa in 2007 eventually forced the State government to scrap all 15 SEZs including the three notified ones. As recently as in February 2011 the Maharashtra government had to halt the land acquisition process to the Maha Mumbai SEZ promoted by the Reliance group of Ambanis.

The Government of Andhra Pradesh (GoAP), after facing stiff resistance from various opposition parties and people's organizations, had to scrap the Government Order (GO) No. 34 for the proposed Coastal Corridor to be set up all along the nine districts of the coast covering an area of 1575 sq.km. But the GO No. 373 meant for setting up of the Petroleum, Chemical and Petrochemical Investment Region (PCPIR) as part of Coastal Corridor has not been repealed. The GO 373 was issued by the GoAP on 26 May 2008 for the development of PCPIR between

Visakhapatnam and Kakinada cities. The PCPIR is an initiative of the Government of India (GoI) aimed at encouraging the setting up of integrated petroleum, chemicals and petrochemical hubs in the country. Land acquisition proceedings have been started to take over about 60704 hectares of land for the proposed PCPIR which will dispossess and displace several hundred thousand people in 110 villages in Visakhapatnam and East Godavari districts in the Coastal Andhra region. The Andhra Pradesh Industrial Infrastructure Corporation (APIIC) is designated as the nodal agency for developing the PCPIR. The APIIC claims that it is in possession of 73 per cent of the land required for the PCPIR which clearly indicates that more than the required amount of land was acquired in the past in the name of public purpose, which is now proposed to be diverted to private companies.

Population Displacement and New Economic Policies

In India alone a conservative estimate of the total number of persons displaced by various development projects (dams, mines, industry, sanctuaries and others) during the period 1951-90 was estimated to be about 21.30 millions of which 8.54 million (40 percent) were tribal people. The resettlement occurred for only 25.0 percent of the displaced persons and tribals. Dams alone accounted for nearly 80 percent of the total displaced people. When 75 percent of the displaced persons are not resettled, they were forced to become migrant labourers and urban slum dwellers and subjected to traumatic psychological and socio-cultural consequences (Muthyam Reddy, 2006). Displacement of people for the development related projects for dams, mines, urban and transportation projects has been the major issue of concern in the world, as the land began to become scarce. As far back as 1994, the World Bank reported that dams alone were displacing 4.0 million people annually with 300 dams that entered into construction every year.

Since the introduction of the liberalisation, privatisation and globalisation (LPG) policies in the early 1990s in India, the concept of special economic zone (SEZ) has been introduced to promote export-oriented growth. A lot of land is being acquired by the governments (state and central) for the SEZs. Proper rehabilitation and resettlement (R&R) schemes have not been prepared for the affected people. The SEZ Act was passed in India in May 2005. The Act and Rules were notified in February 2006. No proper deliberation and debate took place in the parliament on such an

important issue which was going to affect the future of agriculture, agriculturally dependent population, the whole rural sector, land use, employment generation, urbanization process and the related issues. Attraction of foreign direct investment and export promotion are the two main purposes of the SEZs. The state and central governments would extend a series of concessions, subsidies and incentives under the SEZ Act. The land acquisition is made by the governments (state and central) by exercising the “public purpose” provisions of the Land Acquisition Act, 1894 as amended from time to time. Large scale acquisition of lands for SEZs became controversial and protest movements have increased in the country. Misuse of land for real estate is easy. Promoters will get land cheaply and will make their fortune out of real estate development and speculation indiscriminately. The minimum required processing area is 35 per cent of the land allocated and the rest can be used for residential and recreational facilities (Aggarwal, 2006; Sawant, 2007).

The government of India (GoI) and different state governments formulated IT policies through which lands and a series of financial incentives were offered to the private IT companies on a competitive basis. From the IT Policies of the 1990s to the SEZ Act of 2005 the allocation of lands to private companies has expanded in scope and extent; from IT and related companies to a wide variety of activities, and from as small as ten hectares to thousands of hectares. Thus the opportunity for the big Indian corporate companies and multinational corporations has enlarged enormously to demand huge stretches of land and concessions from the State, for which different state governments have been competing in the last few years. In the name of promoting industrialization and attracting investment (domestic and foreign) the state governments seem to be in a hurry to declare as many SEZs as possible without regard to achieving their objectives. As Patnaik observes, “what we have in India today is not capitalists competing against one another for state government projects, but state governments competing against one another for attracting capitalists” (Patnaik, 2007).

In this context, David Harvey’s two concepts appear to be relevant, viz., ‘accumulation by dispossession’ and ‘imperialism of the capitalist sort’, as they may be realized through the operation of SEZs. Harvey argues that - “What accumulation by dispossession does is to release a set of assets (including labour power) at very low (and in some instances zero) cost.

Overaccumulated capital can seize hold of such assets and immediately turn them to profitable use.” Further, he defines ‘imperialism of the capitalist sort’ as a ‘contradictory fusion’ of two components: ‘territorial logic of power’ - a logic, that is, in which command over a territory and its human and natural resources constitutes the basis of the pursuit of power; and ‘capitalist logic of power’ - a logic, that is, in which command over economic capital constitutes the basis of the pursuit of power (Arrighi, 2005).

Land Acquisition for Irrigation Projects and SEZs in Andhra Pradesh

In Andhra Pradesh also the issue of land acquisition has become important because of acquisition of agricultural land for the purposes of (i) Irrigation Projects or Jalayagnam, and (ii) Special Economic Zones (SEZs).

Jalayagnam - Irrigation Projects in AP

In AP a total ayacut of 6.5 million acres was developed in the past 50 years. The Jalayagnam (a ceremony for water conservation) is expected to double this area. This programme was launched by the government of AP (GoAP) in 2004 by initiating construction of 32 major and 17 medium irrigation projects at a cost of Rs. 650,000 million to provide irrigation facilities to an extent of 7.1 million acres besides stabilization of an existing ayacut of 2.13 million acres, provide drinking water to 10.2 million people and generate power to the tune of 2700 MW (mega watts). It also included lift irrigation systems for lifting water from major rivers, particularly from Godavari to provide irrigation benefits. This massive programme is bound to cause several problems mostly in the form of displacing people from their lands and habitats. The GoAP brought out a policy on Resettlement and Rehabilitation (R & R) for the Project Affected Families (PAFs) on 8 April 2005. The GoAP had already acquired 1.14 lakh acres (46135 ha) of private lands by October 2006 for the ongoing irrigation projects, needing 0.43 million acres still for acquisition. The Government is known to have appointed three Special Collectors and 50 Deputy Collectors to speed up the process of land acquisition in the state (www.jalayagnam.org/index1.php?action=news).

SEZs in AP

The SEZ Bill was passed in May 2005, and the Act received the Presidential assent was given in June 2005. The Act and Rules were notified in February 2006. As per the Act, a SEZ is “a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties and tariffs.” The SEZs comprise both processing and non-processing areas. Andhra Pradesh has received formal approval for 109 SEZs out of a total of 581 SEZs approved in India as on March 25, 2010, making it the state with the second highest number of SEZs (Table 1.1). A.P is preceded by Maharashtra with 104 and is

Table 1.1: Number of SEZs in Different States in India

S.No.	State	Number	
		Formally Approved	Notified
1	Andhra Pradesh	109	74
2	Chandigarh	2	2
3	Chhattisgarh	2	-
4	Dadra & Nagar Haveli		
5	Delhi	3	-
6	Goa	7	3
7	Gujarat	45	29
8	Haryana	45	34
9	Jharkhand	1	1
10	Karnataka	57	36
11	Kerala	28	17
12	Madhya Pradesh	14	6
13	Maharashtra	104	63
14	Nagaland	2	1
15	Orissa	11	6
16	Pondicherry	1	-
17	Punjab	8	2
18	Rajasthan	10	8
19	Tamil Nadu	70	57
20	Uttar Pradesh	33	20
21	Uttarakhand	3	2
22	West Bengal	22	11
	Total	581	373

Source: www.sezindia.nic.in

Note: Status as on 25 March 2011..

followed by Tamil Nadu with approvals for 70. Of 109 formally approved SEZs in AP, 74 were notified which meant that they were legal entities and could commence operations. Thus, there arose necessity and urgency for AP government to acquire and allocate land to the private developers.

Of the total land of 25843 hectares acquired for 195 SEZs, more than half is intended for only 12 zones designated as “multi-product” while the majority are in IT sector (124) which account for only 3500 hectares. Of the total land acquired, the share of three states – Andhra Pradesh, Gujarat and Maharashtra - account for about 77 percent. The share of Gujarat is the highest at 32.4 percent (8361 hectares for 16 SEZs) followed by 28.5 percent for AP, (7356 hectares for 53 SEZs) and 15.8 percent for Maharashtra (4093 hectares for 24 SEZs) (Sivaramakrishnan, 2009). Gujarat has more SEZs in the “multi-product” category – hence its high share of land with less number.

In AP, more than one lakh acres (40500 hectares) of land is known to have been allocated to various companies and SEZs in the last few years.¹ The land allocations vary from about 25 hectares to vast stretches of land which gave rise to suspicions of corporate landgrabbing on a scale never seen before (Table 1.2). This has given rise to suspicions of political/commercial motivations and conflict of interests between the powers that be and the promoters of some of the companies (Box: 1.1).

Box: 1.1

Lands Taken Over but no Industry Comes up

“In the recent past a dangerous phenomenon has developed whereunder vast extents of lands over which agriculture is being carried out are suddenly earmarked for other purposes even without examining the impact of stoppage of agriculture on the food security. Instances are not lacking where though thousands of acres were acquired for industrial parks or special economic zones and the first casualty was agriculture, whereas hardly any industry worth its name has come into existence” - Andhra Pradesh High Court (2009).

Justice L. Narasimha Reddy of the High Court expressed anguish at the situation wherein large extents of agricultural lands were being hurriedly diverted for non-agricultural purposes in the name of industries at Toopran in Medak. The Scheduled Caste families were given lands in Muppireddypally and Kallakal villages decades ago which were now resumed in the name of APIIC Park and a car factory.

¹ This does not include about 5500 acres (2226 ha) of the land given to the Shamshabad international airport.

Land Acquisition and Land Issues in AP

The government resorts to acquisition of private lands by invoking the Land Acquisition Act, 1894 as amended from time to time. As the land administration in AP could not complete the process of record of rights (RoR) in full by updating the information on owners and tenants, there is a problem in deciding as to who should to get the compensation and resettlement & rehabilitation package benefits when the affected farmers are displaced from the areas of irrigation projects and SEZs. As per the existing rules, the lands of the tribal people cannot be purchased by non-tribals. But in Bhadrachalam division (a predominantly tribal area) in Khammam district in AP, the non-tribals have taken over the lands of tribals in a big way. The socially and economically backward people were given government lands for cultivation

Table 1.2: Land Allocations to Certain Big Projects in AP

Sl. No.	Company/SEZ	Land Allocated	
		In Acres	In Hectares
1	Vanpic	20000	8094
2	Lepakshi Knowledge Park	12240	4953
3	Krishnapatnam port	6150	2489
4	Sri City SEZ	7500	3035
5	Brahmani Steels	14135	5720
6	Kakinada SEZ	7956	3220
7	Mega Indu Park	5190	2100
8	Naval base	4637	1877
9	Achutapuram SEZ	9208	3726
10	Reliance Power	2532	1025
11	Genco Power	1250	506
12	M-C-K-KPCL Plants	3015	1220
13	Unrock Alumina	2351	951
14	Fab City	1200	486
15	Hindupur Industrial Park	1075	435
Total		98439	39837

Note: Only those companies/SEZs that were allocated more than 1000 acres (405 ha)
Source: Eenadu Telugu daily, 19 April 2009, Hyderabad.

a few decades back. Such lands are known as Assignment Lands which can be cultivated by the assignees but they cannot sell those lands. In AP about 1.71 million hectares of government lands have been assigned to 2.9 million landless households during 1969-2002. What is of great concern is that these assigned lands are being resumed back from the poor by the government in the name of public purpose for the SEZs, irrigation and industrial projects etc. The government of India introduced Land Acquisition (Amendment) Bill 2007 in parliament recently. This new Bill seems to make it much easier for the governments to take over peoples' lands.

APIIC and Its Land Bank

The Andhra Pradesh Industrial Infrastructure Corporation (APIIC) was formed in September 1993 with the objective of providing infrastructure in identified areas for industrial development. It is a nodal agency for coordinating activities with different departments in the government in promoting the required infrastructure. Over the years it has developed industrial estates in and around Hyderabad and also in other parts of AP. The APIIC's role has become more prominent due to land allocations from mid-1990s onwards especially after 2004 when the Congress came to power in AP. While there was a land bank of 48579 acres (19659 ha) during 1974-2004 with APIIC, the same has increased by three times during 2004-09 with 121, 655 acres (49233 ha). About 60 percent of these lands are government lands. The APIIC has thus transformed itself into a land broker (Usha Seethalakshmi, "Bhoo Dalareegaa APIIC", *Andhrajyothy*, Telugu Daily, 7 September 2010). It has 300 industrial parks and 80,000 acres of land bank, which was built consciously. Its turnover had increased from Rs. 62 crore in 2003-04 to Rs. 1,080 crore in 2006-07 ("APIIC targets \$ 1 bn. turnover this year", *The Hindu*, 27 September 2007, Hyderabad).

Land Committee in AP

The GoAP constituted a Land Committee (2006) which brought out many glaring instances of the non-implementation of several laws relating to land issues including the AP (Ceiling on Agricultural Holdings) Act, 1961. Some important observations/findings of this Committee that are relevant in the present context are:

- About 42 lakh acres of government lands have been assigned to the landless poor since 1960s. But a significant percentage of these lands are not in their possession due to the

lack of an effective executive machinery at field level to ensure that poor do not lose lands.

- Illegal assignment of government lands to non-tribals with wrong interpretation of the local authorities. Lakhs of acres are in such illegal possession of the non-tribals. In Bhadrachalam Revenue Division of Khammam district alone it is estimated that more than 25,000 acres of government lands are in occupation of non-tribals.

Research Questions

Some of the research questions that we have tried to address in course of the study are:

- How the lands that should be in the possession of tribals have been going into the hands of non-tribals when the existing laws prohibit the same? When government takes away tribals' lands for irrigation projects, how is it rehabilitating them? This assumes significance because the tribals live in forest areas and depend on forest produce for their livelihoods.
- How is the government forcibly taking away the lands assigned to the poor (Assignment lands) several decades back? When the existing laws prohibit transfer/sale of such lands by the assignees, how is it that a significant proportion of such lands have passed into the hands of others?
- To what extent is the judiciary coming to the help of the regarding the issues of forcible takeover of lands vis-a-vis the government?

The Present Study

The land acquisition in SEZs gave rise widespread protests and violent struggles. In respect of Nandigram and Singur in the State of West Bengal; and in Kalingapatnam of Orissa State, such struggles arose. Very recently, in Chattisgarh State, when tribals are being evacuated, Naxalites began to fight violently against this dispossession of tribal lands, as the government intended to give land on lease to some MNCs. Apart from a protracted struggle against Kakinada SEZ, farmers and fishermen launched fierce struggle against thermal plants in private sector on fertile lands and wetlands that are the major sources of their livelihoods leading to deaths and injuries to many in Sompeta (July 2009) and Kakrapalle (February 2011) in Srikakulam district in A.P.

In the light of the ongoing contestations and controversies, the present study will examine whether AP Government is following the land acquisition policies as provided for in the Land Acquisition Act 1894, AP Scheduled Areas Land Transfer Regulation (APSALTR) Act, 1959, “Panchayats (Extension to the Scheduled Areas) Act 1996” (Act 40 of 1996) known as (PESA, 1996) and relevant compensation policies in a transparent way. However, the present study has been taken up with land administration as the central theme in the state of Andhra Pradesh. For a deeper understanding more focus has been given to two specific case studies: 1. Bharachalam division in Khammam district where the tribal lands have passed into the hands of non-tribals in violation of the existing laws, and the government has been taking away tribal lands for Polavaram project, a large irrigation project; and 2. Kakinada SEZ in East Godavari district where thousands of acres of lands have been acquired, the farmers have been fighting a protracted struggle and many of them continue to keep the lands in their possession despite their acquisition on paper.

Objectives

The overall objective of the study is to assess and understand the issues of land laws related to the Scheduled and Tribal Areas, land assignment laws, and land acquisition for SEZs. The specific objectives of the study are:

- (i) To critically review the land reform laws in Andhra Pradesh;
- (ii) To critically examine land laws related to Scheduled and Tribal Areas;
- (iii) To bring out the various aspects of land assignment laws and Government Orders; and
- (iv) To make an assessment of the process of land acquisition and resistance struggle in Kakinada SEZ, and the peoples’ perceptions on land acquisition on the R&R programmes in Polavaram project areas.

Research Methodology

Most of the study is based on information from secondary sources. We tried to examine the evolution of the important laws on land and their administration at several stages. We examine what is happening to the persons/households being displaced in the areas of irrigation projects

and SEZs. Enquiries are made as to how the issues of displaced families and persons are being rehabilitated and resettled as per the government's guidelines. We also try to capture how far the government machinery related to land administration is working sympathetically with the persons/households being displaced; and how they are being paid compensation according to the framed guidelines.

When a large scale displacement occurs, people's livelihoods are badly affected due to dislocation of assets (natural, physical, human, financial and social capitals). The empowerment and capacity building at both individual level and community level are required to establish sustainable livelihoods. The study will examine whether the R&R policy package, as provided for in G.O.Ms.No.68 of Irrigation and CAD (Projects Wing) Department, 08.04.2005, is strictly adhered to by the GoAP., as AP Government has claimed it as the best resettlement and rehabilitation package in the country.

We have extensively travelled in certain villages affected by the two case studies (four villages in Polavaram project - Chatti in Chintur mandal, Koida in Velerupadu mandal, Tekula Boru in Kunavaram mandal, Vinjaram in Kukkunoor mandal; and six villages in Kakinada SEZ- Moolapet, Ramanayyapet and Srirampuram in U.Kothapalli mandal; and Perumallapuram, Kadaripet and Vakadaripet in Thondangi mandal). We have talked to the local people about their perceptions on land acquisition, displacement, resistance struggles etc. We also had conversations with some of the leaders who have spearheaded the struggle (especially in Kakinada). We have also tried to examine the role of the government vis-a-vis the local people in land acquisition.

Structure of the Report

This report is organised into eight chapters. A brief review of land reform laws is presented in the second chapter. The third chapter deals with the laws relating to the Scheduled and Tribal Areas. The laws relating to the assignment of lands to the poor and the Land Committee's recommendations in this regard are discussed in chapter four. The chapter five deals with the issues of land acquisition and resettlement & rehabilitation policies for the displaced people in AP. The case studies of Kakinada SEZ and Polavaram project regarding resistance and land

administration are discussed in chapters six and seven respectively. A summary of the report and conclusions are presented in the last chapter.

Land Reform Laws - A Brief Review

Introduction

The state of Andhra Pradesh was formed on 1 November 1956 by merging the Andhra state (formed in 1953, on separation from Madras Presidency) and Telangana region of the erstwhile Hyderabad state which was under the Nizam's rule for several centuries. Being under different set of paradigms before 1956, the two regions experienced different land tenures in agrarian and land relations. The Andhra state, which was under the British rule, had somewhat better agrarian relations and conditions compared to those in the Telangana region, which was under the Nizam's feudal rule. Therefore, land reform measures were separate for these two regions for abolition of intermediaries and tenancy legislations. The main aspects land reforms are: (i) Abolition of Intermediaries, (ii) Tenancy Reform, and (iii) Ceiling on Landholdings. While the first two aspects had separate laws and procedures, the third had a common legislation.

Abolition of Intermediates

In the Telangana region, the peasants and rural masses were subjected to feudal oppression by illegal exactions and forced labour (Khusro, 1958). An armed struggle was started by the rural peasants under the leadership of the then undivided Communist Party of India (CPI) against Nizam's tyrannical rule. However, the struggle was gradually brought to an end after the merger of Hyderabad state into Indian Union in September 1948. In Andhra region also there were struggles against zamindari system, but not of such a furious dimension. Thus, in both the regions the abolition of intermediaries like zamindars, jagirdars and inamdars (institutions and persons) became imminent, just as in other parts of India after independence.

