

## **LAND FOR AGRICULTURE & CULTIVATORS**

### **Note on several land use and rights' related issues, including Land Acquisition**

#### **Alliance for Sustainable & Holistic Agriculture (ASHA)** **South Indian Coordination Committee of Farmers Movements (SICCFM)**

Dozens of farmers leaders and hundreds of farmers met in the recent past (on September 9<sup>th</sup> 2012 in Bangalore, as part of SICCFM debate on Land Acquisition and on September 12<sup>th</sup> and 13<sup>th</sup> 2012 in Bhopal, as part of the Kisan Swaraj Sammelan) to discuss issues related to Land rights for cultivators and specifically on Land Acquisition. The following are the main issues that came up:

1. **“PUBLIC PURPOSE”**: Private and PPP projects cannot be construed as public purpose. We outright reject giving land to corporations and PPP under the guise of people's development. We especially reject the inclusion of acquisition for what can pass off as “infrastructure projects” in the current form of the Bill which allows the government to define any project as if it is for public purpose. Furthermore, whether any project is for Public Purpose or not must be established discussed and decided by Gram Sabhas .

What gets defined as Public Purpose has to be narrowed down tremendously, for land acquisition to take place only in the rarest of rare cases and that too of limited land, just equal to meet the public purpose. This should eliminate land acquisition for commercial purposes (malls etc.), tourism, sports etc.

There is one view to define public purpose mainly from the perspective of the ‘affected’, as “that cause and reason which gives maximum benefits to those whose land and other resources are being taken away”. Public purpose should be a purpose that benefits the general public, as determined in democratic consultations and discussions with the local communities, including through Social Impact Assessment processes where the project is proposed (after expressly ensuring that private and PPP projects do not fall under this category). ***Further, any project or cause that does not lead to a substantial improvement in the socio-economic conditions and livelihoods of the persons from whom resources are being acquired cannot be termed Public Purpose.***

Further, it is found that thousands and thousands of acres of land is being diverted for other purposes, once acquired in the name of Public Purpose, as in the case of several airport land acquisitions. The principle of absolutely minimal acquisition has not been applied. There is an urgent need to take up a review of all land allotted so far after land acquisition for stated purposes to see if the land is being put to use against the stated purpose and if not, return the land to the original landowners or to the lowest administrative unit, to be further used for food and livelihood security purposes, including providing land for landless.

2. **EMINENT DOMAIN**: While the Supreme Court may have conceded the power of the State over the nation's natural resources to be put to the common good, in the light of the 2G and ‘coalgate’ scams rocking the nation, the question of trusteeship of the state arises starkly now more than ever before. It is apparent that the trusteeship is being misused with little accountability, towards benefiting monopolistic corporate entities more than the

marginalized and common people in the country. It is being shown in analyses related to the 'coalgate' scam that not even the trickle-down model of development that the government believes in is actually accruing from such administration of the trusteeship vested in the State.

Apart from a history of misuse (for 'crony capitalism' and even corruption) of trusteeship is the question of why eminent domain is invoked mainly in the context of 'industrialisation', 'urbanisation' and 'infrastructure development' (that too defined narrowly as far as infrastructure development for the poor is concerned, but defined broadly when it comes to businesses that profit out of such development) and not in the context of ***Rural Regeneration, Food Security and Livelihood Security***. This is not to be seen as empty rhetoric given that the government does have commitments made to the Millennium Development Goals, that we have shameful levels of poverty, hunger and malnourishment in this country, that we have our farmers committing suicides in tens of thousands.... ***This, then, is our question on the very development model/paradigm that the State follows, in the pursuit of which 'public good' often means essential resources of the poorest going into the hands of the rich and powerful.*** Initiating a national debate on the concept of "eminent domain" and various perspectives governing notions of "development" is a need of the hour, as the country is boiling over with people's struggles against governments and corporations for resources.

**3. NO FORCIBLE ACQUISITION:** No forcible acquisition should be allowed. This means 100% consent in the local governance unit (palli sabha/gram sabha). Land cannot be acquired if not all affected are agreeing to it. This includes the ones whose livelihoods are tied to the resource, even if ownership rights do not exist on the same.

**4. NO AGRICULTURAL LANDS TO BE ACQUIRED:** No agricultural land can be acquired with rights accruing under land acquisition legislations. The classification into single crop or double crop does not seem to matter since it is not just about notional food security at the national level that one should be worried about but livelihood and food security of the affected, which is more fragile in the case of single-cropped lands. This fact has also been accepted by the Parliamentary Standing Committee in its report.

