

Land Acquisition, Corporate Capital and Social Justice

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Introduction

Acquisition of agricultural land for non-agricultural economic activities is justified on the ground that the return from non-agricultural activities either in terms of contribution to Gross Domestic Product (GDP) or in terms of net addition to employment is usually higher. Non-agricultural economic activities – activities in the secondary sector or in the tertiary sector can absorb the surplus labour in agriculture that stagnates there with zero marginal productivity and therefore, such alternative uses should definitely provide a more productive utilization of land and labour.

This is the standard argument and the history of economic development has definitely vindicated this point – be that in Europe during Industrial Revolution, be that in the Newly Industrialized Countries in Asia in the post Second World War period. There is, however, a caveat. The entire agricultural land of an economy cannot be converted to non-agricultural use on the economic rationale of productivity gain. Agriculture is needed for providing wage goods to the workforce engaged in non-agricultural activities. As the area under agriculture declines, even with rising productivity in agriculture, the industry and the service sector might suffer from wage goods constraint-- a situation under which the non-agricultural sector might also stagnate¹.

Be that as it may, a massive drive for converting agricultural land to non-agricultural use is taking place in the Third World in the recent phase of globalisation. The chief agent of this drive is corporate capital which now finds land as a profitable area of investment. Since the land market is not adequately developed, the conversion of agricultural land to non-agricultural use is being done by utilizing the instrument of state power. The state acquires the land in ‘public interest’ and hands it over to non-agricultural sector². Acquisition of agricultural land for non-agricultural activities leads to the displacement of the people who

¹ As Michael Kalecki (*Selected Essays on the Dynamics of Capitalist Economy*, 1977) observed, the share of wage in the output of non-agricultural sector would increase as the wage goods become dearer, because the wage rate will have to be increased for compensating the higher (real) prices of wage goods which are now dearer. As the share of wage increases, the share of profit and in its turn, the rate of investment would decline. As the rate of investment declines, the growth rate of GDP would also decline. The argument holds good even in an open economy where the competing economies would reduce the share of ‘low value’ agricultural goods in its basket of commodities in order to ensure dynamic gains from trade.

² The state power is utilized for minimizing the transaction cost. Such intervention becomes necessary when the market of property rights is inadequately developed. As Ronald Coase (*The Problem of Social Cost*, Journal of Law and Economics; October, 1960) pointed out, if the market of property rights is adequately developed and the transaction cost is absent, free buying and selling of property will lead to efficient allocation of assets. The intervention by state (or any non-market agent) will not be necessary in that case.

earn their livelihood from the land-based traditional occupation. Displacement without a collateral provision for maintaining livelihood with dignity for the persons displaced is considered to be unjust in modern society. This is why displacement in modern society is usually associated with a provision for compensation³. Corporate capital enters into bargain for minimizing the corporate responsibility for the compensation by utilizing the political power that they have.

The compensation that a displaced person receives when the land is acquired is the expression of tangible justice that he gets from the agents that displace him. 'Justice' as translated in terms of cash compensation or a provision for alternative means of livelihood is what the dominant social force that shapes the path of economic development considers the best that it can offer to the displaced. The mitigator is the state. The offer comes to the victim as the order of the state. The state also executes it in a disciplined way by creating a legal provision of land acquisition. In the legal provision itself, there remains the possibility that the justice which the displaced receive, denies the basic human rights, rights to live with dignity. The economist would seldom discuss this issue, because this politics of justice cannot be captured fully in the language of economic cost of displacement.

We develop this theme in this paper. In the first Section of this paper we elaborate the background of land transfer with special reference to India where corporatisation of land is taking place at a breakneck speed. In the second Section, we discuss the nature of justice that the dispossessed would receive when land is transferred to the corporate. The role of the state as the mitigator has also been discussed in this section. The paper ends with some concluding observations.