In Andhra region, abolition of intermediaries was implemented first through the enactment of "the Madras Estates Abolition and Conversion into Ryotwari Act, 1948." By 1956, in Andhra region, out of the total area of 40.7 million acres, 32.0 percent area was covered under zamindari; but the abolition laws were passed to cover only 24.0 percent and implemented in 22.0 percent areas (Kotovskiy, p.71). Further, the "Andhra Inams Abolition and Conversion into Ryotwari

Act” was enacted in 1956, by which Inam lands were converted into Ryotwari and were fully assessed (GOI, 1974; p.21). In Telangana the “Hyderabad (Abolition of Jagirs) Regulation, 1358 Fasli (1948)” was enacted by which all Jagirs were taken over by the government and they were integrated with Diwani land by 1950. Again, “the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955” abolished all Inams except those of religious institutions. Thus, gradually all types of privileges conferred on Zamindars, Jagirdars and Inamdars were abolished and all these lands were brought under Ryotwari tenure (GOI, 1974: p.22). The entire area under zamindari system in Telangana was brought into Ryotwari (Kotovskiy, 1964:71). In this context, the Agricultural Census Report 1970-71 mentions that “the system of landholdings and land legislation was different in Andhra and Telangana areas of the state. However, the legislation for abolishing the intermediaries in both the regions has brought about uniformity and has created a class of peasant proprietors who hold land directly from the government” (Government of India, 1974: 21).

Tenancy Reforms

Just as for abolition of intermediaries, the tenancy reforms were also carried on separately in the two regions, depending on the specificities, as they were under different states (unreorganised). We deal tenancy reforms separately for the two regions for easy understanding.

Telangana Region

After abolition of intermediaries “The Hyderabad Tenancy and Agricultural Lands Act, 1950” was enacted to protect the rights of tenants. It was intended to (a) regulate the period of tenure, (b) fix reasonable rent, (c) give the tenant the right to compensation in case of eviction, and (d) restrict the right of the landlord to evict the tenant (Parthasarathy and Prasada Rao (1969: 67). The Act provided for the creation of protected tenants. In notified areas, the tenants were declared as owners, if they had owned less than a family holding and the land owner had owned more than two family holdings. The protected tenants to be conferred ownership rights had to pay reasonable price of that land. Altogether, by mid seventies, 33,000 protected tenants became owners of 82,000 hectares of land in Telangana (Appu, 1975). In non-notified areas, the purpose was to provide the tenants with heritable rights depending on the tenants’s and landowner’s owned land.

However, voluntary surrenders are another name for forceful eviction of tenants by the landowners. A large number of evictions seems to have taken place in the very first year of the working of tenancy legislation. The so-called voluntary surrenders are very often a subtle form of illegal evictions. The implementation of tenancy legislation is a function of the degree of consciousness among the peasantry. It is clear that implementation has been much better in the more conscious regions within erstwhile Hyderabad state; for example, the implementation was better in Telangana than in Karnataka or Marathwada areas² (Khusro, 1958; p.169).

Andhra Region

Compared to Telangana region, in Andhra Region there had been less resentment among the peasantry. Only in 1956, the question of tenants was taken up by the government and “The Andhra Pradesh (Andhra Area) Tenancy Act, 1956” was enacted. As per Parthasarathy and Prasada Rao (1969:130), this Act provides for (a) fixation of maximum rent, (b) minimum period of lease, (c) procedure for determination of fair rent in case of disputes and for remission of rent, (d) circumstances under which the landlords could terminate the tenancy, and (e) the machinery for settlement. But this Act failed to achieve any objective. The Act gave the landlord the right to resume the land after the expiry of lease period. As a result, the tenants were in a precarious position to bargain with the landlords and evictions occurred on large scale. The termination of tenancy by the landlord was easy in view of the Act, as it had many loopholes. Ultimately, there was no proper machinery for settlement, rendering the provisions of the Act ineffective.

After its failure, the government brought out an Amendment to the Act, viz., “Andhra Pradesh (Andhra Area) Tenancy (Amendment) Act 1970”. It provides for (i) fixing a fair rent, (ii) automatic renewal of lease and (iii) pre-emptive rights. Automatic renewal of lease was provided, but the landowner was allowed to take land for personal cultivation, if he had owned less than the ceiling limit under “The Andhra Pradesh Ceiling on Agricultural Holdings Act 1961.” Further, the Amendment Act provided for pre-emptive rights, without seeking to regulate the price of land.

² The erstwhile Hyderabad state had Kannada speaking and Marathi speaking regions that later were transferred to Karnataka and Maharashtra respectively. Telangana was the Telugu speaking region.

General to both Regions

In the tenancy laws of both the regions, we find (i) the definition of personal cultivation; (ii) the provision regarding surrender of tenancy rights; (iii) the provision for the landlord's right to resume the land; and (iv) the conferment of ownership rights on tenants. In both the regions, the definition of personal cultivation seems to be weak as it does not confine to own manual labour but provide for the hired labour also. The scope of voluntary surrender of tenancy results in forceful illegal eviction of the tenant by the owner. However, in other two provisions, Telangana Tenancy Act seems to favour the rights of tenants over the landholder (Appu, 1975).

Ceiling on Land Holdings

As far as the tenancy reforms are concerned, they are meant for the regulation of rent. But, land being a scarce asset, it needs rationing. It is a necessary step in a labour-surplus and land-scarce countries, at least, as a short-run goal without which the tendency towards maldistribution would obviously be high (Khusro, 1973). Thus, the imposition of ceiling on landholdings became imminent in India. It was also necessitated from the points of view of efficiency, equity, nationalism and democracy (Joshi, 1982). Though the implementation of ceiling law was not uniform throughout the country, the performance of Andhra Pradesh was on the lowest ebb.

In Andhra Pradesh, the ceiling on land holdings was first imposed in Khammam District of Telangana region, on experimental basis in 1955, through an amendment to "The Hyderabad Tenancy and Agricultural Lands Act, 1950." It was prior to the formation of Andhra Pradesh. But, that attempt was nullified by a legal stay order brought by the affected landlords. A ceiling law was enacted as "The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961". But it was so weak that it could achieve nothing. Though 6 lakh acres of surplus land was expected in Telangana alone, the surplus land found in the state by 1968 was only 55,715 acres (George, 1968). Actually in the six years since the enforcement of the Act, the government has acquired only 191 acres of surplus land.

The failure in implementation of this Act may be attributed, among others, to the following weaknesses and loopholes in the Act:

1. The ceiling imposed was considerably high, varying between 27 and 324 acres. In fact, the ceiling was arrived at on the basis of 4 ½ times the family holding, which was defined as a holding yielding an income of Rs.1200/-. In most of the states, the ceiling was only 3 times the family holding.
2. The unit of application was an individual, but not the family.
3. In the name of Stridhana, separate holdings were permissible for wife and/ or daughter, which led to concealment of a lot of land.
4. Added to the high ceiling, the grazing land was permitted to the extent of one third of the ceiling area.
5. Many exemptions were allowed: (i) State or central government land, (ii) co-operative farming, (iii) charitable or religious institutions, (iv) plantation of tea, coffee and rubber,(v) orchard-raising lands, (vi) specialised lands of cattle breeding etc., (vii) sugarcane farming, (viii) efficiently managed farms and (ix) lands awarded for gallantry. As a result, many manipulations were made to escape from the purview of the Act.
6. No scrutiny of the partitions, alienations and benami transfers was effected.

Further, in Telangana, though there were restrictions on alienation of lands, as per section 47 of “the Hyderabad Tenancy and Agricultural Lands Act, 1950”, all illegal alienations that took place were regularised by the government in 1964 by amending the Act. Thus, the first round of ceiling legislation was a paper work, as if, the labour is as mountainous but the product is as mice. Even according to our great leader, Nehru, the ceilings imposed were only to bring sensational gains to the rural masses (Kotovsky, p.104).

But after the peasant uprisings in 1960s and 1970s (Naxalbari in West Bengal, Srikakulam in Andhra Pradesh, and other struggles), the ruling classes again thought of proper implementation of ceilings (Joshi, p.90). A second round of ceiling laws were enacted in Andhra Pradesh, just as in other states. As per the new guidelines, the following features became common in the Acts (GOI, 1976; p.135):

- (a) Limit of ceiling is reduced to a smaller size, varying between 10 and 54 acres.
- (b) Family is the unit of application with allowance for members exceeding five members.
- (c) Every major son is treated as a separate unit.
- (d) It is covered by Ninth Schedule of the Constitution.
- (e) Exemptions are limited, applicable to lands held by religious, charitable and educational institutions.
- (f) Retrospective effect, January 24, 1971, is given.

With the above features, the new ceiling law, the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act 1973, was enacted. Though the new law did not make any radical impact, it could achieve better results compared the 1965 Act. Till recently surplus land to the extent of 237007.9 ha has been distributed under the provisions of this Act among 458271 beneficiaries (Umamaheswara Rao, *n.d-2*). However, there is also undistributed land. Out of the declared surplus of 319,659.83 ha, the extent distributed to the poor is about 73.7 per cent (235,674.16 ha). The remaining has not been distributed due to the following reasons (Workshop on *Land for the Poor*, February 24, 2005, Hyderabad):

- (i) Under litigation in Courts (59643.07 ha)
- (ii) Unfit for cultivation (4164.61 ha)
- (iii) Reserved/Transferred for public purpose (6754.67 ha)
- (iv) Covered under miscellaneous reasons/administrative delay (12639.88 ha)
- (v) Readily available for distribution (783.46 ha)

Evaluation of Land reforms in AP

Joshi (1974) refers to the general omissions and commissions of the land reform in India and reports that the Government of India and the ruling elites in India brought out land reform measures as *radical ideology* to stay on paper, but there was *reactionary programme* in implementation. The NCA, 1976, also attributes the basic deficiency in the implementation of land reforms in India to the *lack of political will* where anti-land reform or status-quo elements are able to exercise considerable pulls and pressures on political parties as also on the organs of the state. (GOI, 1976, p.87).

In AP, the abolition of zamindari system was implemented somewhat reasonably, but the land laws on ceilings had several loopholes in the 1965 enactment which were rectified to some extent in the 1973 enactment. But implementation of tenancy laws were more effective in Telangana region compared to Andhra region, due to higher level of radical (communist) political consciousness in Telangana.

The National Sample Survey data on tenancy indicates that the shares of tenancy are quite high. Just after the impending ceiling measure was indicated, lot of evictions of tenants took place and as a result the share of tenant holdings with respect to operational holdings came down from 32.60 to 18.52 percent and leased-in area data declined from 18.60 to 9.15 during 1953-54 and 1960-61. Both the shares decreased till 1981-82 and by 1991-92 they rose and assumed 14.11 percent and 9.57 percent respectively. Again in 2002-03, these shares decreased to 12.89 and 8.95 percent respectively (Venkateswarlu, 2007).

The government of Andhra Pradesh did not follow the spirit of GOI guidelines in regard to the fixation of fair rent. Even the Planning Commission's suggestion regarding personal cultivation that, in order to be effective, personal supervision should be accompanied by residence during the greater part of the agricultural season in the village in which the land is situated was not taken into consideration by the Tenancy Acts of both the regions in AP (Parthasarathy and Suryanarayana, 1971). Therefore, there is a necessity to revise the laws to be advantageous to both lessors and lessees, giving scope for transparency. That is, the landowners, who are under ceiling limits, should not fear to give land on lease. Only in such a case, the tenants, being under the security of tenure, will develop land and invest in agriculture to increase land productivity.

The government of AP appointed a Land Committee in 2004 to study various aspects of the land issues in the state. The government has accepted the Land Committee recommendations on ceiling surpluses, land and tenancy — the two major concerns in non-tribal areas. It has agreed to “reopen cases of Land Ceilings, wherever the cases have been decided basing on fraud and misrepresentation of facts”. The number of such cases and the extent of ‘surplus’ land likely to

be available are not known. But the indications are that, if effectively implemented, this measure could well unearth a sizeable area. The Committee has noted that the provisions in the existing Tenancy Acts “have given rise to informal tenancy - almost 100 per cent of tenancy that exists is informal,” and 55-60 per cent of the lands surveyed in the delta region are under lease. Therefore, taking a realistic view, the Committee recommended that “a loan eligibility card should be issued to the tenants to enable them to access institutional loans so as to garner better gains from cultivation of lands, and the landlords on the other hand are not paranoid about losing their lands if the tenancy is recorded” (Hanumantha Rao, 2007).

Scheduled Areas and Tribal Land Laws

Introduction

The British Crown's dominions in India consisted of four political arrangements: (1) the Presidency areas, (2) the Residency areas, (3) the Agency (tribal) areas (excluded and partially excluded areas) where the Agent governed in the name of the Crown but left the local self-governing institutions untouched; and 4) the Excluded areas (North-east India) where the representatives of the Crown were a figure head (Bijoy, 2003; Roy, 2010). In the post-Independent India, geographical areas designated in the Fifth and Sixth Schedules are identical to those already delineated by the British as Scheduled Areas. The Fifth Schedule applies to the excluded and partially excluded areas (as in category 3 above) in states other than North-east states, under Article 244(i) of the Constitution. It provides protection to the people living in the Scheduled Areas of nine states in the country from alienation of their lands and natural resources to non-tribals. The Sixth Schedule (Articles 244 and 275) applies to the tribal areas of the North-eastern states such as Assam, Meghalaya, Tripura and Mizoram, i.e., mainly excluded areas.

In India, the Scheduled Tribes (STs) are also referred to as adivasis (original inhabitants). The primary criteria adopted for delimiting certain communities as Scheduled Tribes are traditional occupation of a definitive geographical area, lack of education, characteristic culture and archaic traits. The Scheduled Tribes possess constitutional protections viz., reservations in legislatures, employment in government recruitments, and admission of students in educational institutions etc. There are also specific laws to protect tribal lands. They constituted about 8.2 percent in population of India as per 2001 census.

The Scheduled Areas and Scheduled Tribes in AP

The scheduled areas are covered in nine districts viz., Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Adilabad, Mahboobnagar, Prakasam (only some mandals) and Khammam (most Mandals) in Andhra Pradesh. Of the 35 identified groups in the

STs in AP, 27 inhabit the area of Eastern Ghats (hill ranges along the east coast of India) spread over several districts.

Approximately 65 percent of AP's forest area is in 8 districts where much of the ST population is concentrated. The 'tribal sub-plan' area (created to provide specific administration for tribals) extends over 31,485 km² in AP, which constitutes the traditional habitat of about 31 tribal groups (Gopinath Reddy, *et al.*, 2010a).

Tribal Land Laws in AP in the Pre-Independence Period

In the erstwhile Andhra region of AP, the British enacted the first landmark legislation, the Agency Tracts Interest and Land Transfer Act, 1917 to protect the interests of tribals in the agency areas. The Act prohibits the transfer of lands between tribals and non-tribals without any prior consent from the Government or any other prescribed officer. In contrast, the government of Hyderabad State (i.e., Non-British areas) had not provided for any special privileges to the adivasi communities. The Tribal Areas Regulation Fasli 1356 was enacted in 1946 which entrusted all tribal land disputes to tribal panchayats. It prohibited sale or attachment of tribal land and empowered the officials to appoint tribal village officers.

Tribal Land Laws in AP in the Post-Independence Period

Sensing some trouble in the tribal tract of Srikakulam district in the late 1950s, the state government enacted a protective law, the AP Scheduled Areas Land Transfer Regulation (APSALTR) Act in 1959, which proscribed the transfer of tribal lands to non-tribals and also provided for retrieval of tribal lands illegally acquired by the non-tribals. Though it was done with good intentions, the government did not take any necessary steps for its enforcement during the next 10 years. In 1969, the High Court of AP pointed out that the regulation of 1959 could not be enforced due to lack of working rules. This regulation was first made applicable only to Andhra region and was later extended to Telengana districts in 1963, superceding the existing regulation (Subba Reddy, 2006).

The APSALTR Act 1959 became effective from 4 March 1959 in Andhra area. It was extended to Telangana region with effect from 1 December 1963. In the face of the rising revolts in the Scheduled Areas of Srikakulam district, the government of AP reinforced the regulation of 1959 with stringent amendments. The amended enactment, which came to be known as Land Transfer Regulation-I (popularly known as Regulation-I) of 1970, provided that the non-tribals could transfer their lands only to tribals or to the government, and could not sell them to other non-tribals. It also postulated a statutory presumption that unless the contrary is proved, any land in the possession of a non-tribal in the scheduled area would be deemed to have been acquired from tribals. But a serious lacuna in this law was that it was not given retrospective effect. When an attempt was made to apply it to a past case and the matter was challenged in the High Court, the latter ruled that the wording of the regulation allowed only for prospective application and not in retrospective effect.

After the Regulation-I of 1970, the transfer of immovable property by a member of a Scheduled Tribe (ST) is governed as follows:

- (i) Any transfer of immovable property situated in the Agency areas by a person, whether or not such person is a member of a ST, shall be absolutely null and void, unless such transfer is made in favour of a person, who is a member of a Scheduled Tribe or a Cooperative Society composed solely of members of Scheduled Tribes. [3(1)(a) of APSALTR]
- (ii) Until the contrary is proved, any immovable property in the Agency areas in the possession of a person who is not a member of ST shall be presumed to have been acquired by such person or his predecessor through a transfer made to him by a member of an ST. [3(1)(b) of APSALTR]
- (iii) When no member of an ST is willing to purchase the land, the person intending to sell his land may apply to the Agent or any other prescribed officer for acquisition of such land by the State Government. [3(1)(c) of APSALTR]
- (iv) The Agent or a prescribed officer may by order, take over such land on payment of compensation. [3(1)(c) of APSALTR]
- (v) Where a transfer is made in contravention of the above provisions, the Agent or Prescribed Officer on application by the concerned persons or on information by a public

servant or suo-motu decree ejectment of any person in possession of land after due notice and restore land to transferor or his heirs, may assign or sell the property to any other member of STs or a cooperative society, composed solely of STs or otherwise dispose it of, as if it was a property at the disposal of State Government [3(2) (a) and 3(2)(b) of APSALTR]

Diluting the Provisions of Regulation-I of 1970

With a view to conferring 'patta' rights (legal titles) on tribal farmers and putting in place proper land records after due survey, the government of A.P made the following regulations (Laxman Rao, 2006):

- (i) A P Mahals (Abolition and Conversion into Ryotwari), Regulation 1 of 1969: Every tribal farmer in possession of land continuously for a period of one year before the notified date shall be entitled to ryotwari patta only if he is in occupation for a continuous period of eight years and such occupation is not violative of the APSALTR, 1959.
- (ii) A P Muttas (Abolition and Conversion into Ryotwari), Regulation 2 of 1969: This regulation states that no non-tribal ryot (farmer) is entitled to ryotwari patta unless he is in a lawful possession of the said land for a continuous period of eight years.
- (iii) AP Scheduled Areas Ryotwari Settlement, Regulation 2 of 1970: This applies to lands other than those covered by the earlier to Regulations (within Muttas and Mahals). Regarding the non-tribals, this enactment also incorporates the same provision as above.

While the purport of the Regulation-I of 1970 was to put the legitimacy of the possession of land by non-tribals in the scheduled areas to severe test, the purport of the other three regulations was to tell the non-tribals that if they could produce some evidence to show that they were in possession of the lands in the preceding eight years, they could automatically get legal titles ('pattas'). If we recall the legal vacuum that existed during the 1960s, we can imagine how easy it could have been for the non-tribals to fabricate evidence of possession for eight years and secure the legal titles under any one of the three regulations mentioned above.

Successive governments also passed a series of executive orders, diluting the provisions of the Regulation-I of 1970, quite unmindful of the legal absurdity involved. Four of them are listed below (Subba Reddy, 2006):

- (a) In 1969, an order was issued to the effect that the non-tribals occupying less than 2.5 acres of wetland or five acres of dry land in the scheduled areas should not be evicted unless the land is required for allotment to the tribals.
- (b) In 1971, another order was passed forbidding eviction of non-tribals occupying less than 2.5 acres of wetland or five acres of dry land if they were in possession of those lands for 10 years or more. (This implied that how the land was first acquired by the non-tribals should not be gone into).
- (c) In 1974, yet another order was issued to the effect that the non-tribals belonging to the Scheduled Castes (i.e. dalits) occupying 2.5 acres of wetland or five acres of dry land should not be evicted if they had those lands in their possession for five years or more.
- (d) In 1979, a more disturbing order was issued raising the exemption ceiling to five acres of wetland or 10 acres of dry land for all castes of non-tribals and doing away with the duration of possession altogether.

The stark reality is that about 50 per cent of cultivable land in the Scheduled Areas of Andhra Pradesh is under the occupation of non-tribals. The minimum that any government has to do, if it is really interested in the welfare of tribals, is to amend the Regulation-I of 1970 so as to give it retrospective effect and to make it override other Acts and Regulations, and enforce it effectively.

In the late 1970s when it appeared that the tribal unrest had subsided, the government, by an executive order dated 13 August 1979, directed the concerned officers not to evict “for the present” non-tribals occupying upto 5 acres of wet land or 10 acres of dry land in the Scheduled Areas even if such occupation constituted an infringement of the provisions of the earlier regulations. There was a writ petition questioning the validity of this order, and the court declared the order bad in law and doubted the sagacity of the government that tried to set at nought a legislative enactment through an executive order (Subba Reddy, 1988).

Efforts to Repeal Regulation-I of 1970 of LTR 1959

Between 1971 and 1979, in the tribal areas of Khammam and Warangal districts, the cleavage between the tribals and non-tribals was widening day by day on the crucial land issue. A move initiated by the District Collector, Khammam in 1979 to evict the non-tribals holding lands in the scheduled areas had led to the promulgation of an order by the government. The government had issued this order on the basis of a resolution passed by the Zilla Parishad (district council), which pleaded for the exemption of non-tribal land owners owning upto five acres of wet and 10 acres of dry land from the process of eviction from lands in tribal area (Janardhan Rao, 1987; 67-68). It is worth noting that though the zilla parishad is not competent to adopt such a resolution, the government responded by passing an Order (G.O.Ms.No.129, Social Welfare Department, dt.13.08.1979) confirming that the non-tribals can hold 5 acres of wet or 10 acres of dry land. Declaration of Lambadas as a Scheduled Tribe by the President of India that came into effect from 27 July 1977 added nearly 1.6 million to the number of STs. This measure is known to have been taken to benefit the electoral calculations of the ruling elite which has caused a loss to the native tribals. Vast stretches of land had already passed out of the hands of the native tribes by then (Janardhan Rao, 1998: 120-121).

In September 1983, the High Court of AP struck down the Government Order (G.O.Ms.No.129) and questioned the propriety of the government order exempting non-tribals from eviction from tribal lands in Scheduled Areas. The Tribal Advisory Council (TAC), supposed to protect the interests of the STs, resolved to lend support to the government's move. There was large scale opposition from the media, extreme left parties, voluntary organisations, and prominent intellectuals to repeal the Regulation-I of 1970 (*ibid.*: p.122).

In violation of Regulation-I of 1970, the government issued an order in 1979, G.O.Ms.No.129 dated 13 August 1979 permitting the non-tribals in occupation up to 5 acres of wet lands and 10 acres of dry land. But the High Court of AP quashed this order in 1984 on the ground that an order issued under a regulation could not go against its spirit. Despite the Court Order, the non-tribals continue to occupy the lands on the strength of this Order because connivance of the revenue officials with the landlords.

Moreover, the non-tribal rich farmers started demanding the relaxation of Regulation-I of 1970 on the ground that they could not purchase a site in towns such as Bhadrachalam to run a shop because it is situated in a Scheduled Area and also could not sell the land they had possessed even on occasions such as marriage of their daughters. Added to this, they started to demand de-notification of Scheduled Areas and exemption of certain villages in these areas on the ground that the non-tribal population constitutes the majority in such villages. This situation is the result of large influx of non-tribals encouraged by the policy of government (*Ibid.*).

Erroneous Results of the APSALTR

In spite of existence of such Laws over decades, 48 percent of land in Scheduled Areas has gone in to the hands of non-tribals. The utility of LTR as a legally powerful protective measure for land rights of tribals has been reduced to naught. The fact that out of 70,183 cases (pertaining to 315, 132 acres) booked under LTR, 33,078 (133, 636 acres) have gone in favour of tribals and 33,319 (1,62,989 acres) in favour of non-tribals shows as to how non-tribals are increasingly gaining control over tribal lands. There has been no systematic effort to check the land transfers to non-tribals (GoAP, 2006: p.60).

In his report submitted on 16th August, 2005 to the Land Committee appointed by the Government of Andhra Pradesh, Girglani gives in detail the grabbing of tribal lands in all the three scheduled areas of the AP through ingenious subterfuges and even open and uncamouflaged devices that would make any conscientious observer scream in anguish Girglani (2007). He notes that:

- (i) In spite of the Regulation-I of 1970, the Registration Department continues to register documents of transfer of property in the scheduled villages in the name of non-tribals.
- (ii) Even pattadar passbooks are issued to non-tribals for government lands in the scheduled villages.
- (iii) Licences are issued for commercial and industrial enterprises to non-tribals by gram panchayats in the scheduled villages, involving the use of tribal lands.

- (iv) The tribal areas suffer for want of revenue officers with the posts lying vacant for long periods.

Several reasons are summed up by Hari Priya (2010) for the erroneous results of the legislation in the agency areas of A. P:

1. No access to the Record of Rights: Tribals have no access to the Record of Rights, and in cases when they are given the pattas, the land is not in their possession. The unsatisfactory state of land records contributed a lot to the problem of land alienation. The implementation of the LTR Act seems to be restricted to small non-tribal land holdings, while the big (non-tribal) landlords with huge tracts of tribal land remain unaffected.
2. Incomplete Representation: There are many villages with almost 50-100% tribal population, but these areas have not been declared as the Scheduled Areas, e.g., in case of Srikakulam, there is a predominant tribal population in 1250 villages, but only 108 villages are included in the Scheduled Areas.
3. Incompetence and Inexperience of the Revenue Officers: The revenue authorities are generally not well equipped with the provisions of the relevant laws and are generally posted in such areas as a “punishment duty”. Lack of knowledge and a feeling of castigation, makes these officers incompetent to handle matters of land-related problems of the tribals.
4. Money Lending: Money lending is one of the earliest routes through which tribal land has been alienated in A.P. Owing to the acute poverty the tribals take loans at exorbitant high rates ranging between 25-50 percent, sometimes as much as 100 percent. Due to the unscrupulous trade habits of the money lenders, the tribals could not pay back such loans, and the money lenders in turn would take possession of the mortgaged property which usually happens to be the land in their possession.
5. Lack of Investigation: Lack of investigation into the occupation by non-tribals without verification of the basis of such occupation and assuming that these are all on valid pattas before 1970 or 1959 or 1950, normally subsumed under an all-pervasive phrase - “old pattas”.

6. Marriages: In many tribal areas, the non-tribal men entered into marital relationships with the tribal women and purchased land in the names of tribal wives. Land alienation through polygamy has been found in several districts.
7. Through Tribal Servants: In tribal tracts of East Godavari and West Godavari districts, many non-tribal farmers purchased land in the names of their tribal servants or attached labourers.
8. Fabrication of Tribal Certificates: Non-tribals procure false caste certificates as STs and gain legitimacy to occupy tribal lands.
9. Industrialisation and Privatisation: In recent years, the territories of the tribal people have been subjected to incursions due to privatization and industrialization in India. Due to poor economic conditions and very low literacy the tribes have not been able to understand the vicious circle thrown in by non-tribals.
10. Power Projects: There is pressure from private industries to set up power projects, especially mini-hydel projects in the scheduled areas by harnessing the hill-streams.
11. Right to Property being A Mere Legal Right: The root of the problem is that the tribes cannot exercise a fundamental right to property under Indian law. Fundamental rights have a special status in the Constitution. Instead the tribals can only invoke a legal right as conferred upon them under Article 300 of the Indian Constitution. Since the tribals' Right to Property is merely a legal right, and not a fundamental right, the State can acquire their property with just compensation by authority of law.
12. Adoption of Non-Tribal Children: Fictitious adoption of the non-tribal children by the tribal families is also another method to snatch the lands of the tribals. The non-tribals would persuade the tribals to adopt their children and to buy lands and register them on these children's names.

Industries and Mining in Agency Areas

In a landmark judgement the Supreme Court of India, in the case *Samata vs. Government of Andhra Pradesh* (1997), viewed that the word 'person' includes the state government, and the transfer of land in Scheduled Areas by way of mining leases to non-tribal people or companies is prohibited by the Fifth Schedule and Section 3 of the Regulation of the LTR Act. Tribals can exploit the minerals in the Scheduled Areas, without disturbing the ecology or the forest, either

individually or through cooperative societies with the financial assistance of the state. Transfer of tribal lands to state instrumentalities (i.e. state-owned organisations or corporations) is excluded from prohibition, since a public corporation acts in public interest and not for private gain. Samata (2007), notes that private and public sector industries have been given lands in the Scheduled Areas in contravention of the APSALTR Act and the Fifth Schedule of the Constitution.

Transferring lands in Scheduled Areas to a private company is a transgression of the LTR Act; this argument was upheld in favour of the tribals in the Samatha Judgement of 1997. Yet, the state government is pursuing a policy of inviting private bidders and investors into the tribal areas in the name of economic development. The state government needs to be more proactive in protecting the LTR Act and the rights of the tribal people, rather than trying to violate the laws of the Constitution to serve non-tribal and industry groups (Box: 3.1).

Forest Laws and Issues

Historically, the relationship between tribals and the state agencies has been antagonistic which gave rise to several uprisings. The widespread commercialisation of forests during the colonial era, following the adoption of forest acts, restricted the traditional rights of tribals. Laws governing forests have also contributed to large-scale land alienation in the Scheduled

Box: 3.1

Judgement by the Supreme Court of India, dt.11.07.1997, in the case of Samatha vs. State of Andhra Pradesh

In this case the Supreme Court viewed that the word 'person' includes the State Government, and the transfer of land in Scheduled Areas by way of mining leases to non-tribal people or companies is prohibited by the Fifth Schedule and Section 3 of the Regulation of LTR Act. Tribals can exploit the minerals in the scheduled areas, without disturbing the ecology or the forest, either individually or through cooperative societies with the financial assistance of the state. Transfer of tribal lands to state instrumentalities (i.e. state-owned organisations or corporations) are excluded from the prohibition, since a public corporation acts in public interest and not for private gain.

In Scheduled Areas, when the property either comes to vest in the State Government or becomes a property at the disposal of the State Government, the Government cannot, in view of the above, transfer the property to a "person" of its own choice but has to transfer, assign or sell to a member of the Scheduled Tribe or a Co-operative Society of the Scheduled Tribes.

The possibility of the Government disposing it off to a person who is not a member of the Scheduled Tribe is totally ruled out. If this applies to properties which become the Government properties, how can the properties which are already the Government properties be excluded from the applicability of these Regulations?

Areas. The concept of state ownership of forests came into conflict with the traditional rights and practices of tribals. The state has appropriated large tracts of land without recognising customary rights, particularly of shifting cultivation. The reservation of forests has been a historical process whereby the indigenous communities are pushed deeper into forests and tribal lands are appropriated by non-tribals (Rao *et al.*, 2006).

The National Forest Policy 1952 did not consider the needs of the local people. Its aim has been the supply of timber for industrial needs. Commercialisation of forests was emphasised, like the colonial regime, at the cost of the local people. Independence did not help these groups of people. The same policy continued till 1976. The Indian government continued to envisage the commercial exploitation of forests, now for the 'national' rather than 'colonial' interest.

The Forest (Conservation) Act, 1980 was passed with a view to protecting forest and ensuring ecological balance. The state governments were given the privilege to declare any forest as "Reserve Forest". In A.P the forests recognized under Section 15 of the AP Forest Act, 1967 are Reserve Forests. This provision enables the state government to refuse legal right to the dwellers to occupy the land, evaluate the position of those occupying the land, and if convinced that they are illegal occupants and encroachers, evacuate them in the name of developing forest land. This Act resulted in massive evacuation of tribals from their lands. Only those who had title deeds prior to 1980 were recognized. Even the Tribal Act, 2005, provides for recognizing rights enjoyed by the tribals before 1980 (Reddy and Kumar, 2010).

The Forest Rights Act came into existence from 1st January 2008. Thus, the inevitable 'historical injustices', created through the successive 1865, 1878 and 1927 Indian Forest Acts, and the Madras Forest Act 1882, were redressed through this Act. The stated aim of the Act is to recognise and vest the forest rights and occupation in forest land in forest dwellers who have been residing in such forests for generations but whose rights could not be recorded (Springate-Baginski, 2009). The Act will have major implications across AP, both in providing more secure

basis for forest people's livelihoods and also giving the legal provisions necessary to defend them in the future. Another important aspect is that of the primacy of Gramsabha, which is a move towards decentralisation. But the attitude of the authorities has not been positive in conducting the Gram Sabhas (Reddy and Kumar, 2010).

Assignment of Lands to the Poor

Introduction

The land administration in Andhra and Telangana regions was brought into the Unified Board of Revenue for the entire state of A.P from 1 November 1956. This was later replaced by Commissioners under the A.P. Board of Revenue (Replacement by Commissioners) Act, 1977. In the post-Independence period, in Andhra Region, first policy instructions were issued for assignment of lands, as per G.O. No. 1142, Revenue Department, dated 18 June 1954 and this became the basis of other Government orders later. The main aspects of this G.O are:

- (i) Lands at the disposal of the government should be assigned only to landless poor persons who directly engage themselves in cultivation, including ex-toddy tapers, backward communities and weavers.
- (ii) A landless poor person is one who owns not more than 2.5 acres of wet or 5 acres of dry land and is also poor.
- (iii) The maximum extent of land to be assigned to each individual shall be limited to 2.5 acres of wet, or 5 acres of dry land subject to the proviso that in computing the area, lands owned elsewhere by the assignee shall be taken into account so that the land assigned to him together with what is already owned by him does not exceed the total extent of 2.5 acres of wet or 5 acres of dry land.

The assignment of certain class of lands is prohibited: (i) Poramboke (tank-beds, foreshore of tank-beds, cattle stands, grazing lands) and reserved lands (reserved for depressed class members or for any public purpose, such as schools, playgrounds etc.).

The assignment of lands shall be subject to the following conditions: (i) Lands assigned shall be heritable but not alienable; (ii) preference shall be given to the village where the lands are situated; (iii) Lands assigned shall be brought under cultivation within three years; (iv) No land tax shall be collected for the first three years except for the extent, if any, which has already been brought under cultivation.

The land assignment policy in Andhra area is governed by Board Standing Order 15 (BSO-15) and the G.O.Ms.No.1407 Revenue Department dated 25 July 1958. The assignment policy in Telangana Area is governed by A.P. (Telangana Area) Land Revenue Act, 1317 Fasli the G.O.Ms.No. 1406 Revenue Department dated 25 July 1958. Nevertheless, the rules governing such assignment of lands and conditions of the grant of the government lands are the same. Again some modifications were made in course of time regarding assignment of government lands. In both the regions a landless poor is defined as the one who owns 2.5 acres of wet land or 5 acres of dry land (GoAP, 2006).

Prohibition of Transfer of Assigned Lands

Over the years it has been found that a lot of lands assigned to the poor people were not in their possession. To prevent this trend, the Government of AP brought out The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. This Act is a protective legislation and it is meant for the protection and benefit of the genuinely landless poor persons. The alienation of lands assigned to the poor for cultivation or dwelling to any other person is punishable under this Act. The transfer of assigned lands is not possible under any circumstances and under any other law in force. If any document is executed for the purpose of transfer it would be invalid and illegal. Even a civil court cannot execute any decree in respect of such transfers of assigned lands.

Definitions in the Policy of Assignment of Lands

The assignment policy is guided by definitions of ‘lands available for assignment’ and ‘not available assignment’ (reserved land) and others. As per BSO-15-2 (1-i&ii), lands may be classified as: (i) Land prima facie available for assignment: (a) assessed land, which is not reserved, and (b) unassessed land, which is not reserved. (ii) Land prima facie not available for assignment (a) poramboke, and (b) reserved land (“assessed” and “unassessed”). Unassessed land is the land to which no classification and assessment have been assigned.

A landless poor person means a person who does not own any land or who owns land not more than 2.5 acres of wet or 5 acres of dry land and who is an agricultural labourer, as per G.O.Ms.

No. 1724 (Telangana) and G.O.Ms. No. 1725 (Andhra region) and whose annual income does not exceed Rs.11,000/- (G.O.Ms. No.900 Revenue Department, dated 11 July 1979 and G.O.Ms.No.940 Revenue Department, dated 24 November 1998). For the purpose of consideration of the claim for assignment of land, one should be in occupation of the land at the time of consideration for its assignment provided he had been in continuous occupation of the land from the immediately preceding year. The Tahsildars are the authorities competent to assign the lands. Among the eligible landless poor applicants, preference shall be given to the people in the village where the lands are situated, and to the persons who do not own any land at all. As between Sivoijamadar (one who is in possession of the land) and a non-Sivoijamadar, the former will get preference.

Land Assignment Process and Conditions

The assignment of lands shall be subject to the following conditions:

- (1) Lands assigned shall be heritable but not alienable.
- (2) Lands assigned shall be brought under cultivation within three years.
- (3) No land tax shall be collected for the first three years except for the extent, if any, which has already been brought under cultivation. Water rate shall, however be charged if the lands are irrigated with Government water; and
- (4) Cultivation should be by the assignee or the members of his family or with hired labour under the supervision of himself or a member of his family.

The lands assigned to landless persons may be mortgaged to the Government or to a Co-operative Society recognized by the Government including a land Mortgage Bank, Nationalised Bank, State Bank of India and its subsidiaries and all Scheduled Banks, or the Panchayat Samithi for obtaining any loan for the development of the land.

Main Categories of Assignment of Lands

Under the relevant Board Standing Orders (BSO), the State periodically assigns land to the landless poor, including the following broad categories: (i) Government lands; (ii) surplus from ceiling land laws; and (iii) Bhoodan lands. The government lands are covered by: (i) Poramboke/assessed wasteland and un-assessed wasteland; (ii) Kharizgatha; (iii) Rajinama; (iv)

Bought in lands; and (v) Cattle stand poramboke. The State's official record of lands assigned to the landless poor show that 4.25 million acres have been assigned to 2.92 million households. According to official statistics, Andhra Pradesh has assigned more government land to more beneficiaries than any other state in India (GoAP, 2006: p.85). The Table 4.1 gives the figures of assignment of lands. Although the Government has assigned more than four million acres on

Table 4.1: Assignment of Government Lands in AP since 1.11.1969 (Extent in Acres)

S. No.	Name of the District	S.Cs		S.Ts		B.Cs		OTHERS		TOTAL	
		Number.	Extent	Number.	Extent	Number.	Extent	Number.	Extent	Number.	Extent
1	2	3	4	5	6	7	8	9	10	11	12
1	Srikakulam	19325	15689	25324	21159	19158	15279	25297	20792	89104	72920
2	Vizianagaram	19412	22978	24757	30516	19083	22076	24601	30128	87853	105698
3	Visakapatnam	24323	34654	34838	55183	24319	33958	33253	47561	116733	171356
4	East Godavari	15450	12431	20686	20301	13805	11235	20379	16608	70320	60576
5	West Godavari	15662	19887	18764	24857	13357	17242	19944	26739	67727	88724
6	Krishna	19489	19913	23720	24440	18206	19189	25728	27277	87143	90819
7	Guntur	21228	21237	26405	20400	19011	14877	28572	22293	95216	78807
8	Kurnool	17460	25858	21247	31498	16461	24966	22856	33860	78024	116182
9	Nellore	64745	100338	74291	117922	57595	89756	78907	126735	275538	434751
10	Cuddapa	29322	53216	34355	63018	26778	49132	39298	72575	129753	237940
11	Prakasham	46055	71293	55930	87136	41321	64778	60967	40731	204273	263938
12	Chittoor	63244	86643	79014	109261	57128	78671	84790	117027	284182	391601
13	Anantapur	53870	137312	67187	171847	50826	129325	72703	185742	244586	624225
14	Adilabad	19763	48877	27147	69515	18201	45224	25674	65115	90782	228732
15	Karimnagar	35036	25681	40989	30265	30919	22974	43651	32280	150595	111200
16	Nizamabad	33195	37489	41671	49006	30854	35197	44000	49575	149720	171267
17	Khamamm	28791	59223	41794	79378	25379	53586	38124	79950	134088	272136
18	Warangal	39155	39212	49275	49368	35998	35936	52173	52297	176601	176813
19	Mahabubnagar	29529	48206	35889	59631	27611	45120	38124	63361	131153	216318
20	Ranga Reddy	16530	15947	20701	19758	15205	14728	22122	21053	74558	71486
21	Nalgonda	38962	37896	44291	44484	34497	34010	45539	45397	163289	161788
22	Medak	36472	54495	44697	67895	34023	50461	48584	73565	163776	246415
23	Hyderabad	-	-	-	-	-	-	-	-	-	-
Total		687018	988474	852972	1246839	629735	907720	895286	1250659	3065014	4393692
1st & 2nd Phase		75282	-	54932	-	82919	-	28002	-	241135	325639
3rd Phase		21917	26951	16127	30262	26554	37447	8952	16707	73550	111381
Grand Total in Acres		784217	1015425	924031	1277101	739208	945167	932240	1267366	3379699	4830712
Grand Total in Hectares		317365	410932	373946	516830	299150	382500	377268	512890	1367730	1954941

Source: C. Umamaheswara Rao, (n.d-2)

record, very less is in the hands of the poor. Despite the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, which specifically prohibits transfer of assigned lands and allows for resumption of illegally transferred lands, the poor sold their lands (mostly on plain paper) due to exigencies in their families, and the Government has not resumed such lands (*Ibid.*).