Section 1: Development induced Displacement: Role of Corporate Capital

The Indian Scenario

Land alienation in the present day world is mostly associated with 'development-induced displacement'. This is not a new phenomenon. It implies the forcing of communities and individuals out of their homes, often also their agriculture lands, for the purposes of so called economic development. It is a form of forced migration. Historically, development-induced displacement was associated with the construction of dams for hydroelectric power and irrigation purposes but such displacement also took place due to many other activities, such as mining. In recent years, one social issue that has caused intense debate among the academics is the involuntary displacement of people from their productive assets (particularly cultivable land) due to industrial or infrastructural projects. Such displacement is usually executed by a legal action in the form of 'acquisition of land' by the state 'in the public interest'.

Though the process of acquisition of land is not new, the intensity of its adverse effect was not comprehended in the past as it is being comprehended today in the Third World countries. Following economic liberalization, growing needs of infrastructure and modern industries

³ In India Article 31A of the Constitution (inserted by Constitution First Amendment Act 1951, and the Fourth Amendment Act 1955) protects the rights of citizens in receiving compensation and states that any acquisition 'shall be deemed to be void' if compensation is not paid.

have threatened traditional sources of sustenance of people. More and more agricultural lands are being depleted for setting up industrial or infrastructural projects. According to the World Bank Environment Department (WBED) roughly about 10 million people are displaced each year all over the globe due to dam construction, urban development, industrial expansion or infrastructural construction. While development-induced displacement occurs through out the third world, two countries in particular – China⁴ and India are responsible for a large portion of such displacement.

We shall consider the Indian case in detail. In recent years, large tracts of agricultural land in India have been converted to non-agricultural use, chiefly for commercial, industrial and real estate purposes. This is reflected in the data on land use pattern in India. Even with a secular decline in uncultivated land and almost unchanging area under ‘non-cultivated land’, the net sown area in this country stagnated at around at 140 million hectare since 1980. That the net sown area stagnated at around 140 million hectare in spite of a secular decline in uncultivated land, is largely due to a compensating increase in the land area under non-agricultural use which is about 25 million hectare today (it was 10 million hectare in 1951). Increase in land under non agricultural use takes place largely due to urbanization and the associated commercial, industrial and real estate activities. In India such activities received an impetus in early 1950s, thanks to state-led programme of industrialization. However, it reached a plateau by 1980 when about 20 million hectare of land was under non-agricultural use. The departure from the plateau took place in the era of globalization when a new impetus came from a new engine of growth, namely, the corporate capital. As the relevant data indicates, between 1991 and 2003, i.e, in a span of 15 years, about 5 million hectares of land has been converted to non-agricultural use. The amount is half of what has achieved during first 40 years of independence. There are indications that between 2005-2007, the conversion of agricultural land to non agricultural use is taking place at a still higher pace. In and around the big cities, new urban projects are coming up. These put pressure on agricultural land in the nearby rural areas. For example, just outside Mumbai, farmers have been served acquisition notices in 2006 for 10120 hectare of SEZ (the area is one third of the metro city of Mumbai) which could be developed by Reliance Industries⁵. In Hyderabad, during last five years, 90000 hectares of land has gone out of cultivation in all the 25 *mondals* in and around Hyderabad⁶. In many cases, these are yet to be recorded in the official statistics of the government.

There are indications that the incidence of transfer of agricultural land for non-agricultural use would increase as the Special Economic Zones are developed in major states of India. Even after the suggested reforms in SEZ Act (2005), there are 212 SEZ proposals which have received approval from the Board of Approval of the Ministry of Commerce, Government of India. Even with reduced size, these SEZs are expected to require 33761 hectares of land, a large part of which will come from the conversion of agricultural land. Coupled with this, there are major infrastructural projects like construction of new airports, power generation

⁴ The official data on displacement in China has been contested by various researchers and the activists. On the negative aspects of special economic zones in China, see Shankar Gopala Krishnan: *Negative Aspects of Special Economic Zones in China*, Economic and Political Weekly, April 28-May 4, 2007.

⁵ Frontline, Oct 2006.