The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, was an effort to address the problem of large land holdings by prohibiting persons from holding land in excess of the ceiling, unless exempted. Under the Act, Andhra Pradesh has taken possession of approximately 645,599 acres of ceiling surplus land. An additional 172,249 acres remain outside the State's possession. The most common reason why the State has not taken possession of ceiling surplus land is because the matter is in litigation. As of March 31, 2002, the State has distributed a total of 582,319 acres of ceiling surplus to 540,344 beneficiaries as discussed earlier. In some cases, eligible poor individuals and households have been assigned ceiling surplus land, but are not in possession of the same because the land is encroached, often by the original declarant, and they do not have the ability (political, social or physical) to take possession themselves. In other cases, eligible beneficiaries have settled on the assigned land but have not yet received evidence of their ownership status. In numerous cases, ceiling surplus land has been tied up in litigation for decades.

The Bhoodan (donation of land) movement was started by Acharya Vinoba Bhave in the Nalgonda district of Andhra Pradesh during the freedom movement. It has resulted in donations of privately held land to the poor in some places. Table 4.2 provides the details of the land distributed to the poor under the movement. A total of 42,199 beneficiaries have received 112600.7 acres of land as a result of this movement. Of the total beneficiaries 12,832 are members of Scheduled Tribes, and 4,538 are Backward Castes and others.

The problems described under the discussion of government assigned lands are equally applicable to land received under the Bhoodan movement. The poor who have been assigned lands may not be in possession of the land, where they may be in possession but do not have evidence of title, or other circumstances may prevent them from the benefit of the land.

Land Committee's Observations

About 42 lakh acres (1.7 million ha) of government land have been assigned to the landless poor since inception of this policy in the 1960s. The fact that a significant percentage of these is not in their possession is directly attributable to the lack of effective executive machinery at field level to ensure that poor do not lose lands. The Congress government under the leadership of Y.S. Rajasekhara Reddy, soon after coming to power in 2004, constituted a Land Committee under the chairmanship of Koneru Ranga Rao, a Minister (Koneru Ranga Rao Committee), “to assess the overall implementation of land distribution programmes of the government and suggest measures for more effective implementation.”

Table 4.2: Distribution of Bhoodan Lands in AP

Sl.No.	Name of the District	Number of Beneficiaries	Extent in Acres
1	Srikakulam	2649	11244
2	Vizianagaram	597	355
3	Visakapatnam	1948	4286
4	East Godavari	3354	7173
5	West Godavari	10367	29621
6	Krishna	821	1674
7	Guntur	5912	20071
8	Kurnool	632	1353
9	Nellore	5944	12724
10	Cuddapa	5638	11987
11	Prakasham	1790	2164
12	Chittoor	780	1122
13	Anantapur	925	3737
14	Adilabad	44	142
15	Karimnagar	1414	3703
16	Nizamabad	443	1692
17	Khamamm	1	3
18	Warangal	56	186
19	Mahabubnagar	1	4
20	Ranga Reddy	56	162
21	Nalgonda	22	62
22	Medak	506	506
23	Hyderabad	-	-
Total		43900	113973

Source: C. Umamaheswara Rao, (n.d-2)

The Government has accepted the 104 recommendations made by the Committee. During the public hearings conducted by the Land Committee the following major issues, in regard to assigned lands, have come to the notice of the Committee (GOAP, 2006; pp.8-9).

Lands which are assignable but not assigned: There are several instances of huge tracts of land being available for redistribution to the land less poor in the state but not assigned to them.

Lands assigned on paper but physical location not shown: This is the most common problem in assigned lands. This allows for reassignment of the same land several times resulting in compounding the problem with multiple ownership and claims/counter claims. For instance, in Chandanavelli village, Shabad mandal, Ranga Reddy district 1500 acres of land available were assigned and reassigned in the above manner.

Lands in occupation of the poor for ages but pattas not given: Because of the inherent non-cultivability of assigned lands, the assignees often do not cultivate them even when the lands are in their possession. Sometimes even cultivable lands are not cultivated as the assignees are poor and do not have adequate capital to invest in the land for cultivation. At other times even when the land is cultivable, family exigencies force them to sell the land for a song. This leads, not infrequently, to alienation (selling) of the lands.

Ineffective implementation of Assigned Lands (Prohibition of Transfer) Act, 1977: This Act prohibits transfer (through alienation/sale to a third party) of lands assigned to the landless poor persons. The lands assigned are heritable but not alienable. In case of breach of this provision, the District Collector, or any other officer authorized by him, may take possession of the assigned land, evict the person in possession by giving him reasonable opportunity, and restore the land to the original assignee or his legal heir. If restoration is not possible, then the land can be resumed by the Government for a fresh assignment.

This Act is retrospective in operation and applies also to transactions of sale prior to the commencement of the Act. The revenue officials rarely resort to this option. Substantial extents

of lands, which had been assigned to the landless poor, have actually been alienated and ended up in the hands of the non-poor. The immediate need of the hour is to look at the magnitude of the alienation and take steps to resume the lands and restore or reassign to the poor. After a study of the existing legislations and their implementation, the Committee came to the opinion that the executive must be compelled to perform its role, which has been almost forgotten during the past decade and half, in a professional and systematic manner.

The Committee recommended some amendments to the existing Acts to suit the changing reality on ground and the present day requirements in order to strengthen the process by which poor can gain access to land and retain it. Thus far, the mechanics of land administration have remained inaccessible to the people at large. However, in tune with the new development paradigm, which has demonstrated the effectiveness of people's participation – especially the poor - in social empowerment and economic development, the community should be involved at all stages of land management, especially of the government lands. Both legislative and administrative measures would be required to formally usher in and strengthen the participation of the community in the land assignment process and thereafter.

Recommendations of the Land Committee

The Committee recommended the following measures to enhance the effectiveness of transferring government lands to the landless poor (GoAP, 2006; pp.12-13)

1. *Gram Sabha Approval:* The assignment proposals of the government lands should be approved by the Gram Sabha.
2. *Reduction of Size of Land Assigned:* Landless poor person shall be redefined as or the one who owns no land or a person who owns a land of not more than 1 acre of wet or 2 acres of dry land.
3. *Assignment of Land:* The maximum extent of land which may be assigned to a single individual shall be limited to 1 acre of wet or 2 acres of dry land, subject to the provision that in computing the area, lands owned by the assignee shall be taken into account so that the lands assigned to him together with what is already owned by him does not exceed the total extent of 1 acre of wet or 2 acres of dry land.

4. *Recovery of income from Irregular Allottee:* Whosoever acquires D-Form Patta irregularly or fraudulently shall, apart from resuming the land from him, be made to pay double the income drawn from the land from the date of his possession.
5. *Time Limit of 3 Months to Assign Land to the Applicant:* The assignment of land to the landless poor for agriculture purpose shall be granted within 3 months from the date of receipt of application for assignment as per the rules in force.
6. *Government to Purchase Auctioned/Assigned Lands:* Wherever assigned lands come up for auction for non-payment of dues to the credit agencies, the Government Agencies shall participate in the auction and purchase such lands for assignment to landless poor again.
7. *Assignment Committee Composition to Include Women of IKP:* Composition of the Assignment Committee to be amended to include the Sarpanch and president and secretary of the concerned village organisations of poor women of the IKP, wherever the assignment proposals relate to that village.
8. *Not to Refuse the Proposal of Assignment Committee:* The Assignment Review Committee should not refuse any of the proposed assignment except on the ground of ineligibility of the proposed beneficiaries.

Land Acquisition and Resettlement & Rehabilitation

A Critical Evaluation

Introduction

Land acquisition for developmental purposes, i.e., for making roads, constructing dams and irrigation canals, establishing manufacturing industries and for urban development has been going on since long, and has also generated debates around the fallouts of such developments for the poor people and for the environment. But in the last decade or so the debate has become intense. In the colonial period the Land Acquisition Act (LAA), 1894 was enacted by the British in India for the purpose of land acquisition. In the post-Independence period also, the Indian governments have been using the same LAA, 1894 with some modification/amendments. The Act defends the 'eminent domain' principle i.e. pre-eminence of the State.

The definition of 'public purpose' under Section 3(f) for land acquisition has now become a controversial subject. Publication of preliminary notification Section 4(1) of the Act provides for notification in regional language of the proposed land to be undertaken at convenient places. Provision for hearing of objections against acquisition of the land or any land in the locality by any person or as the case may be, is under section 5-A(1). Section 5A(2) deals with the submissions of objections in writing to the collector and for making the report by the Collector (or the designated land acquisition officer) to the appropriate government .

Payments for all necessary damages to be done have to be made under Section 5 of the Act. Provision for publication of (2nd) declaration that the land proposed to be acquired for public purpose in the official Gazette and in the two daily news papers circulated in the concerned locality, is there under Section 6. Such declaration causing public notice by the Collector is to be given at convenient places in the said locality. Notice to all those persons interested under Section 9 will be served with details of the extent of land to be acquired, and amount of compensation. Provision for enquiry by the Collector over the objections raised, and claims of compensation and, apportionment of compensation and to make an award etc., have a provision under Section 11. Once the enquiry is concluded the time limit of passing the award within two years from the date of publication of the declaration under section 6 is envisaged under

Section 11A. If the authority fails to adhere to the time schedule prescribed under the Act, the entire proceedings initiated for land acquisition will lapse. Reference to court is provided under section 18 if objections are there in regard to the measurement of the land, the amount of the compensation, and the persons to whom it is payable.

Matters to be considered in determining compensation include the market value of the land on the date of publication of the notification, the damages sustained between the time of the publication and the time of the Collector's taking possession of the land (Section 23). Provision for land for land instead of awarding money as compensation exists under Section 31(3).

Acquisition of land for companies for some specified purposes, when proved that it is useful for the public, is governed under sub-sections 40(1)(a), (aa), (b) and (c), with previous consent of the appropriate government; while such land is non-transferable as per section 44A. Further, no land shall be acquired for a private company, which is not a Government company under section 44B.

Public Purpose

The word 'public purpose' was neither explained properly in the LAA, 1894 (as amended in 1984) nor interpreted by the Government itself in the right sense. 'Public purpose' is the justified reason for the acquisition of land. Under the definition, Section 3(f) of the Act, land acquisition for the sake of, public purpose includes: provision of village-site, extension, development or improvement of village sites; provision of land for town or rural planning; land for planned development from public funds; land for a corporation owned or controlled by state; land for residential purpose or landless poor, people affected by natural calamities, or to persons displaced, or for the people affected by reason of the any scheme undertaken by government or any local authority or a corporation owned or controlled by the State; provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by government. It does not include acquisition of land for companies.

The basic question is whether the use of the Land Acquisition Act by the Government for the acquisition of land for SEZs is at all justifiable in the eyes of the law. Section 44(B) of the Act provides that except for construction of houses for their employees to live in, Government cannot acquire land for a private company for any other purpose (as per Clause(a) inserted in 1933 in the Subsection 1 of Section 40). Till date section 44(B) has not been amended. The land that is now being taken away by the Government from the farmers under the provisions of this Act is handed over to private developers for SEZs. The developer

in turn will rent it out to industrialists. This whole process is in violation of the provisions of the Land Acquisition Act.

The Supreme Court of India found that the power to determine a public purpose is primarily that of appropriate Government; yet, it retains the power to question that determination also on substantive grounds. A public purpose that is only apparently public purpose but is in reality private purpose or other collateral purpose, it held that the Government could not justify acquiring land for a textile machinery manufacturer as a 'public purpose' (Supreme Court in the case of R.L. Aurora vs State of Uttar Pradesh, 1962).

The Collector has to award compensation under Section 11 as per market value, which means that the value of lands shown in the neighbouring lands as recorded in the Registration Department. Such compensation of the land would always be less because the recorded values will be less than the actual market value. In such a case, the farmers prefer to go to courts under Section 18 in regard to the price fixation. To avoid prolonged litigations, the Collector chooses to award a mutually agreeable price and the agreement would be signed. This is the regular agreement award or consent award.

At the time when the LAA was enacted, the public activity was largely confined to acquisition of small pieces of land either for roads, public buildings, housing colonies etc. There were no public ventures of the kind of large dams submerging thousands of villages. In the post-Independence period, the same Act has been used to acquire large areas of land for irrigation projects and public sector undertakings. After the SEZ Act, 2005, the lands are acquired in large quantities by different governments for private companies. This has become a hugely controversial issue in recent years in several states of India.

When the government acquires land for an irrigation project or some other development project then there is a clear and direct relationship between the acquisition and the public purpose behind the said acquisition. Because the body which has acquired the land is itself responsible for the establishment of the project and starts proceeding in that direction. This does not hold true for SEZs since the developer who puts forward the proposal for an 'SEZ' is not the acquirer of the land.

Land Acquisition for SEZs

The Act does not specify how exactly the land is to be acquired for an SEZ. Though the Act is silent about this, the state government issues notices under the provisions of the this Act for the purpose of acquiring land for the proposed SEZs of some private companies. From the currently available

information, it seems that the said notices do not specify for whom and for what purposes the land is to be acquired. Under the Land Acquisition Act, the Government is at liberty to compulsorily acquire land from the land-owner for any 'public purpose' but this begs the question as to whether the setting up of an SEZ can be called a 'public purpose'.

The basic question is whether the use of this Act by the Government for the acquisition of land for SEZs is at all justifiable in the eyes of the law. Section 44(B) of the Act provides that except for construction of houses for their employees to live in, the Government cannot acquire land for a private company for any other purpose. Till date, section 44(B) has not been amended. The land that is now being taken away by the Government from the farmers under the provisions of this Act will be handed over to private developers for the establishment of SEZs. The developer may rent it out to other industrialists. This whole process is in violation of the provisions of the Act.

There is no guiding principle in the SEZ Act as to how the land should be used by the developer. How the developers have to allot land to the industrialists is also not clearly specified. There are no guiding principles in SEZ Act about the basis of which the developer will make the land available to the private industrialists in respect of rate of rent, mode of rent fixation and selection criteria of industrialists (Sawant, 2007). The time given to a developer is 3 years for the establishment of an SEZ, which is extendable by 2 years i.e., totally 5 years. If the developer fails to do so, then only government may take it back or allocate it to a new developer.

The SEZs are also displacing people on a large scale. In coastal states like Andhra Pradesh, some SEZs are located along the sea coast, cutting off fishermen's access to the sea from which the latter eke out their livelihood. In many places, small agriculturists are thrown out of their homelands and, along with them, those that depend on agriculture, such as artisans and rural workers. The Constitution requires the Gram Sabhas to be fully involved whenever decisions that might lead to dislocation of people are taken. The government should recognise the inherent rights of the local communities to resources such as land, water, minerals, forest wealth, etc. All these call for a paradigm change in the attitude of the government (Sarma, 2007)

Resistance of people to the forceful takeover of their lands has been expressed in various forms. After all their peaceful protests were not heeded to by the government and also the major political parties (who were looked upon as being in favour of the SEZs), the affected people in Polepally SEZ on the outskirts of Hyderabad city contested as independents in the general elections and polled substantial votes to cause

enough frustration to the mainstream political parties (Box: 5.1). While in Maharashtra people in several villages in Raigarh district on the outskirts of Mumbai resisted land acquisition and conducted a referendum in October 2008 against the Maha Mumbai SEZ promoted by the Reliance Industries. The resistance caused such an enormous delay in land acquisition that the government was forced to cancel the SEZ as there was no provision for further extensions (Box: 5.2). Response of the State has been very brutal in some

Box: 5.1

Losing Land & Livelihood – Losing Dignity

“We have lost dignity along with livelihood. Not a sliver of land is left even to bury us after death. We fear nothing now as we stand to lose nothing”, Mrs. Sukkamma, a woman from Polepally village on the outskirts of Hyderabad, who lost her land to an SEZ after which her husband is reported to have died of cardiac failure (*The Hindu*, Hyderabad, 21 April 2008).

In the held general elections in April-May 2009, the people affected by the Polepally SEZ (on the outskirts of Hyderabad) made their voice heard loud and clear. Seventeen candidates contested for Mahabubnagar Lok Sabha seat and bagged as many as 77,568, which votes could have marred the chances of the Congress candidate. Not yielding to pressure, they doggedly campaigned on barefoot, without fancy vehicles, star campaigners, money and manpower, and mustered enough support to prove their point that they cannot be left in the lurch after denying them their only source of livelihood, the land. It is a repeat of what they did in Assembly by-elections in Jadcherla in May 2008. At that time, 13 of them contested and secured 13,000 votes, enough to defeat the then sitting legislator of Telanaga Rashtra Samithi party (K. Venkateshwarlu, “Polepally SEZ contestants make their point”, *The Hindu*, Hyderabad, 19 May 2009).

Box: 5.2

Maharashtra government halts acquisitions for Mukesh Ambani's SEZ

Chittaranjan Tembhekar

<http://articles.economictimes.indiatimes.com> Feb 19, 2011.

MUMBAI: The Maharashtra government ended its land acquisition process for the proposed Maha Mumbai Special Economic Zone (SEZ), one of the country's biggest SEZ plans. The state issued a government resolution de-notifying the land acquisition process for the SEZ, clearly indicating that it would not acquire any more land for the SEZ promoted by Reliance Industries Ltd (RIL) Group chairman Mukesh Ambani. All land acquired by the government in the past is also to be returned.

On hearing news the farmers in the Pen, Panvel and Uran talukas burst crackers in celebration. With a majority of farmers opposed to surrendering their land and a further extension required to keep the project going, it is now possible that the entire SEZ plan would be scrapped. The project could sail through only if its promoters manage to privately acquire the land needed, which seems to be an impossibility.

The SEZ was planned across 10,000 hectares of land in 83 villages in Raigad district. The project was given approval in 2005. The SEZ was to be built between the upcoming Navi Mumbai airport and Pen towards the south and Uran towards the west. Ambani had projected an investment of Rs 35,000 crore over a period of 10 to 12 years.

After the government had initiated the land-acquisition process, thousands of farmers opposed the SEZ saying that fertile, irrigated land was being acquired, which is not allowed under the SEZ Act. Around 1,000 hectares of land have been privately acquired from farmers. It seems that the farmers who sold land indicated their readiness to return

other instances when people resisted takeover of their lands in favour of private companies to set up thermal power plants. Apart from loss of livelihoods, the affected people were also worried that the environmental problems posed by the thermal plants would make their life miserable. Hence the resistance was sustained and organized. When thousands of police swooped on the villages the people stood up leading to firing and killing of people, and scores of men and women getting badly injured. Two such instances, both happening in Srikakulam district of AP are given in Boxes 5.3 and 5.4.

Box: 5.3

Two killed, Five Injured in Firing in Sompeta, A.P

On 14 July 2009 two persons were killed and five sustained bullet injuries in police firing on the local farmers and fishermen who were protesting against a proposed thermal power plant by the Nagarjuna Construction Company (NCC) at Sompeta in Srikakulam district in Andhra Pradesh. The local people, along with the people of Sompeta town, have been protesting against this plant for several months.

Hundreds of villagers, including many women, were injured in the lathi charge by the police. Some policemen were also injured. There were also private goons who were wearing blue scarves around their necks, travelled in police vehicles and joined the police in beating up the villagers. The villagers were unarmed and peaceful. The ladies pleaded with folded hands (some even touching the feet of police officers) not to take away their lands and livelihoods. The police suddenly started lathicharge and severely beat up the women and men causing severe injuries to many.

After about three hours of skirmishes, suddenly the firing was done from inside a moving police vehicle. There was no provocation for firing. There was no warning. The firing was done from a close range (20-30 feet). The bullets hit the victims above waist level (except two who were hit on the thigh and the ankle). Two persons died on the spot, and five persons sustained bullet injuries (including a cameraman of television news channel). All of the victims were unarmed, scattered and very close to or on the road. The eye-witnesses were emphatic in saying that the local sub-inspector was the person who fired from inside the moving police van.

The thermal plant was to be located in about 2000 acres (800 ha). Of this 973 acres are wetlands, commonly known as the Beela. The lives and livelihoods of the villages are intricately linked to these wetlands and there is a strong determination to protect them at any cost. These lands were handed over to the NCC through the APIIC by declaring them as degraded, unyielding and lands unfit for cultivation. Further acquisition of lands was in the process.

Beelas are low-lying swampy areas with a unique habitat, serving as a rich biological wetlands with high ecological importance and are an integral part of the surface-cum-marine ecosystem that supports a variety of flora and fauna apart from providing livelihood to thousands of families in the area. A Beela is also declared as Important Bird Area (IBA) by Birdlife International UK and Bombay Natural History Society. For several months before July 2010 the police have been foisting false cases on the protesting leaders and villagers and harassing them in various ways. As per the villagers, the police were behaving at the behest of, and in collusion with, the NCC rather than as protectors of law and justice. The District Collector, as Head of the revenue administration, submitted false and misleading report on the Environment Public Hearing even though about 95 per cent of the participants opposed the project.