⁶Land Alienation and Local Communities, V.R. Reddy and B. Suresh Reddy; EPW, August 4-10, 2007.

plants, eight lane roads, etc. which would require large tracts of land most of which would come from conversion of agricultural land. The pressure on agricultural land is bound to accelerate so much so that the net sown area of the country might decline in near future

One important feature of this changing land use pattern is that lands are now being acquired by corporate capital who would invest on these lands for promoting industrial, commercial and real estate activities. Entry of corporate capital in the land market is a relatively new phenomenon. But then, this must not be taken as an accidental or temporary phenomenon. The land markets in and around the big cities are bound to be dominated by the corporate capital because these lands are being utilized for big, capital intensive ventures. The project costs of these ventures are very high and only corporate capital is in the position to mobilize the necessary funds for these projects. Consider, for example, the provisions under the SEZ Act (2005). SEZ is visualized as an integrated township with fully developed infrastructure. The township would be promoted by private developers who would take the responsibility for the entire investment for the project. The sum involved is quite high. The petty developers would never dare to take up such projects. Either the State or the corporates can dare to take up such ventures. In China, SEZs were developed by the State. In India, the policy is to offer such projects to the private sector. Since small operators in the private sector can never take up such ventures, the development or promotion of SEZs in India would be taken up by domestic or foreign corporate capital only. The scenario is more or less the same for the projects outside SEZ as well. It is not therefore accidental that various corporate houses, both domestic and foreign, are entering the land market in India in a very big way. In the era of globalization the large scale conversion of agricultural land for non-agricultural use is being done chiefly in the interest of the corporate capital. India is no exception.

Economics of Land Grab

As a resource, land is scarce and immobile. It is scarce because it is non reproducible. It is a spatially determined asset and thus it cannot move from one market to another depending on the rules of demand and supply as happens in case of a reproducible commodity market. The ownership right over such a factor always ensures a return from the user of this resource. This return is noted as ground rent by Classical and Marxian economists. The ground rent, more precisely, absolute ground rent had been there in the feudal era as well. Capitalism has inherited this form of return from its preceding order. The only difference is that it has developed an institutional mechanism so that the return is realized under a defined set of property rules. A person with an alienable and inheritable right over the land is entitled to charge this rent. He can sell this right in property market. The capitalized value of this ground rent is reflected in the price of land. The transactions of these property rights are recorded by the State so that the owner gets legal protection and there is no infringement on this right.

Coming back to the return on property rights over land, one should note that the ownership of this scarce and immobile resource assures an automatic return in the form of rent even in a globalised economy where competition in the rule of business. This is so, because the ownership right is exclusive and therefore non-competitive. As an asset, land therefore retains its special property even in the era of globalization.

Even so, the land market might remain depressed because the user charge that reflects the rate of ground rent on land might remain low when the piece of land is used for agricultural pursuit. The user charge is low because the rate of return from agriculture remains low, even in the era of capitalism⁷. Needless to say, the acquisition of land would remain unattractive if the land is used for traditional economic pursuits⁸. Now consider a scenario in which this immobile and scarce resource can charge a high user value. This might take place if land is used for the growing market of ownership right on land for non-agricultural use and the rule of property is such that the higher return can be realized without an additional transaction cost. This is exactly what is taking place in India.

There is strong evidence that the demand for land for non-agricultural use is increasingly tremendously in India and this is mainly due to a growing realty sector. The service sector-led acceleration in GDP in India is giving rise to a perverse distribution of income. A tiny section of Indians is earning at a high rate due to their involvement in production of high value products and services (such as services in IT sector). A large part of consumption demand generated out of this income is being channelised to the market for real estate. This is creating a boom in the demand for real estate⁹. The scenario is best described in the following passage.