On the same day when police firing took place, the National Environment Appellate Authority, New Delhi cancelled the environmental clearance given to this thermal plant on the ground that several facts were either suppressed or falsely reported to favour the private company for getting the permissions. (Based on the "Independent Fact-finding Team on the Sompeta Firings on 14 July 2010", available with the National Alliance of People's Movements (NAPM), A. D. Chatterjee

Box: 5.4

Two killed in protests against power plant in Andhra Pradesh

Two people were killed and two injured on 27 February 2011 when police opened fire to quell violent protests against a controversial thermal power plant in Srikakulam district of Andhra Pradesh.

The police opened fire after rubber bullets, teargas shells and baton charge failed to bring the situation under control, a police officer said. The rampaging mobs set afire a police vehicle and fought pitched battles with the police in the village, about two km from Kakarapally, where East Coast Energy Pvt. Limited (ECEPL) is setting up a 2,640 MW coal-based thermal power plant in 3,333 acres allotted by the government

The villagers, including fishermen, are trying to stop the work saying that the power plant would damage the ecology of the area and affect their livelihood. A war-like situation prevailed in this small fisherfolk village earlier after the anti-power plant agitation turned violent. Police lobbed tear gas shells and fired rubber bullets on the protesters. Twenty-five people, including seven cops, were injured in the melee when over 200 villagers attacked them with sticks, iron rods and chilli powder.

People of 36 villages are opposing the thermal plant citing destruction of their livelihood and also precious wetland. The fisherfolk community has been on a relay hunger strike for the last 195 days opposing the power plant.

"He suffered bullet injuries in the chest and back. We shifted him to a palm tree. He was gasping for his breath. Though we wanted to stay there, the cops kept firing. Errayya's last words were 'I am dying, you must move on.' We left him and ran to safety," a teary-eyed Venkatrao says.

"We don't have essential supplies. We don't get medicines with police blocking entry and exit points to the villages," rues a fisherman-cum-ryot.

"Why are they (cops) swooping down on our villages? Why are they targeting us? If the plant management wants security, let the cops be stationed at the plant site," says a farmer, S Gopal Rao.

Close to Vadditandra junction at a distance of 50 metres, the burnt houses (26 in all) and paddy stocks bear testimony to police barbarism. Police hurled smoke bomb to chase away the inmates from the houses. Utensils, vessels, clothes, ornaments and small savings were all burnt as the bombs fell on thatched roofs.

"The cops fed by the plant management are trying to push us out from our homes and villages for setting up the power project. But we would not cower. We would intensify the movement," warns Lakkavaram sarpanch Suggu Ramireddy, who is spearheading the stir. "They want to kill us, let them do it. We are fighting for our livelihood. The district SP and RDO Arun Babu, are acting as stooges of the plant management," charged a villager (*Times of India*, Hyderabad, February 26 to March 2, 2011).

‘Eminent Domain’ - Eminently Discardable

The power of compulsory land acquisition for a public purpose and the principle of “eminent domain” have been mixed up quite thoroughly in the debate. The ‘eminent domain’ principle is not found anywhere in Indian law, modern or ancient. It is an English notion – that the sovereign has supervening right over everybody’s property – borrowed by the Supreme Court to defend the State’s power to effect land reforms. It is part of the failure of Indian jurisprudence that even when the courts wanted to defend good things they have relied on the importation of safe principles from the English law rather than risk looking at the welfare dimensions of the Indian Constitution itself. The notion that the state is a trustee of natural resources on behalf of the people is another such principle. It was invoked to defend environmental concerns. Like the principle of eminent domain this one too is class neutral and can turn against the poor, whereas if the courts had relied on the directives in Part IV of the Constitution, they would have found support for land reforms and environmental legislation which is not class neutral and cannot be turned against the poor (Balagopal, 2007b).

The LAA 1894 was less objectionable in its colonial form when its power was confined to acquisition for a public purpose, than its post-colonial amendment of the year 1984 which permitted compulsory acquisition of land for companies too. However, the structure of that law shows that it was intended only for acquisition of small bits of land for purely local purposes like a school or road in a village. It was never intended for massive land acquisition for private projects and industries. A completely new law is needed for such land acquisition, which must have written into it a clear and unambiguous definition of what is public purpose and must encompass the framework of a comprehensive scheme of rehabilitation which will guarantee full protection of livelihood opportunities and community life, devised in a manner that ensures that the scheme as operationalised meets with the satisfaction of the displaced (*Ibid.*).

Land Acquisition Amendment Bill of 2007

In 2007, the LAA 1894 came under the scanner of the Supreme Court. The Court, for the first time, directed the Centre and all states to furnish their responses on the clause of "public purpose". The Court was acting on a public interest petition (PIL) filed by an association of landless farmers of Karnataka. The

petition raised a crucial question as to what constitutes the "public purpose" and thereby challenged the legality of the Sections 3(f), 4 and 6 of the Act as unconstitutional and violative of the Articles 14 (Right to Equality), 19 (1) (g), 21 (Right to life and personal liberty) enshrined in the Constitution of India (Equations, 2008).

Thus came the Land Acquisition (Amendment) Bill, 2007 which seeks to amend the various provisions of the LAA 1894 with a view to strike a balance between the need for land for development and other purposes and protecting the interests of the persons whose lands are acquired. The Bill has proposed the amendments to LAA, 1894 in respect of the definition of 'public purpose' as:

- (i) The provision of land for strategic purposes relating to naval, military and air force works or any other work vital to the state;
- (ii) The provision of land for infrastructure projects of the appropriate government, where the benefits accrue to the general public; and
- (iii) The provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy percent but the remaining thirty percent of the total area of land required for the project has yet to be acquired.

Here the word 'person' shall include any company or association or body of individuals, whether incorporated or not. Further, they define 'infrastructure' under Section 3 (f) as:

- (i) any project relating to generation, transmission or supply of electricity;
- (ii) construction of roads, highways, bridges, airports, ports, rail systems or mining activities;
- (iii) water supply project, irrigation project, sanitation and sewerage system; or
- (iv) any other public facility as may be notified in this regard by the Central Government in the Official Gazette.

Thus, the proposed amendments have defined 'public purpose' to include three kinds of projects: (1) Projects that are of strategic defence purposes; (2) Infrastructure projects which include construction of roads, highways, bridges, mining activities, generation of electricity, water supply projects etc.; and (3) Projects for 'any other purpose useful to the general public' which is to be carried out by a 'person', which essentially means companies or private individuals.

The Main critique of the proposed amendments in the Bill are as follows (Sangharsha, *n.d.*; and Equations, 2008):

- (i) The public purpose under 3(f) of the amendment, by allowing acquisition on behalf of a ‘person’, which essentially means companies and private investors, now brings private purpose into the definition of ‘public purpose.’
- (ii) The wordings like “any other work vital to the state” in Section 5 (v) (i) of the LA (Amendment) Bill 2007 can be misused to legalise acquisition of land for any purpose. Similarly with respect to the infrastructure projects, it is unclear what is meant by “where the benefits accrue to the general public” under Section 5(v)(ii). Further, Section 5(v)(iii) helps private persons to acquire huge tracts of land through coercive measures (to the extent of seventy percent of the requirement) and then ask the government to help them acquire more tracts (the remaining thirty percent) in the name of development and modernisation.
- (iii) There is nothing in the Amendment Bill to suggest that housing for the urban poor by the state or educational, health and other institutions will be covered in ‘public purpose’; thus, it has a clear bias against the rural and urban poor and landless and rural areas in general. The urgency under section 17(1) has not been defined or illustrated in the Act.
- (iv) Clauses relating to previous consent and enquiry by the Government under Sections 39 and 40 of the LAA, 1894 have also been done away with now, giving more scope for acquiring land for private companies.
- (v) The definition of ‘persons affected’ contained in 3(b) of the proposed amendments includes all those who hold rights under the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006, in any acquisition of land; and this enables the acquisition of forest areas, particularly for mining and hydel projects which have now been included in the definition of ‘infrastructure projects’.

In view of these provisions, the proposed Amendment Bill 2007 to the LAA has become more controversial and has been termed pro-industry and anti-people by the activist groups. In the popular psyche a certain kind of refrain came to the fore – that is, the ‘public purpose’ under the colonial regime was more public whereas the elected governments in India have become more anti-people.

Resettlement and Rehabilitation Policies

In the post-Independence period, for the purpose of large-scale irrigation projects and other projects, the people have been displaced in large numbers. India's Planning Commission states that by 2006 the total displaced people in the country went up to 40 million approximately. About 40 percent of displaced people since 1950 are tribal people. Furthermore, only less than 50.0 percent of the displaced persons have been rehabilitated. The Land Acquisition Act, 1894, under which the lands and shelters have been acquired can only fix some compensation. The resettlement and rehabilitation (R&R) must extend cash compensation for overall opportunity costs of their uprooting from habitats, i.e., complete social, religious, cultural and material ways of life (Muthyam Reddy, 2006). Most of the pre-1980 projects in India did not have a clear-cut R&R plans. The existing R&R policies are the result of concerted struggles by social activists, people's movements, academicians and NGOs. Resettlement was taken on a case-to-case basis and only a few of the projects offered resettlement in the form of house sites and infrastructure to the displaced people (Ram Babu, 2006).

A Working Group under the Ministry of Environment and Forests (MoEF), Government of India (GoI) made seven recommendations which emphasized that the rehabilitation should be viewed from the socio-economic as well as humanitarian perspectives: 1. Land to land, 2. Grants for houses and cattle sheds, 3. Provision of common property resources (CPRs) in the new settlement, 4. Acquiring lands in the command areas, 5. Compensation for the assets lost, 6. Training to oustees for alternate employment, and 7. Tribal oustees to be accommodated as cohesive groups. As a consequence, the Government of AP issued an Order No.145, dated June 24, 1988 which formulated some guidelines to be followed particularly in the case of tribal oustees. Further, the Social Welfare Department issued guidelines by an Order No. 64, dated April 18, 1990. The first clause in it reads as follows in favour of tribals: "Whenever it is unavoidable to take up schemes involving submergence of tribal lands, rehabilitation has to be taken up on land to land basis, and if the extent of land lost by a tribal family cannot be entirely made good by alternative land, it must be ensured that some land is provided so that the family is not completely uprooted from traditional occupation."

GOI Initiatives in the Post-liberalisation Phase from 1995

In the post-liberalisation phase, the land for private purposes has assumed importance due to private investments and SEZs. In the year 1995, the rural development ministry of the Government of India prepared an approach paper on resettling project-affected persons and elicited the opinions of the state governments. The response of the Andhra Pradesh government was not at all favourable to the project

affected persons. It stated that: (1) The suggestion to provide land for land is not acceptable; (2) The state government will not get involved in the purchase of lands by the displaced persons; (3) The subsistence allowance can be paid only for six months; (4) The state government is not in favour of giving preference to the displaced persons in jobs or in allotting shops and contracts. “This kind of response from any democratic government should make one feel aghast. Any enlightened administration should discard it and accept the humanitarian norms of resettlement suggested by the ministry of rural development with a few amendments if necessary (Subba Reddy, 2006).

The National Rehabilitation Policy, announced in February 2004 by the GoI represented the culmination of several years of efforts towards a model rehabilitation policy for the entire country. The Policy states that displacement of tribal people should be kept to the minimum and undertaken only after possibilities of non-displacement and least displacement have been exhausted. When displacement becomes inevitable, the displaced should be provided a better standard of living (Laxman Rao *et al.*, 2006)

R & R Policy, 2005 in AP

The attempts by the Government of Andhra Pradesh (GoAP) from 2005 onwards to construct several large and medium irrigation projects in the name of Jalayagnam would displace several communities. Therefore, on the eve of Jalayagnam, GoAP came out with a policy on R&R for the Project Affected Families (PAFs) on 8 April 2005 through an Order No.68 of Irrigation and CAD (Projects Wing) Department. While releasing the Policy, AP Government claimed that it is offering the best R&R package in the country.

The Policy assumed great significance in the light of the government’s vigorously pursuing to complete as many as 34 irrigation projects by year 2009. Submergence in tribal and forest areas will result in irrecoverable ecological destruction and affect the cultural identity of ethnic tribes. In Polavaram alone, an estimated 2,50,000 people - of which at least 50.0 percent are tribes - will be displaced from about 300 settlements. About 161,775 acres of land will be lost under submergence of the reservoir including about 8,000 acres of forests.

Some of the Salient Features to Benefit the PAFs as per the G.O 68

1. A displaced family will get 202 /75 Sq. metres of house site free of cost.
2. A family that is below poverty level (BPL) will get one-time financial assistance of Rs.40,000/50,000, and Rs.3,000 towards sanitary toilet.
3. Allotment of waste/degraded government land to extent of land acquired from PAFs, who

- become Small or Marginal farmers or Landless labour on other conditions.
4. Allotment of land to the ST-PAFs in the project benefited area, with other conditions.
 5. Land allotted will be in the names of wife and husband.
 6. A grant of cattle shed (Rs.3,000) to PAF who loses house along with a shed.
 8. PAF will get transportation costs to shift materials and cattle: Rs.5,000/-.
 9. Income generating scheme grant of Rs.25,000 to PAF of artisan/trader/ self-employed.
 10. Loss of livelihood of 750 days of minimum agricultural wages to PAF who becomes landless after land acquisition.
 11. PAF who becomes a marginal farmer after land acquisition, will get 500 days of minimum agricultural wages.
 12. PAF who becomes a small farmer after land acquisition, will get 375 days of minimum agricultural wages.
 13. PAF of agri. labourer/non-agri-labourer will get 625 days of minimum agricultural wages.
 14. PAF who is also PDF will get additional 240 days minimum agricultural wages.
 15. PAFs provided transit accommodation will also get R&R benefits.
 16. PAFs getting reservation in the project affected area will get same benefits in resettlement area also.
 17. Resettlement of same community people is to be made in a compact area to protect social harmony.
 18. Resettlement area/colony has to provide facilities of basic amenities. In addition to these facilities, all other facilities available in the previous village shall also be provided.
 19. Each PAF belong to STs will get other benefits - (a) preference in allotment of land, (b) additional financial assistance of 500 days minimum agri. wages, (c) retention of their ethnic, linguistic and cultural identity etc.
 20. Constitutional benefits of ST/SC/BC will be available at the new settlement area also.

At all-India level persistent lobbying and campaign by civil society organisations and concerned individuals from across the country persuaded the government of India to revise and improve the proposed the National Rehabilitation and Resettlement Policy, 2007 (RRP 2007) in October 2007.

Forcible Acquisition of Lands – Kakinada SEZ

Introduction

Kakinada is the district headquarters town of East Godavari district on the east coast of Andhra Pradesh adjacent to the Bay of Bengal. The district is located in the fertile delta of the Godavari river though the interior parts of the district fall in the hill ranges of the Eastern Ghats. Rural lands in Kakinada of East Godavari District in north coastal Andhra Pradesh are fertile and very prosperous. There is a wide range on cultivation of cashew, casuarinas, mango and coconut. Earning per casuarina per acre is estimated to be over Rs.1 lakh per annum. There is a large scale presence of fishing community. Added to this agricultural labour that is dependent on the livelihoods mostly belongs to the dalit/backward community of the society.

At the instance of the Kakinada Sea Ports Ltd (KSPL) the GoAP had recommended the setting up of an SEZ at Kakinada in 2002 with private sector investment. KSPL is a special purpose vehicle (SPV) company set up by International Sea Ports Ltd., Singapore in association with Konsortium Logistics Berhad of Malaysia which has already been under private sector management.³

About 9869 acres (3994 ha) of land was to be acquired for this purpose in 16 villages in Kakinada rural and U.Kothapalli mandals. Later Kakinada rural mandal has been dropped and Thondangi mandal was selected for land acquisition. This change of site is known to have occurred at the behest of influential people who had real estate interests in Kakinada rural mandal. Further, the claim of the authorities that the proposed lands for acquisition in Thondangi mandal are dry and yield low incomes has infuriated the local villagers. Agriculture in these areas is dominated by small and medium farmers. Three crops could be cultivated in several villages. The dalit and backward class communities also depend on agriculture either as small farmers or farm labourers. There is also a large fishing community here.

Later the public sector Oil and Natural Gas Commission (ONGC), KSPL and the Infrastructure Finance & Leasing Services Limited (IL&FS) entered into a Memorandum of Understanding (MoU) on 31 August

³ SPV is a new type of off-balance sheet operation known for obtaining loans from other investment banks; and such SPVs are the agencies through which the financial crisis is hatched - first example is Enron company and latest examples are in the US housing financial crisis.

2004 to set up an oil refinery and a port-based Special Economic Zone (SEZ) at Kakinada with ONGC as the single largest shareholder. In the next month, September 2004, the ONGC had signed an MoU with the GoAP to set up the refinery through its subsidiary, Mangalore Refinery Private Limited (MRPL). Later the GoAP has entered into an agreement with ONGC to set up an oil refinery and the Kakinada SEZ (KSEZ) in 2005.

About 9869 acres (3994 ha) of land was to be acquired for this purpose in 16 villages in Kakinada rural and U.Kothapalli mandals. Later Kakinada rural mandal has been dropped and Thondangi mandal was selected for land acquisition. This change of site is known to have occurred at the behest of influential people who had real estate interests in Kakinada rural mandal. Further, the claim of the authorities that the proposed lands for acquisition in Thondangi mandal are dry and yield low incomes has infuriated the local villagers. Agriculture in these areas is dominated by small and medium farmers. Three crops could be cultivated in several villages. The dalit and backward class communities also depend on agriculture either as small farmers or farm labourers. There is also a large fishing community here.

As soon as the GoAP issued notification for acquisition of lands for the ONGC (to develop the oil refinery and KSEZ), the farmers started protesting vigorously. By that time, 'Kadali network' (a civil society organization) had already started its awareness programmes on the impact on the sea and livelihoods of fishermen. The farmers forcibly locked the offices of local revenue office, Gram Panchayat office etc. The protests exerted pressure on the state government. As a result ONGC proposal had changed its project from sea coast to the two mandals, viz., U. Kotthapalli and Thondangi. Later the ONGC withdrew from establishing the oil refinery and KSEZ "because of saturation of the refining capacity on the East coast" near Kakinada (Seethamahalakshmi, 2009).

The approval for the KSEZ given by the Ministry of Commerce and Industries, Government of India to the Kakinada Sea Ports Limited, was valid, it seems, till 24 June 2005 which was extended for another one year up to 30 June 2006. The KSEZ was asked to submit a detailed project report for formal approval. At this juncture, K.V. Rao, "styling himself as the promoter of KSEZ Pvt Ltd" entered into the scene (Writ Petition, No. ...2008, A.P. High Court) and had expressed their desire to obtain lands the extent of about 9869 acres (3994 ha) in two phases (letter dated 23 September 2005 to the GoAP) in the name of establishing the KSEZ. Later the GoAP, through the District Collector, issued several Notifications for the acquisition of lands in several villages (Writ Petition No. 28056 of 2008, A.P. High Court).

While there was a growing opposition from the farmers to the forcible takeover of their lands, the revenue officials and the police, at the behest of the SEZ promoter, have lured and threatened them with an offer of Rs. 3 lakh/acre if sold to the SEZ promoter individually, otherwise the Government will take over in any case by paying only half the amount. The farmers were left with little choice even as the protests were growing. In the process thousands of acres of land has been forcibly sold/taken from the farmers and the same registered in the name of K.V. Rao and not in the name of KSEZ. He entered into individual agreements with the farmers and the sale deeds reveal that he will enjoy absolute ownership. This kind of transaction of a property is illegal once the said property is notified for acquisition under the LAA. It is a forceful land acquisition from the farmers by violating Sections 4(1), 5(1) and 9(1) of LAA. Now the question is how the lands have been registered for K.V. Rao. By 2006 KV Rao could purchase about 4,850 acres (1963 ha) of land as against the total requirement of about 9869 acres (3994 ha).

It is the local politicians who helped private agencies to facilitate land acquisition. They forced farmers to sell their lands otherwise threatening them of denying/withdrawing the welfare schemes of the state government. Further, the private developers offered Rs. 3.0 lakh per acre as the price which was higher than that offered by the Government. Moreover, the Government officials including the police threatened and publicized among the local farmers that that if the price offered by the private agency is not accepted then they not only will get less amount but also will be subjected to forceful acquisition of the lands.

The Congress came in to power in AP in May 2004 and its chief minister, Dr. Y.S. Rajasekhar Reddy began to implement the SEZ Act, 2005 very aggressively. The KSEZ assumed importance and its implementation was started. A former government official-turned contractor, K.V. Rao, is known to have got the contract for the sea port construction during the reign of the Telugu Desam Party (TDP). He was later involved in real estate business.