“Merrill Lynch forecasts that the Indian realty sector will grow from \$12 billion in 2005 to \$90 billion by 2015. “India is the most exciting real estate market in Asia,” says Michael Smith, head of Asian real estate investment banking at Goldman Sachs. “It’s one of the last major countries in Asia with an improving market.” The run-up in prices has attracted the likes of Morgan Stanley, which has invested \$68 million in Mantri Developers, a midsized construction firm in Bangalore, and Merrill Lynch, which invested \$50 million in Panchsheel Developers, a regional builder. Foreign companies have also poured money into funds that invest in Indian developers. GE Commercial Finance Real Estate, for example, has invested \$63 million in an \$800 million fund that is building IT parks. Real estate funds set up to invest only in India have already raised more than \$2.7 billion. And new funds worth as much as \$4 billion are being planned by J. P. Morgan, Britain’s Knight Frank, and other foreign investors. Warburg Pincus, the largest private-equity investor in India, says it is spending nearly a third of its time studying opportunities in this area¹⁰.”

There is nothing wrong if the state decides to facilitate this process and an increasing part of land is utilized for non-agricultural purposes, unless the food security is disturbed. The votaries of this policy propagate that food security will not be disturbed because the country has a vast land mass; compared to it the loss of agricultural land due to non-agricultural activities is expected to be quite low and whatever loss we incur in net sown area can be

⁷ Which is why agriculture is subsidized even in the developed capitalist countries.

⁸ Unless the control over land becomes essential for agri-related industry and service, as it happens in case of agri-business.

⁹ No wonder that 50 per cent of the land in SEZ in India would be earmarked for real estate

¹⁰ Analytical Monthly Review, September, 2006.

compensated by a rise in agricultural productivity which is still very low in India. In this paper, we will not discuss the issue of food security at length. We would however point out that the per capita availability of cereals is steadily declining in India in the era of globalization. Whatever improvement in per capita availability of cereals was achieved during Green Revolution, it is now a matter of the past. On food security, we are now back to the situation that prevailed immediately after independence when per capita availability of cereals had been as low as 410 gram per day.

Be that as it may, what we would point out in the context of corporate entry in the land market is that the increasing demand for land, thanks to growing realty market, is not benefiting the farmer. In the first phase, a large section of the farmers have only usufructory right which is not a property right according to the defined property rules of capitalist market economy. Such farmers¹¹ are excluded from the market at the very outset. Again, in the growing market for transfer of ownership rights, even farmers with alienable property rights fail to realize the market price as the corporate capital enters into the market. Such farmers are simply expropriated by the state that connives with the corporate capital and distorts the property market in favour of the corporate. Moreover, as the farmers of England were expropriated by the Acts of Parliament during the Enclosure Movement, so also is the case with respect to the Indian peasants in the present day. Corporate capital now gets the support of the state in expropriating the Indian peasantry lawfully. The tool in this case is the right of the state to acquire land with a defined set of compensations for the property holders; the compensation would invariably be much lower than what the peasantry would have received had there been state support for them in the growing market of non-agricultural activities on land which is scarce and immobile.

The process, as some observers have rightly pointed out is one of primitive capital accumulation, as it happened in England when the state participated actively in asset (land) transfer in favour of the capitalist class. The transfer was in fact done by simply expropriating the peasants with the help of the state apparatus. The neo liberal economic theory condemns too much involvement of the state in shaping the economy of a country¹². As opposed to it, the economic reforms following the prescription of neo liberal economic theory advocates less involvement of the state in economic matters. It is true that the involvement of the state in mobilizing the resources for economic development is being discouraged now a days by every government including the central and state governments of India; flexibility in tax and monetary policies is gradually being withdrawn through the process of liberalization. But then, it is never true that the state is now a neutral observer in the economic matters. It was never so. The state was quite active in serving the interest of capital in every phase of capitalism. In fact, it is now more active than it had been in any previous phase of capitalism. The state now renders open support to corporate capital, which has immense dependence on state power for rewriting the legal provisions in their favour and implementing them even by coercion, if necessary. Laws, regulations and even principles of jurisprudence are being

¹¹ For example, unrecorded *bargadars* of Bengal

¹² The socialist state are sighted as such states which disturbed the process of economic development by too much involvement of the state apparatus in shaping the economy of a country.

grossly altered with impunity to facilitate the plunder of the corporate in the name of economic growth.