The originally proposed KSEZ was to be located in four mandals⁴ viz., Kakinda (Rural), U. Kotthapalli, Pithapuram and Samarlakota. Between the roadside and adjacent to the sea coast within distance of 25-30 kms, it was intended to cover a triangular belt of Kakinada, Rajmundry and Pithapuram towns. In this belt, mainly in Gaigalpadu area, there are already 70 established industrial plants namely Nagarjuna Fertilisers, Coramandel Fertilisers, Ruchi Oil Company etc. Most of the lands that have been sought to be acquired in the two mandals of U Kothapalli and Thondangi are very fertile. The ground water level in this area is at six or seven feet. In fact large parts of Thondangi mandal are under tank irrigation; these tanks are filled by the left canal of Dhawaleswaram project. Besides paddy, commercial crops like

⁴ A Mandal is an administrative unit below the district level.

cashew, casuarinas, mango, coconut are grown on them. The earnings on these crops are said to be anywhere between 30,000 to Rs 1 lakh per acre per annum. The economic and social composition of the 19 notified villages in U. Kothapalli and Thondangi mandals shows an interesting caste structure with one or two castes like Kapu, Golla, Gouda and Mala being numerically dominant. The agrarian structure here consists of small and medium peasantry who depend on agriculture as their main occupation (Srinivasulu, 2009).

Resistance Against Land Acquisition

Resistance against SEZ (*SEZ vyathirekaporatm*) started with the awareness campaigns led by late K. Balagopal, a well-known civil rights leader and also an advocate in AP. He was president of the Human Rights Forum (HRF) in AP. People were formed into village organizations (*grama sanghalu*) for solving issues on land after resolutions in village meetings. Also capacity building was done on land laws by imparting training for 300 farmers, agricultural labourers and fishermen, to enlighten the people who were deceived by lawyers during land acquisition process.

Kadali network, a local non-governmental organization (NGO), has been working in this area for several years on various issues relating to land, environment, livelihoods etc. It collected affidavits from many farmers whose lands were sold to K.V. Rao by May, 2006. Some farmers who were compelled to sell their land to the total extent of 2000 acres approached courts. The farmers were in depression. The farmers were cheated by lawyers also. Then they sought legal help of K. Balagopal; and also National Human Rights Commission in June 2006. Balagopal met 1000 farmers in Jyothulavarithota.

In August 2007 nearly a thousand policemen tear-gassed and arrested the leaders from Raivarithota and Srirampuram villages. The villagers made every effort to force the policemen out of their village, forcefully closed all the shops so that they could not get any food. Also they dug up the roads such that the police could not ride their vehicles. A case was filed in SHRC against the arrest of leaders from villages. Subhashan Reddy, Chairman of SHRC, ordered police to vacate the villages and to release the leaders and 40 farmers. Later the slogan, “stop SEZ with one rupee” became very popular with the local people wherein thousands of people paid one rupee to strengthen the struggle. The SHRC gave a mid-term order prohibiting acquisition of fertile lands. The people who were resisting SEZs also forcibly removed the fences erected around the acquired lands (Boxes: 6.1-6.3).

The Government also tried to attribute the growing resistance to the infiltration of left-extremist parties by arresting some of their leaders in January 2008. But media played an

Box: 6.1**Police Swoop on Villages at Night**

In November 2008, in 16 affected villages 3,000 Police personnel began patrolling and they were equipped with wireless sets. The police also came with iron poles and fencing materials (thorn wire). People organized themselves into watchdog committees and action committees to organise mass protests. When the police came on the night of 21.11.2008 the people in the villages threatened them by throwing the fencing materials out of the police vehicles. Entire villages turned violent, political parties were made alert.

On 22 November 2008, all the political parties questioned the police why they had come to the village. Local MLAs questioned the police in each village. The Superintendent of Police surrendered himself and begged for excuse from the Thondangi people. The fencing which was already made for the acquired lands was removed on 22.11.2008 (Source: Conversation with K. Rajendra Kumar, Leader of Kadali Network).

important role in spreading the awareness about the movement. Several television news channels brought live vehicles and covered police actions when several leaders were put in jails. Well-known social activists in India like Medha Patkar, Sandeep Pandey and Balagopal participated in a dharna organized by the National Alliance of People's Movements (NAPM), AP Chapter and HRF in Hyderabad as a protest against the SEZ Policy in Kakinada. The SHRC passed orders to release all those arrested on bail.

Box: 6.2**People Determined to Fight**

The officials cheated us. Initially we were told that ONGC will come here. Gram Sabhas were not held. It is not known how much land is acquired. These are very fertile lands but they are showing them as useless lands. Land registrations done in the name of K.V. Rao should be cancelled. Four case have been foisted on me, and arrested in two cases. I am charged with carrying weapons. We will take Gandhiji as inspiration and carry on the struggle – *Chinta Suryanarayana, a farmer.*

MRO Ms. Padmavathi threatened me that I will get Rs. 3.0 lakh/acre if I sell to K.V. Rao or only half that amount if government deposits the money in the court. Kothapalli police inspector confined us in the station. Hundreds of policemen occupied our lands. Major cases were filed on four of us and minor cases on 32 members in our village. We are prepared to die but not give up lands for the KSEZ. – *Perla Babji, Srirampuram.*

Box: 6.3**Are the Villages the Enemy Territory?**

Those villages are not part of an enemy's country. No treacherous activities are going on there. People were only pleading that their lands should not be taken away. On them, the government showed its own mark...through the police.

They scared and terrorized the adults and the children alike. Nearly a thousand police surrounded 13 villages by the dawn. Innocent people were thrashed with lathis. Police tried to erect fences around the lands that have been the property of generations of people. The farmers did not relent at this might of the police. They protested and resisted with all their strength. They foiled the attempt of the police to erect fences around lands.- *Eenadu* Telugu Daily, 24 December 2008, Kakinada.

Support of the Intellectuals

Many intellectuals extended support to this struggle at Kakinada, Hyderabad and also at Delhi in different capacities. Pushpendranath, an ex-officer of the ONGC, Achin Srivasthava, an economist; Chin from Canada; Sandeep Pandey, Magsaysay Awardee; Ratnamala, a civil rights leader; Prof K. Srinivasulu from Osmania University, Udyalakshmi, Balagopal and B. Ramulu from HRF etc. visited the struggle areas at different times. Some of them like Balagopal visited many times and provided legal support at Hyderabad. Thus, nearly 350 intellectuals are estimated to have visited these areas and educated the people so far.

Further, organizations such as Manishi, Madhumitha, Insaf, NAPM, Fisher folk network, Keratam also visited SEZ villages to study the impact of SEZs and to counsel the villagers. Manishi is a Delhi-based organisation that gave National platform for SEZ studies. The NAPM is a team with personalities like Medha Patkar who work on impact of projects. This is a public audit Team with HRC. Fisher folk networks works in 9 villages. KSEZ movement thus gained support from intellectuals and social activists from all over India who visited, participated, studied and expressed their solidarity.

Legal Approach of the Resistance

Anti-KSEZ movement was supported by many leading personalities in legal circles: Syed Salar, Ramdas, Bojja Tharakam, Hema Venkat Rao, Vidya Kumar, A. Lakshmanarao and Muppala Subba Rao. The National Human Rights Commission, Andhra Pradesh State Human Rights Commission and Legal

Service Authority, Hyderabad, came to the rescue of the movement when villagers were arrested and put in jails. Legal petitions were filed in these Commissions and also in the A.P. High Court. Some legal proceedings are still continuing against the SEZ at several levels of the legal system: Munsif Court, District Court and High Court. Cases have been filed under civil/criminal sections against 450 persons (leaders, farmers, social activists and advocates) who were involved in anti-KSEZ movement. Many villagers are still visiting the Munsif Court of Pithapuram regarding these cases.

The toddy trees of farmers have been felled in about 4,850 acres (1821 ha) of lands acquired from farmers by K.V. Rao. They were the source of livelihoods along with rearing cattle, goats and cows. All these activities have come down significantly. The loss to the farmers is estimated to be of the order of Rs.187.5 crore per annum. Migration is known to have increased from the villages. It has also affected the education of children. Dalits lost their employment and shelter due to displacement. Yadavs lost their trade in livestock and also lost lands. Kapus and Reddys also lost their lands. Artisans lost their toddy business and weaving activities. Fishermen lost sea-food and livelihoods (Source: Based on conversation with K.Rajendra Kumar of Kadali Network). Case studies by Seethalakshmi (2009) on Ramakkapeta panchyath in U. Kothapalli reveal that 450 acres of dry lands have been acquired from farmers that affected livelihoods of farmers as well as wage labourers coming from surrounding villages. Most of the Yadava community that depend on livestock rearing in Kadaripeta have been affected.

Vyathireka Porata Committee is a broad-based initiative, in addition to Kadali Network (Box: 6.4), to protest against KSEZs since 2007 included farmers, agricultural labourers and fisher folk. Some farmers were even prepared to return the compensation back to the Government and refused to part with the land. Most of the farmers who signed sale agreements with the government and the developer; and received compensation. But nearly 100 farmers filed affidavits to the effect that they were deceived by the government officials to become prey of the developer and filed the cases in the courts. Recently the cases have also been filed in the AP State High Court. But the farmers could occupy their lands and started to grow crops in the reoccupied land to some extent, despite the fact that some fields were spoiled by the developer (Seethalakshmi, 2009).

The present situation is that about 4750 acres (1922 ha) of land is still in the possession of the farmers though it was forcibly sold to KV Rao and the moneys was received. The farmers are refusing to part with their lands. After the ONGC's exit the GMR Group, an infrastructure major, is known to have entered the KSEZ with 51 per cent equity. While the original plan was to develop an SEZ and oil refinery, the GMR seems to be interested in building a huge thermal power plant in the acquired lands. This was never

envisaged originally and the blueprint for the SEZ as required by the Ministry of Commerce, Government of India seems to have not been submitted so far. The agitation against the KSEZ is picking up again with the thermal plant coming to the fore. This is especially so with the fresh memories of the valiant struggles of the farmers and fishermen in Sompeta and Kakrapalli in Srikakulam district in which some protestors were shot dead and scores were injured by the police (July 2010 and February 2011). The affected people are feeling confident that, with an already a protracted and heroic struggle behind them against the KSEZ, they will be able to fight the thermal plant proposed by the GMR Group.

Box: 6.4

Spearheading the Struggle

The 'Kadali' (meaning Sea in Telugu) network played a significant role in the struggle against the KSEZ from initial days of the proposal to set up a refinery by ONGC. This was formed in 2004 comprising of fishermen, dalits, and farmers. The network was involved in a prolonged campaign against land acquisition and its impact with 103 polluting chemicals on environment; air and water bodies. People belonging to Fisherfolk, Dalit, Adivasi, Kapu, Golla, Yadava, Gouda communities etc. joined the movement. Later other peasant families from Raju and Brahmin communities also protested against this SEZ. Kadali network also mobilized 50 women from 16 villages who also played a key role. They were also involved in defacing and deforming the official boards of KSEZ and sometimes even removing them (Conversation with K. Rajendra, leader of the Kadali network).

Leader of the Kadali network, K. Rajendra, hails from the Scheduled Caste community and played a key role in spreading awareness on several issues in the region (even before the KSEZ came into the scene) and had an organized group of volunteers. His previous work on issues of child labour, bonded labour, displaced people etc. established his credibility as an organizer and established personal contacts in the area. This came in handy when the issue of building resistance against the KSEZ became important.

KSEZ Vyathireka Porata Committee (Anti-KSEZ Struggle Committee) is another platform that emerged with farmers, agricultural labourers and fisherfolk to protest against this SEZ since 2007. Some farmers were even prepared to return the compensation back to the Government and refused to part with the land. Around 2600 acres of land has been attached to court in this process (Seethalakshmi, 2009).

Tribal lands – Polavaram Irrigation Project

Introduction

The Polavaram project (across Godavari river in Andhra Pradesh) was conceived in the 1940s. Over 276 tribal villages spread over 9 mandals in the agency areas of Khamam, East and West Godavari districts are expected to be submerged under the reservoir. According to the 2001 Census, 237,000 people will be displaced. About 53.17 per cent of the displaced people will be tribals. Tribals and dalits together account for 65.75 per cent of the displaced. The natural resources, cultural systems and traditional knowledge etc. of all these people are closely tied to the forest and the land they inhabit. With the loss of the land, minor forest produce, tubers, leaves, indigenous medicinal systems, common property resources that support human population and livestock, etc, the very existence of these communities will become unsustainable (Trinadha Rao, 2006).

This has been one of the highly controversial projects in AP. The upper riparian states of Chattisgarh and Orissa are not fully agreeing with the views of the government of AP. The disputes relate to the potential benefits of irrigation and power generation, extent of submergence of tribal habitations, loss of vast stretch of rich forest, loss of flora and fauna, loss of endangered species, project designs, threat of inundation of several towns downstream in the event of breach of the dam etc. The human rights groups are especially opposed to the displacement of such a large number of tribal people from their habitations when the entire beneficiaries are going to be elsewhere (Balagopal, 2006; Trinadha Rao, 2006; Shukla, 2006; Rama Mohan, 2006; Hanumantha Rao, 2008; Vidyasagar Rao, 2006). It is feared that about 1.06 million people in 10 towns including Rajahmundry city and 3.1 million rural people in 50 mandals of West and East Godavari districts have to live in perpetual anxiety about the safety of the dam, in case the Polavaram dam breaks (Shivaji Rao, 2006).

There are several pending issues but the Ministry of Environment and Forests, Government of India recommended clearance to the project in its meeting on October 19, 2005 which is still controversial. The final word is not said yet on this. Meanwhile the GoAP has gone ahead with acquisition of tribal lands, fixing and paying of compensation. Some resettlement colonies also have been built. Even before the foundation stone was laid for the dam, the GoAP has sanctioned works for the construction of the right main canal on November 8, 2004. Even now the human rights forum (HRF) has demanded changing the design of the project based on an alternative prepared by a retired engineer. The changed design, they argue, will yield the same benefits as the existing design but will drastically reduce submergence of the forest and displacement of the tribals (*The New Indian Express*, Hyderabad, 24 March 2011).

Disaster Preparedness Network (a group of 27 local NGOs), inspired by Manya Praanta Chaitanya Yaatra of 1991, has been fighting for the cause of the project affected people in seven mandals of Khammam district since August 2004. The network constituted all-party committees at the mandal level and chalked out action programmes to raise awareness among the people on the impact of the project on their lives and environment. The network helped all the panchayats in the nine submergence mandals of Khammam district to pass resolutions against the construction of the project and also conducted a field survey on loss of resources and livelihood in three villages. The group is now making efforts to negotiate with the government on behalf of the villagers for effective rehabilitation prior to construction (Rama Mohan, 2006). Many voluntary organizations as Suryodaya Samajam and tribal people's associations as Girijan Sanghams, together twenty one (21) organizations and people from all political parties carried out a 'padayatra' (foot-marc) across all the tribal villages that are going to be affected by the Polavaram project. Recently in February 2011, the HRF organised padayatras (walking through the villages) for two days in raising awareness against this project in the affected villages.

The brunt of the problem is going to be faced by Khammam district wherein 205 habitations (122 revenue villages and 83 hamlets) spread over seven mandals are facing displacement. Among all the 9 mandals, highest displacement occurs in Kukkunur and Kunavaram mandals of Khammam district. The STs account for about 75.67 percent of the affected population in Chintoor mandal and 61.11 percent in Polavaram Mandal. Many hamlets are very small in size.

In two-thirds of the habitations (in 184 out of 276), the tribals constitute more than 50.0 percent of the population. Only in 33.3 percent of the settlements (92 out of 276) the non-tribals are in majority. 64 settlements have 100 percent tribal population, with the largest number in V.R. Puram mandal with 14 such settlements followed by Devipatnam with 13 (Table 7.1). Nearly two-thirds of the affected population is concentrated in four mandals viz., Kukkunuru, Kunavaram, Chinthuru and Velairpadu while most of the affected land (40 percent) is in Kunavaram and Kukkunuru mandals.

It may be noted from the Table 6.2 that a large area of about 73,025 acres (29552 ha) of land has been requisitioned from only four divisions in Khammam district. Of this, nearly 50 percent (36097 acres or 14608 ha) has been acquired and handed over to the project authorities so far. Of this, 25071 acres (10146 ha) is patta land that has been taken over from private people.

Table 7.1: Features of Affected Villages in 9 Mandals in Polavaram project (as per 1991 Census)

S.No.	Name of the Mandal	District	% of affected STs	% of affected SCs	% of affected BCs	% of affected FCs	No. with 100 % STs	No. with High Density STs
1	Chinthur	Khammam	75.67	2.78	12.18	9.38	4	10
2	Velairpadu	Khammam	54.13	14.24	17.15	14.48	10	21
3	V.R. Puram	Khammam	53.23	4.14	37.35	5.28	14	26
4	Kukkunur	Khammam	21.46	29.59	25.00	23.96	4	9
5	Kunavaram	Khammam	51.33	13.77	22.00	12.91	9	21
6	Bhadrachalam	Khammam	28.61	22.92	25.91	22.55	0	2
7	Burgampadu	Khammam	13.08	39.08	29.90	17.94	0	1
8	Polavaram	West Godavari	61.11	10.82	13.62	14.45	10	18
9	Devipatnam	East Godavari	51.80	8.30	20.83	18.87	13	22
Total			45.60	16.18	22.66	15.54	64	130

STs= Scheduled Tribes, SCs=Scheduled Castes, BCs= Backward Castes, and FCs= Forward Castes

Table 7.2: Land Acquisition in Khammam District for Polavaram project

Sl.No.	Special Deputy Collector	Requisitions for Land	Acquired (Cumulative) & Handed Over				Balance
			Patta	Govt.	Assignment Land	Total	
1	Palavancha Unit-I	17414.86	6260.2	2669.81	408.48	9338.49	8076.37

2	Palavancha Unit-II	8625.76	3512.66	1717.62	940.59	6170.87	2454.89
3	Bhadrachalam Unit-I	13034.94	4404.24	839.84	132.45	5376.45	7658.41
4	Bhadrachalam Unit-II	33949.1	10894.18	3285.3	1031.67	15211.15	18737.95
		73024.66	25071.28	8512.57	2513.19	36097.04	36927.62

Source: Office of the Special Collector, Land Acquisition, Khammam district for Polavarm project.

Misinformation about Displacement

Khammam district is the most affected district in regard to land acquisition due to submergence of Polavaram Project. Project affected persons and families are in despair raising voice of dissent and resentment now and then. The government officials gave less information or misinformation when they came to gramasabhas. When the people of Chatti village in Chintur Mandal of Khammam district were asked about their approval in gramasabha, they denied their approval and so the alleged approval was concocted one. (Box7.1)

Box: 7.1

Fictitious Resolutions of Gram Sabhas

The officials claim that they got the resolutions of Village Panchayat and the Gram Sabha. The fact is that they never held any such meetings with this specific agenda of displacement and resettlement. They concocted the so called resolutions of acceptance. Thus, they claim that all the villagers have accepted for the displacement and consequent R&R which is not true at all. – *People of Chatti village.*

The government officials also are over publicizing about the R&R package of the GoAP and the people of Chatti village think that it may remain as promise: “The officials are promising that the government is going to give a good R&R package, as a part of which will get good facilities - house, school, temple, hospital, drinking water and drainage etc. in the new settlement. They also showed us of the model village through a wall poster and they also distributed pamphlets about this. They also tried to convince us of that we will not have problems of floods every year as is the case now since we are residing beside the Godavari river bank. They insist that it is better to leave this place and also warned us that if we don’t go we will be the losers”. This is the common refrain in several villages by the local people. The opinions of the villagers were never taken into account and were even threatened that if they don’t accept the compensation now, they will have to face more hardships later (Boxes: 7.2 and 7.3).

Box: 7.2

Gram Sabha as a Ritual

“Gram Sabha was held only once for 2 hours for the purpose of declaring the acquisition of land. It was held as a ritual. We are angry at the government showing so much interest in this project, at the cost of lives of the people. If shifted from this place, we may become paupers for several reasons. The place we are residing now is with beautiful atmosphere, nature’s gift in the midst of forest and river bank, and with a variety of trees. But in the R&R village, there is no scope for such kind of climate and atmosphere”. – Ms. Basaboina Soujanya, belonging to SC category, Vinjaram village (Kukkunoor mandal).

Box: 7.3

If you don’t accept now, then you have to go 180 km

The officials pressurised the villagers to accept the compensation, by creating fears about having to take it later from the district headquarters of Khammam, travelling 180 km away. The gramasabha was held by the officials and the villagers were told that the government took a decision to build the dam and they must vacate the villages.- K. Appa Rao, Vinjaram village.

The people in the affected villages are very clear in their perception that the Polavaram Dam is going to be built to benefit other regions of AP: “It is for political gains by developing the other regions or areas. We are the people in this area who are going to lose 100 percent and the people of other regions are going to gain 100 percent. In such a case why we should we sacrifice”. “In such a case, either the people who are going to benefit from the water of this project have to compensate us or the government which acts on behalf of them has to compensate in such a way that we should not be subjected to miseries in the next generations. Such compensation should be more than 10 times that has been announced. So we demand that such compensation-related R&R package should be proposed, and only then we accept for the displacement”. That is how the villagers are arguing.