In the context of primitive accumulation centred on the immobile and non-reproducible asset called land, the state now plays the role of a promoter – the promoter that facilitates the process of asset transfer in favour of the corporate. The state as promoter assists the corporate capital with every legal and executive power to assist the process of plunder. The legal power in this case is the power to acquire land for ‘public purpose’. In case the peasants are not willing to transfer the land to the corporate the state would lawfully ‘acquire’ it and hand it over to the corporate. The peasants with ‘proper’ title would get compensation. Others would be simply thrown out of the land, just like the poor cotters of England during the Enclosure Movement. This is law and the citizens would be punished if they dare to flout the legal provisions. The burden of paying the compensation sum to the legal claimants need not necessarily be borne by the corporate; it might be paid from that state exchequer, as it happened in case of Tata Small Car Project in West Bengal in the recent past.

Section 2: Compensation and the Concept of Equity

Equity Based Justice

The international community has long recognized that the issue of forced evictions is a serious one¹³. In 1976, *The United Nations Conference on Human Settlements* resolved that ‘undertaking major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made’. In 1988, The UN General Assembly in its resolution 43/181, mentioned that the ‘fundamental obligation [of Governments is] to protect and improve houses and neighbourhoods, rather than damage or destroy them’. Again, Agenda 21 stated that ‘people should be protected by law against unfair eviction from their homes or land’. In the *Habitat Agenda* Governments committed themselves to ‘protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, alternative suitable solutions are provided’. The Commission on Human Rights has also declared that ‘forced evictions are a gross violation of human rights’. The International Covenant on Human Rights has also suggested that there

¹³ Under international human rights law, the practice of forced evictions is widely considered to "constitute a gross violation of human rights, in particular the right to adequate housing".

... *The right to adequate housing [is] a basic human right ... people should be protected by law against unfair eviction from their homes or land.* Agenda 21 (Para. 7.6 and 7.9 (b))

All stages of the eviction process have identifiable human rights implications. The right to adequate housing, which is widely recognized under international human rights law, includes the right to be protected from forced eviction. This right has been expressed in various formulations in numerous human rights instruments, most notably the Universal Declaration of Human Rights (art. 25, Para. 1) and the International Covenant on Economic, Social and Cultural Rights (art. 11, Para. 1).

should be provisions of ‘legal remedies to eviction’ and ‘provision where possible, of legal aid to persons who are in need of it to seek redress from the courts’¹⁴.

In spite of U.N. declarations on universal human rights and the provisions for compensation to meet resettlement cost of displaced or evicted families, the evidence as furnished by various field studies does indicate that justice was denied to a great extent with respect to such people. The problem, as it appears from the international experience, is basically rooted in the concept of justice that shapes the pattern of compensation for the displaced persons in various countries. The concept of justice for development-induced displaced persons needs to be discussed at length in order to comprehend the basic problem that the society faces while deciding upon the principle of compensation. We would discuss this issue now.

An equity-based concept of justice suggests that every displacement should have a collateral provision for compensation that meets the full cost of resettlement. That equity should be the core consideration is the outcome of entitlement-led modernity which replaced the medieval (feudal) canon that used to legitimise judicial discrimination favouring the privileged few. The problem, however, is that the equity-based justice can hardly be achieved even after three hundred years of the enlightenment movement. In case of development-induced displacement in the contemporary era of globalisation, the story is essentially the same as it had been during the Enclosure Movement in Britain. The only difference is that some new dimensions have been added. Let us see why this is so.

How are development projects to be evaluated from the principle of equity based justice? Admittedly, equity is not equality. A development project that aims at creating an egalitarian society might be a desirable one on several grounds including one of reducing social inequality. But a development project would definitely be unjust according to modernity, if it distorts the existing assets in the society without equivalent compensation. This would be unjust according to entitlement-led modernity because it violates the principle of equity; it does not remain impartial to everybody, it inflicts unfair treatment to such members of the society whose assets are being redistributed in favour of others without adequate compensation.