The people think that the affected people are mostly residing in the villages on the bank of the river Godavari and the forest areas, they lose lot of nature's care and beauty which they have been enjoying in their lives so far and also the benefits of the forest produce. Thus, they say: "We should get the same ambience as we get in the present village. We should get land in place of our displaced lands, i.e., by land to land package. We should be given cattle sheds built beside our residences in the new village, just as they are now in the present village. Further, there should be sufficient open uncultivated lands for the purpose of grazing the cattle". Further, they are going to lose the benefit *podu* land cultivation from the forest. A tribal family may be cultivating 3-4 acres of patta land and, simultaneously, an additional 5-6 acres of forest land without having a patta called as *podu* cultivation. Because of this, the tribal families are leading comfortable life. If they go to outside areas due to displacement, they will not have opportunities to enjoy the fruits of forest land. This also fills the minds of the tribals with fears.

Government's Promises Not Trustworthy

The villagers do not believe that the government will implement its own R&R package, let alone as demanded by them. Because they feel the experiences of the displaced people under Nagarjuna Sagar and Srisailem projects have been very bitter. They feel that the government is trying to deceive them through false promises of providing better facilities. They feel that they are psychologically disturbed by the unilateral decisions of the government. They feel that they have a settled life at the present place. It will take at least a generation to lead similar stable and sustainable livelihoods if they leave this place. The package to be given should be in accordance with the socio-economic and cultural values of the tribals so that it is acceptable most of the people.

The Orissa and Chattisgarh state governments have submitted petitions in the Supreme Court as nearly 80 villages are going to be submerged in those states by the Polavaram Project. They have been extending cooperation and solidarity to the struggles waged by the NGOs opposing this project and thus also feel enlightened by them. The consciousness has been raised among all the people because, they feel, the governments voted into power are disempowering their right to live.

Peculiar Revenue Administration

The Revenue Administration as is usual with its attitude towards people also behaves in a similar way in Polavaram Project area. The revenue officials have not updated the land records properly and so this causes several problems in the settlement of compensation. Further, the officials have been threatening or forcing the villagers in the project area to accept R&R package and compensation for lands and homesteads acquired. In the post-liberalisation scenario, the officials are playing pro-active role in favour of the state.

Effect of Non-Updating Land Records

By the R&R package where the resettlement will be made is not known and by what time it will be done is not known. As the land records are not prepared and updated from time to time, there are several problems and sometimes violent situations also are arising. For instance, if an owner with patta/legal title has four sons, and when he dies, all the patta is made in the name of his eldest son. The other three sons also will be enjoying the benefits of the land by cultivation i.e., the three sons are entered as cultivators but not as pattadars. In such case when the compensation has been given by the government, the cheque is received by the eldest son/brother. The present situation is such that, if the eldest brother is, somewhat sympathetic, reasonable and with good intentions, he will distribute the compensation amount among all the brothers without any problems. But in some cases, there are adverse consequences when the eldest brother doesn't like to distribute as per the actual share of other brothers. Due to such situations there are sometimes violent incidents and disputes among the brothers in the villages creating a law and order problem (Box: 7.4)

Box: 7.4

Pitfalls of Non-updating of Records

As regards the land purchased by some farmers prior to 1970, the land title/patta was still on the names of the original owners. The pattas have not been changed in favour of the purchasers. Thus, when the compensation was awarded, it was in the name of the earlier owners. If the old owners were good, they shared the money with the purchasers in different ratios, mostly on 50:50 basis. The purchasers were helpless and could not do anything if the previous owners did not give any share.

The government officials claim that as the houses are any way going to be submerged, there is no need for sanctioning pucca houses in the existing villages. But, at the same time, the Government is constructing a black-topped road from Burgampad to Aswaraopet, and also widening the road when these areas are also going to be submerged. The villagers suspect that such acts are done with ulterior motives of swindling public funds by the officials and contractors (Box: 7.5).

In the beginning the farmers, agricultural labourers and other villagers were opposed to take the compensation. However, the big farmers expressed their willingness to get compensation. Later the small farmers also feared that if they do not take compensation they might lose. Once the big farmers accepted the compensation, there arose disunity on the issue. Many people received compensation at the rate of Rs.1.15 lakh per acre. But they will not be able to purchase land at this rate, as the land rates have gone up from Rs.4-6.00 lakhs/acre.

Box: 7.5

Houses denied but other facilities are being built in Present Village

Main roads are being built, CC roads are being built within the colony, tribal schools are being built and government offices are being constructed. But pucca houses under Indira Awas Yojana are not sanctioned to the poor on the pretext of submergence. People began to raise the question: "why not the same logic of submergence is applied to the other government constructions and buildings?"

It appears to the villagers that the development has been stopped in many of the present villages. The banks are not giving loans to the farmers because the lands were taken over by the government. The only (unofficial) arrangement with the people in several villages is that they can continue to live there till the water comes into the dam and submergence warning is given by the government. The government is not sanctioning funds to their village panchayats (eg. Vinjaram village). Though there is severe drinking water problem in Vinjaram village, no action is being taken from the government. In summers, they get water for drinking and other purpose from 2 km away. The officials are not heeding to their request. In contrast, a new road is being constructed at a huge cost of Rs.10 million/km fully knowing that this road also will be submerged.

In Koida village most of the villagers have only 2-3.00 acres of patta land. Generally the villagers also undertake podu (shifting cultivation) to the extent of 5-10.00 acres per family of forest land. Podu land is not entitled with 'pattas'. Hence no compensation for this. Loss of access to this form of cultivation causes a serious drain on the family incomes and livelihood security of the villages.

In the Gram Sabha of Koida village also the officials told them that they have to leave the village as it is going to be submerged under the project and that it was unavoidable. Further, it was elaborated by the officials that anyway every year their village was being affected by the floods from the river Godavari. They will get better package if they leave the village. But some farmers got cash compensation. Seeing this, others are also demanding that they should be paid cash compensation. The people don't like to leave the village, and all of them feel mentally upset, because of uncertainty and risk involved in the settlement of their lives in the new village. The villagers don't believe the promises made by the government fully. But they feel it is unavoidable to leave the village and fear losing many constitutional safeguards that they enjoy at the present places (Box: 7.6).

Box: 7.6

Tribals will lose Constitutional rights after displacement

More important, the adivasis in their present habitat, i.e., the scheduled areas, enjoy a unique set of constitutional rights and privileges, that would no longer be available, once they are uprooted from the present village. This is indeed a serious matter of violation of human rights! In an all-party meeting recently, the AP government officials tried to gloss over this issue by merely suggesting that wherever the displaced adivasis would get resettled, those areas would in turn be notified under the Fifth Schedule of the Constitution! These officials were blissfully unaware of the fact that similar proposals to include some villages under the Fifth Schedule about two decades ago are still languishing in the corridors of the central secretariat. Such false assurances would only diminish the credibility of the government in the eyes of the adivasis (Sarma, 2006).

Corrupt Practices to Provide Compensation to Marginal and Small ST Landholders

Compensation is provided in different forms to tribals and non-tribals. The non-tribals get cash compensation irrespective of the extent of land owned by them. Whereas for tribals, the

compensation is provided in two ways: (i) land to land compensation up to the extent of 6.25 acres; and (ii) cash compensation for the land in excess of 6.25 acres. That is, a tribal family will not get any cash compensation if the land owned by them is 6.25 acres or less.

The authorities assured both the tribals and non-tribals that they would be allowed to cultivate their lands till the dam is constructed and water impounded in it though officially the land is acquired by the government. In such a case, the non-tribals have double benefits: (a) they get cash compensation immediately and (b) they can enjoy the land so long as the dam construction goes on, say for 10 or 15 years. But tribals who mostly own less than 6.25 acres will get only a single benefit, that is, of cultivating their existing lands till the dam is completed but will not get any cash compensation. Now, in many villages, the tribals also want to get the benefit of cash compensation for which there is collusion of the brokers, revenue officials and lawyers who get some proportion of the amount so obtained from the tribal people. The method adopted is as follows:

Box: 7.7

**A.P. High Court Judgement in the Case of Sarapu Chinna Potharaju
Dora vs. East Godavari District Collector**

The decision of the District Collector and GoAP for acquisition of the lands in Surampalem, Donelapalli, Kothada and Tekuluveedhi villages of Gangavaram Mandal in East Godavari District (Agency Area) for construction of Surampalem Reservoir was assailed in this writ petition.

The Central Government has enacted an Act to provide for extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas titled "The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996" (Act 40 of 1996). The said Act inter alia provides under sub-section (1) of Section 4 that "the Gram Sabha or the Panchayats at the appropriate level, shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas." The Union of India issued instructions to describe the modalities of consultation with the Gram Sabhas or Panchayats and the procedure to be followed for acquisition of the land in the Schedule Areas. Part-I of the said instructions prescribes the procedure to be followed by the requiring bodies for initiating land acquisition proposals. The instructions inter alia provide that all the requiring bodies initiating any land acquisition proposal for acquiring any land in the V schedule area, shall require to enclose with their land acquisition proposals, inter alia, the following:

(i) Gram Panchayat-wise schedule of land proposed to be acquired.

(ii) A separate letter of consent from each of the concerned Gram Panchayat in favour of the proposed acquisition of land, with or without modifications, as the case may be. Such letter of consent shall be specifically enclosed with the land acquisition proposal, before sending it to appropriate authority. It is further clarified that such letter of consent may be obtained in the form of a written resolution of the Gram Sabha.

In a village, some families within a lineage come together and execute the sale of their lands (mostly brothers/cousins with a common surname) in the name of a single person. The legal document will be signed by all the members. For instance, if eight persons have a total land of 50 acres, then a single person on whose name this sale document is executed would become the owner of 50 acres. Then this person will be entitled to a compensation for 43.75 acres (i.e. land in excess of 6.25 acres). Then all those persons who executed the sale will share the amount in proportion to the land owned by them.

There is a long term danger here. When the land-to-land compensation is to be provided, it will be done only for the one person in whose name the sale deed was executed. Are the tribals not aware of this? They are. Many of them feel that this project may not be completed in the foreseeable future. That feeling is making them take the risk of registering their lands in others' name for the short-term benefit of cash. The collusion of officials is a key component of this. Because, as per the Land Acquisition Act, the lands, once notified for acquisition, cannot be transacted between the individual parties privately.

As per the AP High Court Judgement, dt. 12.02.2002, in the Case of Sarapu Chinna Potharaju Dora vs. East Godavari District Collector, (Writ Petition No. 8476 of 2001) the High Court reiterated the procedure to be followed in the Scheduled Areas for acquiring land for irrigation project (Box 7.7).

8 Summary and Conclusions

Introduction

This study has been taken up in the context of the large scale acquisition of agricultural lands for Special Economic Zones (SEZs) and other projects in India. This has become an issue of serious political and social contestation in recent years. In the state of Andhra Pradesh (AP), land acquisition for irrigation projects, SEZs, and industrial and power projects have become major issues of contention. Land administration and the land rights of the vulnerable groups of people have become major issues of public concern. Majority of the land losers are small and medium farmers, and tribals whose livelihoods are adversely affected. There has been widespread resistance against forced acquisition of agricultural lands in several parts of India - West Bengal (Nandigram and Singur), Maharashtra (Raigad district), Andhra Pradesh (Kakinada SEZ and Srikakulam district). The rural people were prepared to face police bullets and death. Several people have died in police firings and many more have been injured in these struggles. The study has been confined to an analysis of the land laws, land administration, assignment of lands, land acquisition, resettlement & rehabilitation policies in A.P. For a deeper focus, Kakinada SEZ and Polavaram irrigation project have been selected.

Land Surpluses

The state of Andhra Pradesh was formed on 1 November 1956 by merging the Andhra state (formed in 1953, on separation from Madras Presidency) and Telangana region of the erstwhile Hyderabad state which was under the Nizam's rule for several centuries. Being under different set of paradigms before 1956, the two regions experienced different land tenures in agrarian and land relations. The main aspects land reforms are: (i) Abolition of Intermediaries, (ii) Tenancy Reform, and (iii) Ceiling on Landholdings. The first major ceiling law that was enacted was "The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961". But it was considered so weak that it could not achieve anything. The failure in implementation of this Act may be attributed to many weaknesses and loopholes in the Act.

After the peasant uprisings in 1960s and 1970s in India (The Naxalbari in West Bengal, Srikakulam in Andhra Pradesh, and other struggles), a new ceiling law, the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act 1973, was enacted. Though the new law did not make any radical impact, it could achieve better results compared to the earlier one. It was felt that the Government and the ruling elites in India brought out land reform measures as radical ideology to stay on paper, but there was reactionary programme in implementation. The government of AP appointed a Land Committee in 2004 to study various aspects of the land issues in the state. The government has accepted the Land Committee recommendations on ceiling surpluses, land and tenancy. It has agreed to “reopen cases of Land Ceilings, wherever the cases have been decided basing on fraud and misrepresentation of facts”.

Scheduled and Tribal Areas

The *Fifth Schedule* of the Indian Constitution provides protection to the tribal people living in the Scheduled Areas of nine states in the country from alienation of their lands and natural resources to non-tribals. The Sixth Schedule applies to the tribal areas of the North-eastern states in India. The Scheduled Tribes (STs), also referred to as adivasis (original inhabitants), have certain constitutional protections. There are also specific laws to protect tribal lands. They constituted about 8.2 percent in population of India as per 2001 census. In the state of AP the Scheduled Areas (SAs) are spread over nine districts. There are 35 identified groups in the STs in AP.

The AP Scheduled Areas Land Transfer Regulation (APSALTR) Act, 1959 proscribed the transfer of tribal lands to non-tribals and also provided for retrieval of tribal lands illegally acquired by the non-tribals. This Act was not implemented with the seriousness it deserved. Stringent amendments were made later which came to be known as Land Transfer Regulation-I (popularly known as Regulation-I) of 1970. It provided that the non-tribals could transfer their lands only to tribals or to the government, and could not sell them to other non-tribals. It also assumed that, unless the contrary is proved, any land in the possession of a non-tribal in the SAs would be deemed to have been acquired from tribals. But it was not given a retrospective effect.

With a view to conferring ‘patta’ rights (legal titles) on tribal farmers and putting in place proper land records after due survey, the government of A.P made three regulations: 1. A P Mahals (Abolition and Conversion into Ryotwari), Regulation 1 of 1969; 2. A P Muttas (Abolition and

Conversion into Ryotwari), Regulation 2 of 1969; and 3. AP Scheduled Areas Ryotwari Settlement, Regulation 2 of 1970. It turned out that the purport of these three regulations was to tell the non-tribals that if they could produce some evidence to show that they were in possession of the lands in the preceding eight years, they could automatically get legal titles. It was very easy for the non-tribals to produce such evidence. In course of time, successive governments passed a series of executive orders, which further diluted the provisions of the Regulation-I of 1970. The stark reality is that about 50 per cent of cultivable land in the Scheduled Areas of Andhra Pradesh is under the occupation of non-tribals. If the government is really interested in the welfare of tribals, it should amend the Regulation-I of 1970 so as to give it retrospective effect and to make it override other Acts and Regulations, and enforce it effectively.

In violation of Regulation-I of 1970, the government issued an order in 1979 permitting the non-tribals in occupation up to 5 acres of wet lands and 10 acres of dry land to keep their possession. But the High Court of AP quashed this order in 1984. Despite this, the non-tribals continue to occupy the lands due to the connivance of the revenue officials and the non-tribal landlords. In course of time the non-tribals started to demand de-notification of certain villages from Scheduled Areas on the ground that the non-tribal population constitutes the majority in such villages. This situation is the result of large influx of non-tribals into tribal villages.

It is estimated that about 48 percent of land in Scheduled Areas has gone in to the hands of non-tribals. There has been no systematic effort to check the land transfers to non-tribals. Some of the reasons that led to this situation are: no access to the record of rights (ROR); incompetence and inexperience of the revenue officers; money lending; lack of investigation into the occupation by non-tribals; the non-tribal men entering into marital relationships with the tribal women and purchase land in the names of tribal wives; purchasing land in the names of their tribal servants; procuring false caste certificates as STs and gain legitimacy to occupy tribal lands; industrialisation and privatization; setting up of power projects; right to property being a mere legal right i.e. not a fundamental right; and fictitious adoption of the non-tribal children by the tribal families etc.

In a landmark judgement the Supreme Court of India, in the case *Samata vs. Government of Andhra Pradesh* (1997), viewed that the transfer of land in Scheduled Areas by way of mining leases to non-tribal people or companies is prohibited by the Fifth Schedule and Section 3 of the

Regulation of the LTR Act. Yet, the state government is pursuing a policy of inviting private bidders and investors into the tribal areas in the name of economic development.

The Forest Rights Act, 2008 tried to undo some of the 'historical injustices' of the past and recognized the forest rights and occupation of forest lands by the dwellers who have been residing in such forests for generations but whose rights could not be recorded. This Act also gives primacy to the Gram Sabha in deciding several aspects of the development in tribal areas. However, the attitude of the authorities has not been positive in conducting the Gram Sabhas.

Assignment of Lands to the Poor

The first policy instructions for assignment of lands to the poor were given in Andhra Region in 1954 and this became a basis of the subsequent Orders later. Lands at the disposal of the government should be assigned only to landless poor persons who directly engage themselves in cultivation. The maximum extent of land to be assigned to each individual shall be limited to 2.5 acres of wet, or 5 acres of dry land in such a way that the total land owned by a person (including the assigned land) shall not exceed 2.5 acres of wet or 5 acres of dry land. Certain class of lands like tank-beds, foreshore of tank-beds, cattle stands, grazing lands, lands reserved for any public purpose, such as schools, playgrounds etc. cannot be assigned. The assignment of lands shall be subject to the following conditions: (i) Lands assigned shall be heritable but not alienable; (ii) preference shall be given to the village where the lands are situated; (iii) Lands assigned shall be brought under cultivation within three years; (iv) No land tax shall be collected for the first three years except for the extent, if any, which has already been brought under cultivation.

Over the years it has been found that a lot of lands assigned to the poor people were not in their possession. To prevent this trend, the Government of AP brought out The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. This Act is meant for the protection and benefit of the genuinely landless poor persons. This Act is retrospective in operation and applies also to transactions of sale prior to the commencement of the Act. The alienation of lands assigned to the poor for cultivation or dwelling to any other person is punishable under this Act. The transfer of assigned lands is not possible under any circumstances and under any other law in force. If any document is executed for the purpose of transfer it would be invalid and illegal.

The State's official record of lands assigned to the landless poor shows that 4.25 million acres (1.72 million hectares) have been assigned to 2.92 million households. However, very less is in their hands despite the above mentioned Act. The poor are known to have sold their lands due to exigencies in their family problems. The Land Committee in AP (2006) noted that there is a lack of effective executive machinery at field level to ensure that poor do not lose lands. The GoAP has accepted the 104 recommendations made by this Committee. One has to see how they are implemented. The Committee opined that the executive must be compelled to perform its role in a systematic manner, which has been almost forgotten.

The Committee recommended some amendments to the existing Acts to suit the changing realities and the present day requirements in order to strengthen the process by which poor can gain access to land and retain it. It felt the mechanics of land administration have remained inaccessible to the people at large. The community should be involved at all stages of land management, especially of the government lands. The assignment proposals of the government lands should be approved by the Gram Sabha. Legislative and administrative measures would be required to formally usher in and strengthen the participation of the community in the land assignment process and thereafter. A landless poor person shall be redefined as or the one who owns no land or a person who owns not more than 1 acre of wet or 2 acres of dry land.

Land Acquisition and Resettlement & Rehabilitation

The debate regarding land acquisition for various purposes has become intense in the last decade in India. The Land Acquisition Act (LAA), 1894 enacted by the British in India has been followed by the Indian governments also with some modification/amendments. The Act gives prominence to the 'eminent domain' principle i.e. pre-eminence of the State.

Public Purpose

The phrase 'public purpose' was neither explained properly in the LAA, 1894 (as amended in 1984) nor interpreted by the Government itself in the right sense. 'Public purpose' is the justified reason for the acquisition of land. Under the definition, Section 3(f) of the Act, land acquisition for public purpose includes: provision for village sites, extension, development or improvement of village sites; provision of land for town or rural planning; land for planned development from

public funds; land for a corporation owned or controlled by state; land for residential purpose or landless poor, people affected by natural calamities, or to persons displaced, or for the people affected by reason of the any scheme undertaken by government or any local authority or a corporation owned or controlled by the State; provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by government. It does not include acquisition of land for companies.

The basic question is whether the use of the LAA by the Government for the acquisition of land for SEZs is at all justifiable in the eyes of the law. Section 44(B) of the Act provides that except for construction of houses for their employees to live in, Government cannot acquire land for a private company for any other purpose (as per Clause(a) inserted in 1933 in the Subsection 1 of Section 40). Till date section 44(B) has not been amended. The land that is now being taken away by the Government from the farmers under the provisions of this Act is handed over to private developers for SEZs or other projects. The developer in turn can rent it out to industrialists. This whole process is in violation of the provisions of the Land Acquisition Act.

There is no guiding principle in the SEZ Act as to how the land should be used by the developer. How the developers have to allot land to the industrialists is also not clearly specified. The SEZs are also displacing people on a large scale. In coastal states like Andhra Pradesh, some SEZs are located along the sea coast, cutting off fishermen's access to the sea from which the latter eke out their livelihood. In many places, small agriculturists are thrown out of their homelands and, along with them, those that depend on agriculture. The Constitution requires the gram sabhas to be fully involved whenever decisions that might lead to dislocation of people are taken. The government should recognise the inherent rights of the local communities to resources such as land, water, minerals, forest wealth, etc. The Supreme Court of India found that the power to determine a public purpose is primarily that of appropriate Government, yet it can be questioned on substantive grounds.

At the time when the LAA was enacted, the public activity was largely confined to acquisition of small pieces of land either for roads, public buildings, housing colonies etc. There were no public ventures of the kind of large dams submerging thousands of villages. In the post-Independence period, the same Act has been used to acquire large areas of land for irrigation

projects and public sector undertakings.

‘Eminent Domain’ - Eminently Discardable

The ‘eminent domain’ principle is an English notion – that the sovereign has supervening right over everybody’s property – borrowed by the Supreme Court to defend the State’s power to effect land reforms. It is considered a failure of Indian jurisprudence that even when the courts wanted to defend good things they have relied on the importation of safe principles from the English law rather than risk looking at the welfare dimensions of the Indian Constitution itself. The notion that the state is a trustee of natural resources on behalf of the people is another such principle. Like the principle of eminent domain this one too is class neutral and can turn against the poor, whereas if the courts had relied on the directives in Part IV of the Constitution, they would have found support for land reforms and cannot be turned against the poor.

A completely new law is needed for land acquisition for private companies, which must have written into it a clear and unambiguous definition of what is public purpose and must encompass the framework of a comprehensive scheme of rehabilitation which will guarantee full protection of livelihood opportunities and community life, devised in a manner that ensures that the scheme as operationalised meets with the satisfaction of the displaced.

The Land Acquisition (Amendment) Bill, 2007 proposes to amend the LAA, 1894. Regarding the definition of ‘public purpose’ it proposes to include three kinds of projects: (1) Projects that are of strategic defence purposes; (2) Infrastructure projects which include construction of roads, highways, bridges, mining activities, generation of electricity, water supply projects etc.; and (3) Projects for ‘any other purpose useful to the general public’ which is to be carried out by a ‘person’, which essentially means companies or private individuals.

The Main critique of the proposed amendments in the Bill are: land acquisition on behalf of a ‘person’, now brings private purpose into the definition of ‘public purpose’; the wordings like “any other work vital to the state” can be misused to legalise acquisition of land for any purpose; further, the proposed amendment allows private persons to acquire huge tracts of land to the extent of seventy percent of the requirement and then ask the government to help them acquire

the remaining thirty percent; there is nothing in the Bill to suggest that housing for the urban poor by the state or educational, health and other institutions will be covered in 'public purpose' which indicates a bias against the rural and urban poor; and clauses relating to previous consent and enquiry by the Government under Sections 39 and 40 of the LAA, 1894 have also been done away with now, giving more scope for acquiring land for private companies etc.

In view of these provisions, the proposed Amendment Bill 2007 to the LAA has become more controversial and has been termed pro-industry and anti-people by the activist groups. In the popular psyche a certain kind of refrain came to the fore – that is, the 'public purpose' under the colonial regime was more public whereas the elected governments in India have become more anti-people.

Resettlement and Rehabilitation Policies in Andhra Pradesh

The Land Acquisition Act, 1894, can only fix some compensation but not for overall opportunity costs of their uprooting from habitats, i.e., complete social, religious, cultural and material ways of life. Most of the pre-1980 projects in India did not have a clear-cut R&R plans. The existing R&R policies are the result of concerted struggles by social activists, people's movements, academicians and NGOs. The National Rehabilitation Policy, announced in February 2004 by the GoI, was an outcome of several years of efforts towards a model rehabilitation policy for the entire country. The Policy states that displacement of tribal people should be kept to the minimum and undertaken only after the possibilities of non-displacement and least displacement have been exhausted. Persistent lobbying and campaigns by civil society organisations and concerned individuals at all-India level persuaded the government of India to revise this policy again as the National Rehabilitation and Resettlement Policy, 2007. With the taking up of several irrigation projects under Jalayagnam, the GoAP came out with a policy on R&R in 2005 for the Project Affected Families (PAFs) and claimed that it is the best R&R package in the country.

Kakinada SEZ

At the instance of the Kakinada Sea Ports Ltd (KSPL) the GoAP had recommended the setting up of an SEZ at Kakinada in 2002 with private sector investment. Later the public sector Oil and Natural Gas Commission (ONGC), KSPL and the Infrastructure Finance & Leasing Services

Limited (IL&FS) entered into a Memorandum of Understanding (MoU) on 31 August 2004 to set up an oil refinery and a port-based Special Economic Zone (SEZ) at Kakinada with ONGC as the single largest shareholder. In the next month, the ONGC had signed an MoU with the GoAP to set up the refinery through its subsidiary, Mangalore Refinery Private Limited (MRPL).

About 9869 acres (3994 ha) of land was to be acquired for this purpose in 16 villages in Kakinada rural and U. Kothapalli mandals. Later Kakinada rural mandal has been dropped and Thondangi mandal was selected for land acquisition. This change of site is known to have occurred at the behest of influential people who had real estate interests in Kakinada rural mandal. Further, the claim of the authorities that the proposed lands for acquisition in Thondangi mandal are dry and yield low incomes has infuriated the local villagers. Three crops could be cultivated in several villages. Agriculture in these areas is dominated by small and medium farmers. The dalit and backward class communities also depend on agriculture either as small farmers or farm labourers. There is also a large fishing community here.

As soon as the GoAP issued notification for acquisition of lands for the ONGC (to develop the oil refinery and KSEZ), the farmers started protesting vigorously. By that time, 'Kadali network' (a civil society organization) had already started its awareness programmes on the impact on the sea and livelihoods of fishermen. Later the ONGC withdrew from establishing the oil refinery and KSEZ. The KSEZ was asked to submit a detailed project report for formal approval by 30 June 2006. At this juncture, K.V. Rao, "styling himself as the promoter of KSEZ Pvt Ltd" entered into the scene and had expressed their desire to obtain lands to the extent of about 9869 acres (3994 ha) in two phases in the name of establishing the KSEZ. Later the GoAP issued several Notifications for the acquisition of lands in those villages.

There was a growing opposition from the farmers to the forcible takeover of their lands. The revenue officials and the police, at the behest of the SEZ promoter, have lured, threatened and publicized among the local farmers with an offer of Rs. 3 lakh/acre if sold to the SEZ promoter individually, otherwise the Government will take over in any case by paying only half the amount. The local politicians and other influential people helped the private agencies to facilitate land acquisition. They used coercive methods to force the farmers to sell their lands otherwise

threatening them of denying/withdrawing the welfare schemes of the state government. The farmers were left with little choice. In the process thousands of acres of land has been forcibly sold/taken from the farmers and the same was registered in the name of K.V. Rao and not in the name of KSEZ and he will enjoy absolute ownership. This kind of transaction of a property is illegal once the said property is notified for acquisition under the LAA. It is a forceful land acquisition from the farmers by violating Sections 4(1), 5(1) and 9(1) of LAA. Now the question is how the lands have been registered for K.V. Rao.

By 2006 KV Rao could purchase about 4850 acres (1963 ha) of land as against the total requirement of about 9869 acres (3994 ha). Most of the lands that have been acquired are very fertile with the ground water level at just six or seven feet. Migration is known to have increased from the villages. It has also affected the education of children. Dalits lost their employment and shelter due to displacement. Yadavs lost their trade in livestock and also lost lands. A large number of Kapus and Reddys also lost their lands. Artisans lost their toddy business and weaving activities. Fishermen lost sea-food and livelihoods.

Resistance against SEZ (*SEZ vyathirekaporatom*) started with the awareness campaigns led by human rights activists and NGOs. People were formed into village organizations (*grama sanghalu*) and were enlightened on land laws. Kadali network, a local NGO that has been working in this area for several years on various issues relating to land, environment, livelihoods etc., played a crucial role in organizing the resistance movement. The Struggle Committee against KSEZ (*KSEZ Vyathireka Porata Committee*) is another initiative to protest against the KSEZ since 2007. It included farmers, agricultural laborers and fisher folk. Many farmers who were compelled to sell their lands to K.V. Rao approached courts. The farmers were cheated by lawyers also. The slogan, “stop SEZ with one rupee” became very popular with the local people wherein thousands of people paid one rupee to enroll themselves to strengthen the struggle. The SHRC gave a mid-term order prohibiting acquisition of fertile lands.

The media played an important role in spreading the awareness about the movement. One such instance is live coverage by several television news channels when the police swooped on the villages and put several leaders in jails. Support of the well-known social activists in India like

Medha Patkar, Sandeep Pandey and K. Balagopal was very helpful in getting the resistance get a wider visibility in the country. Many intellectuals extended support to this struggle at Kakinada, Hyderabad and also at Delhi in different capacities. Some of them also visited the struggle areas at different times. Late K. Balagopal, the then state president of Human Rights Forum visited the affected villages many times, conducted awareness campaigns and also provided legal support at Hyderabad. Nearly 350 intellectuals are estimated to have visited these areas and educated the people. Further, the civil society organizations such as Manishi, Madhumitha, Insaf, National Alliance of People's Movements (NAPM), Fisher folk network, Keratam also visited SEZ villages to study the impact of SEZs and to counsel the villagers. The NAPM, led by the well-known social activist, Medha Patkar extended full support to the struggle. Many leading personalities in legal circles like Syed Salar, Ramdas, Bojja Tharakam, Hema Venkat Rao, Vidya Kumar, A. Lakshmana Rao and Muppala Subba Rao either visited the area or/and extended support to represent the case of the farmers in the National Human Rights Commission, Andhra Pradesh State Human Rights Commission, Legal Service Authority, Hyderabad, and A.P. High Court. Such interventions were extremely useful when villagers were arrested and put in jails in the movement. Some legal proceedings are still continuing against the SEZ at several levels of the legal system including the A. P. High Court. Cases have been filed under civil/criminal sections against 450 persons (leaders, farmers, social activists and advocates) who were involved in anti-KSEZ movement.

The present situation is that about 4750 acres (1922 ha) of land is still in the possession of the farmers though it was forcibly sold to KV Rao and the money was received. The farmers are refusing to part with their lands. After the ONGC's exit the GMR Group, an infrastructure major, is known to have entered the KSEZ with 51 per cent equity. While the original plan was to develop an SEZ and oil refinery, the GMR seems to be interested in building a huge thermal power plant in the acquired lands. This was never envisaged originally and the blueprint for the SEZ as required by the Ministry of Commerce, Government of India seems to have not been submitted so far. The agitation against the KSEZ is picking up again with the thermal plant coming to the fore.

Tribal lands – Polavaram Irrigation Project

The Polavaram project (across Godavari river in Andhra Pradesh) is expected to submerge about 276 tribal villages spread over 9 mandals in the agency areas of Khamam, East and West Godavari districts. About 237,000 people are estimated to be displaced. About 53.17 per cent of the displaced people will be tribals. Tribals and dalits account for 65.75 per cent of the displaced. The natural resources, cultural systems and traditional knowledge etc. of all these people are closely tied to the forest and the land they inhabit. This has been one of the highly controversial projects in AP. The upper riparian states of Chattisgarh and Orissa are not fully agreeing with the views of the government of AP. The disputes relate to the potential benefits of irrigation and power generation, extent of submergence of tribal habitations, loss of vast stretch of rich forest, loss of flora and fauna, loss of endangered species, project designs, threat of inundation of several towns downstream in the event of breach of the dam etc. The human rights groups are especially opposed to the displacement of such a large number of tribal people from their habitations when the entire beneficiaries are going to be elsewhere.

There are several pending issues but the Ministry of Environment and Forests, Government of India recommended clearance to the project in its meeting in 2005 which is still controversial. Meanwhile the GoAP has gone ahead with acquisition of tribal lands, fixing and paying of compensation. Some resettlement colonies also have been built. Even now the human rights forum (HRF) has demanded changing the design of the project based on an alternative model prepared by a retired engineer. The changed design, they argue, will yield the same benefits as the existing design but will drastically reduce submergence of the forest and displacement of the tribals.

Disaster Preparedness Network (a group of 27 local NGOs) raised awareness among the people against the project and is also making efforts for effective rehabilitation prior to construction. Many voluntary organizations as Suryodaya Samajam and tribal people's associations as Girijan Sanghams, and representatives from all political parties carried out a 'padayatras' (walks through the villages) across all the tribal villages that are going to be affected by this project. Recently in February 2011, the HRF organised padayatras for two days in raising awareness against this project in the affected villages. They have been extending cooperation and solidarity

to the struggles waged by the NGOs opposing this project and thus also feel enlightened by them. The consciousness has been raised among all the people because, they feel, the governments voted into power are disempowering their right to live.

The brunt of the problem is going to be faced by Khammam district wherein 205 habitations (122 revenue villages and 83 hamlets) spread over seven mandals are facing displacement. Among all the 9 mandals, highest displacement occurs in Kukkunur and Kunavaram mandals of Khammam district. The STs account for about 75.67 percent of the affected population in Chintoor mandal and 61.11 percent in Polavaram mandal. About 64 settlements have 100 percent tribal population, Many hamlets are very small in size. In two-thirds of the habitations (in 184 out of 276), the tribals constitute more than 50.0 percent of the population. Only in 33.3 percent of the settlements (92 out of 276) the non-tribals are in majority.

About 73,025 acres (29552 ha) of land has been requisitioned from only four divisions in Khammam district. Of this, nearly 50 percent (36097 acres or 14608 ha) has been acquired so far. Of this, 25071 acres (10146 ha) is patta land that has been taken over from private people. The people in the affected villages are very clear in their perception that the Polavaram Dam is going to benefit other regions of AP while they are going to lose everything. The officials are promising that the government is going to give a good R&R package with good facilities - house, school, temple, hospital, drinking water and drainage etc. in the new settlement.

The villagers do not believe that the government will implement its own R&R package, let alone as demanded by them. Because they feel the experiences of the displaced people under Nagarjuna Sagar and Srisailem projects have been very bitter. They feel that the government is trying to deceive them through false promises of providing better facilities. They have a settled life at the present places and are psychologically disturbed by the unilateral decisions of the government. A tribal family may be cultivating 3-4 acres of patta land and, simultaneously, an additional 5-6 acres of forest land (*podu* land) without having a patta. Because of this, the tribal families are leading comfortable life. If they go to outside areas due to displacement, they will not have opportunities to enjoy the fruits of forest land. This also fills the minds of the tribals

with fears. The package to be given should be in accordance with the socio-economic and cultural values of the tribals so that it is acceptable to most of the people.

In the Scheduled Areas the PESA, 1996 insists on the approval of Gram Sabha for land acquisition, which has not been followed properly. Gram Sabhas were held in some villages only that too as rituals. The villagers were simply told by the officials that the project will be built, that they have to accept compensation for lands and be mentally prepared to shift to the R&R sites. There was an element of pressure and threat by the officials. Normally the Gram Sabhas are meant to be an assembly of the villagers themselves to debate and decide what they want or don't want. The officials have no role in that. But the ignorance of the villagers, the role of officials and the middlemen have reduced them to rituals.

In some villages certain kinds of development works are being taken up: main roads, internal roads, school buildings, government office buildings etc. but pucca houses to the poor are not sanctioned on the ground that the village is going to be submerged. The villagers suspect that such acts are done with ulterior motives of swindling public funds by the officials and contractors. In some villages the development works have also been stopped due to the impending dam. The banks are not giving loans to the farmers because the lands were taken over by the government.

As the land records have not been prepared and updated from time to time several problems and sometimes violent situations are arising in the affected villages. This is so especially when the land titles are held in the name of the eldest son after the father's death. When there is more than one son, the eldest receives the compensation amount. The problems arise while sharing the money which depends on the goodness of the eldest son, otherwise it is leading to violence among brothers. This was also the case where the lands transacted prior to 1970 were not updated in favour of the purchasers. With the land acquisition now the compensations are awarded in the name of the earlier owners. If the old owners were good, they shared the money with the purchasers in different ratios, mostly on 50:50 basis. The purchasers were helpless and could not do anything if the previous owners did not give any share. While the official

compensation was Rs.1.15 lakh per acre the market rate of the lands in adjoining areas has gone up to Rs.4-6.00 lakhs/acre. They will not be able to purchase land at this rate.

Tribals will lose the constitutional rights after displacement. In the Scheduled Areas, they enjoy a unique set of constitutional rights and privileges, that would no longer be available, once they are uprooted. This is indeed a serious matter of violation of human rights. The government officials try to gloss over this issue by merely suggesting that wherever the displaced adivasis would get resettled, those areas would in turn be notified under the Fifth Schedule of the Constitution. This is a false assurance. Because similar proposals to include some villages under the Fifth Schedule about two decades ago are still languishing in the corridors of the central secretariat.

Compensation is provided in different forms to tribals and non-tribals. The non-tribals get cash compensation irrespective of the extent of land owned by them. Whereas for tribals, the compensation is provided in two ways: (i) land to land compensation up to the extent of 6.25 acres; and (ii) cash compensation for the land in excess of 6.25 acres. That is, a tribal family will not get any cash compensation if the land owned by them is 6.25 acres or less. The authorities assured both the tribals and non-tribals that they would be allowed to cultivate their lands till the dam is constructed though officially the land is acquired by the government. In such a case, the non-tribals have double benefits: (a) they get cash compensation immediately and (b) they can enjoy the land so long as the dam construction goes on, say for 10 or 15 years. But tribals who mostly own less than 6.25 acres will get only a single benefit, that is, of cultivating their existing lands till the dam is completed but will not get any cash compensation.

Now, in several villages, the tribals also want to get the benefit of cash compensation for which they are colluding with brokers, revenue officials and lawyers who get some proportion of the amount so obtained from the tribal people. The method adopted is as follows: In a village, some families within a lineage come together and execute the sale of their lands (mostly brothers/cousins with a common surname) in the name of a single person. The legal document will be signed by all the members. For instance, if eight persons have a total land of 50 acres, then a single person on whose name this sale document is executed would become the owner of 50 acres. Then this person will be entitled to a compensation for 43.75 acres (i.e. land in excess

of 6.25 acres). Then all those persons who executed the sale will share the amount in proportion to the land owned by them.

There is a long term danger here. When the land-to-land compensation is to be provided, it will be done only for the one person in whose name the sale deed was executed. Are the tribals not aware of this? They are. Many of them feel that this project may not be completed in the foreseeable future. That feeling is making them take the risk of registering their lands in others' name for the short-term benefit of cash. The collusion of officials is a key component of this. Because, as per the Land Acquisition Act, the lands notified for acquisition cannot be transacted among the private parties.

Conclusion

In sum, one may infer that the existing constitutional provisions for preventing transfer of tribal lands into the hands of non-tribals are not implemented in Andhra Pradesh with the required seriousness that the issue deserves. Similarly the assignment lands going out of the hands of the poor, despite the laws prohibiting the same, has not been addressed seriously. The many recommendations made by the Land Committee in this regard may not see the light of the day given the lack of political commitment to protect the lands of the poor. Regarding the land acquisition, one finds that the State's determination to take possession of lands from the rural people at any cost either for irrigation projects, for SEZs or for thermal plants etc., is not matched by its responsibility to respect and follow the existing laws and procedures. One does not find the State's machinery showing any empathy towards the rural people who are going to lose lands and livelihoods. The promises of the State to provide good resettlement and rehabilitation measures are not fully trusted by the affected people, and they have enough reason to be so. The affected people are least consulted let alone respecting their views, including in Tribal areas who are covered under the Fifth Schedule of Indian constitution.

The approach of the State towards the affected people has been that of coercion, threat intimidation and finally use of disproportionately large police force to take over the lands. Where the private corporate companies are the project promoters, one finds the revenue and police administration colluding with the private company to intimidate the villagers. The affected people have lost faith in the mainstream political parties in protecting their interests as they are

seen to be hand in glove with the private companies. It is the civil society organizations (NGOs), advocacy groups and public spirited individuals who have played a very active role in raising awareness levels among the affected people regarding their own land rights, the machinations of the officials in violating the rules and colluding with the private companies etc. and have provided legal support to the fighting people. It appears that this is the trend at all-India level also, in the post-liberalisation phase, as the dominant political parties and the also State are increasingly seen to be siding with the private companies.

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