How can the equity-based transaction of assets be realized in a society? Apparently, no intervention by any other agency except market is necessary for this transaction. Economic theory suggests that market ensures exchange of equivalents and therefore the market is the institution that ensures this equity-based justice in economic transactions. The principle of equity would not be undermined if transactions take place through the institution of market. Market distortion or the intervention of non-market forces in mitigating exchange might undermine the principle of equity because the exchange in that case might not be the exchange of equivalents.

¹⁴ However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which evictions are permissible and of spelling out the types of protection required to ensure the right to live with dignity.

Theoretically, therefore, state or any other non-market agency should not be allowed to act as arbitrator in land (asset) transfer in development induced displacement process. In practice, however, there exists a strong case for the state to serve as a mediator, often with the legal power to do so, because exchange of equivalents is not ensured by the market because of market imperfections. Even if the market imperfections are removed, as Ronald Coase (1960) has pointed out, the full price of an asset might not be realized in the market if transaction costs are present. The act of acquisition of land (asset) by the state is therefore fully justified on the basis of the entitlement- led principle of equity if the state delivers justice properly. The problem however is that if the state fails to remain impartial, equity is never achieved. The requirement of asset transfer for development purposes thus faces the problem of maintaining equity-based justice. The market and the state, both might violate justice.

The violation of the principle of equity might also come from the process of development itself. Usually, a development project is viewed from the utilitarian point of view ('greater good for greater number'). But one may argue, as John Rawls did, that the utilitarian thinking is inherently tolerant of social injustice. A development project that benefits only a part of a community should not be considered as just. Benefits might be unequally distributed but a development project must create some benefit for all. If it fails to do so it would inflict injustice to a section of the community. In other words, development should aim at 'greater good for all',¹⁵.

Considered in this framework, the acquisition of land (asset) for development projects can be justified- and this is where the contemporary wisdom finds a consensus—if two conditions are satisfied. In the first place, it must not exclude anyone of a community from the development process (no 'ouster'), everybody has to be benefited from the outcome of the development project¹⁶ even if the distribution of benefits is not egalitarian. Secondly, the asset transfer for the project must adhere to the principle of equity. These two conditions are rarely fulfilled in development exercises—particularly, the exercises that we experience in the present era of globalisation. The development process is often found to exclude the weaker sections of the society. Equity in asset transfer is also not honoured. The state, which is accountable to the society, has emerged as an institution to carry out this exercise. We shall argue the equity-based justice in asset transfer hardly practiced in the contemporary world. In essence, the scenario is the same as it had been during the Enclosure Movement.

¹⁵John Rawls does not advocate an egalitarian distribution of benefits. It is unfair if everyone is not made better off (not equally better off) than they would have been otherwise. Rawlsian concept of justice is that 'all social values- liberty and opportunity, income and wealth, and the basis of self respect- are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage [not equal advantage-R.K.] John Rawls. (1971), *A Theory of Justice*, Harvard University Press; Page 62

¹⁶ In fact, this is the spirit of UN Declaration of the Right to Development (1968) which calls for 'national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting there from'. (Note: the word in 'fair' and not 'egalitarian' – R.K.)

Valuing Equity based Compensation

That the displaced must get compensation was recognized by enlightenment-driven jurisprudence. By now, this has become an universally accepted juridical norm. In the contemporary world, every country has a legal provision for compensation. Even in China where the property right of the individual peasant is not recognized by the state, provision for compensation is there in Land Administration Law (1998) of the PRC¹⁷. The problem, however, is with the amount of compensation that the displaced would receive. Justice based on equity demands that the compensation should meet the full value of the asset that the displaced are dispossessed of. In reality, this is hardly done. The immediate reason is that even with the best of intentions, it is not possible to evaluate the full value of the asset because of certain practical limitations of the compensation principle.

The basic point, as Lionel Robbins pointed out in his *Nature and Significance of Economic Science*, is that it involves interpersonal comparisons of gains and losses which are unscientific. The market should take care of the problem by ensuring exchange of equivalents, but as we have already observed, the market might fail to do so. The state as an arbitrator is often entrusted to take care of this problem. Since the interpersonal comparisons of gains and losses cannot be done, the compensation package is often decided arbitrarily. It is often overlooked that the function of compensation in projects is not the same as the function of investment made in new asset. Its function is only damage substitution-- compensation does not provide the oustees anything more than simple repayment, which is nothing above what they had before. Equity based justice reflected in the legal provisions should adhere to this basic point. More often than not such a principle is ignored. The arbitrariness works against the oustees. Compensation fails to substitute the damage the oustees are to bear.

The legal provision that the state creates for compensating the damage does not take into consideration all the dimensions of damage inflicted upon the displaced. As land is acquired, the most tangible damage inflicted upon the displaced is the loss of income and wealth that the oustees used to enjoy. While creating the legal provision of compensation it is often overlooked that losses of this sort figure not only in landlessness. The process also creates joblessness, homelessness, marginalisation (families losing economic power) and loss of access to common property. The equity based legal provision should take care of all these losses. In reality, the compensation is calculated on the basis of the property rights alone and thus a substantive part of tangible damage remains uncompensated. Again, to follow the Rawlsian perspective, the displaced are also denied liberty and opportunity with respect to the assets that they used to control. Bases of self-respect are also seriously damaged due to loss of the group's cultural space and identity. The dismantling of a community's social organization, the dispersal of formal and informal networks in the people's lives also has a cost. The equity-based concept of justice should take care of these costs. The state, however, creates legal provision only for the damage of tangible asset in the form of property. Consequently, the equity-based concept of compensation remains unrealized even in the contemporary world.

¹⁷ See Article 2, Article 13, Article 31 and Article 49 of the Act.

Again, while creating legal provision for damage of tangible asset in the form of property, the state fails to maintain class neutrality. As in England during the enactment of Enclosure Act(s), the legal provisions for compensation in the contemporary world reflect, in the main, the interests of dominant social class. The relevant provisions of the law reflect, in the main, the need and interest of the dominant social class only. If the feudal canon is criticized on the ground that it favours a privileged few, modern jurisprudence is hardly different.

Section 3 Concluding Observations

The compensation that the displaced persons would receive should be based on the principle of equity. The problem however is that the principle of equity is not always honoured in settling the compensation package. The full cost of creating collateral provision for maintaining life with dignity cannot be realized in a market mediated transaction, firstly because many of the constituent elements of total cost cannot be translated in the language of the market economy. Secondly, for the elements for which the market instruments can work, efficient pricing cannot be done in many cases because of the inadequacy in the development of the institution of the market itself. Again, even if economic values are assigned to the damages, the problem remains with fixing the agencies that would bear the responsibilities. Private agents are unlikely to accept full responsibilities of compensating the displaced. To what extent the state would bear the cost depends on political power, which often works against the weaker section of the society. The equity-based principle of compensation can therefore be hardly adhered to.

The basic problem is that compensation is usually perceived only as the compensation for the loss of property rights¹⁸ on land. Land, however, is the basis of many other the rights including the right to job. The principle of equity that states that a collateral provision for maintaining livelihood with dignity is necessary before a person is displaced, can hardly be honoured if the compensation is offered only on the basis of property rights on land. Further more the principle of equity is violated when the property rights on land remains ill defined. The equity-based justice is consequently denied to a section of the displaced persons. As the corporate enters in the land market, such weaknesses of compensation principles are fully exploited. The economic power of the corporate being stronger and the state in the era of globalization being an active participant in the process of expropriating the peasants, the scenario becomes more adverse for the dispossessed. This typically is what the peasants of contemporary India confront when the development-induced displacement takes place.

(Thanks are due to Abira Roy for able research assistance.)

¹⁸ In India, 'the expression "rights" in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure holder [ryot, under-ryot] or other intermediary and any rights or privileges in respect of land revenue' (Article 31 A (2) B).