**5. LAND USE PLANNING:** It is important to initiate a process of land use planning urgently in the country, starting from Gram Sabha upwards, prioritizing food and livelihood security of rural households. This would then give a picture of any land available, if at all, for such acquisitions, after taking into account the needs of various households, including those of livestock rearers and grazing lands for them, eco-system services being provided by water bodies in addition to livelihoods to fisherfolk etc. etc. Without such land use planning processes undertaken, with legal legitimacy accorded to the same, with the Gram Sabhas first staking claim to such plans and resources needed for the same, the country will always see a tussle between different forces and will not be able to meet its many development objectives, defined collectively.

**6. ONE UNIFIED STATUTE:** It makes no sense to have land acquisition happening under more than a dozen laws in the country with one statute being debated under the name of "land acquisition". It is indeed a great need to have one unified statute and this is what should be enacted in the Parliament – any land acquisition in the country should be only through this statutory regime and the provisions of R&R must apply to all.

## **7. NO LAND ACQUISITION FOR PRIVATE CORPORATIONS AND FOR PPPs:**

Governments should not be acquiring any lands for PPP projects of any kind.

**8. PESA/SCHEDULED AREAS:** The constitutional and legal provisions accorded to scheduled areas should be fully upheld and no diluting should be allowed here.

**9. GRAM SABHA HAS THE AUTHORITY:** Any statute governing land acquisition of any kind has to first uphold the constitutional authority vested in Gram Sabhas and make sure that the rights vested in this basic unit of democracy in the country are respected and prior, informed consent is obtained and the nature of Public Purpose is vetted by the them. The involvement of Gram Sabhas at all stages is essential and should be vested with powers to stop a project if any violations are found. No MoUs can be signed between government authorities and acquiring agencies without first running adequate process with Gram Sabhas in the picture.

**10. COMPLETE THE PENDING R&R PROCESSES:** Lakhs of people in this country, “project-affected” and subjected to involuntary displacement, are awaiting just compensation, relief and rehabilitation to this day. This is also an indication of what lies in store for many others in future if things are not improved drastically. It is an urgent imperative that further debates on land acquisition happen only after completing the pending R&R processes, so that the country may learn lessons from the experiences before moving forward. Hence the proposed Bill should be applied retrospectively and to deal with the earlier claims of incomplete R&R should be dealt by a National Resettlement and Rehabilitation Commission.

**11. RIGHTS OF DEPENDENT FAMILIES:** Today, farming in the country is mostly by tenant farmers and sharecroppers in several pockets of the country with the land owners being absentee landlords. Land acquisition in all such cases will directly disrupt the lives and livelihoods of dependent families, especially in a situation where tenant farming and sharecropping is not recorded anywhere officially for a variety of reasons. Any approach to land acquisition has to first recognize this challenge and ensure that the livelihood rights of these dependent families are fully protected. In fact, using the opportunity of land acquisition as and when it happens in the rarest of rare cases, there should be a special thrust on equity to address the issues of the most marginalized including control over productive resources.

**12. COMPENSATION, RESETTLEMENT & REHABILITATION:** It is felt that compensation cannot be fixed at guideline value given that this is far lower than market prices. Compensation should actually be pegged at a value manifold higher than the market price and any industry seeking to acquire land show it as part of their realistic costing. Further, relief and rehabilitation should be for all affected families, and should have a mandatory land for land option in addition to trying to make rehabilitation as long term as possible. Resettlement and Rehabilitation should be seen as opportunities for ensuring equitable development and planned as such.

## **13. WHITE PAPER ON THE CURRENT STATUS OF LAND ACQUISITION AND AGREEMENTS FOR GIVING LANDS:**

Various MoUs and agreements are being signed by the governments with a variety of industries to give away land for business and other

enterprises. However, there is no clear picture of which land, where, how much, on what terms and conditions are being given away or promised under various agreements. It is very important that governments first bring out comprehensive and accurate White Papers on the status of land acquisition so far, and the agreements related to/involving land acquisition in future. This is very important since numbers range from 18 lakh hectares to 180 lakh hectares (which is equal to the total land diverted to non-agricultural use over the decades from the time of Independence!) are being estimated as the quantum of land, given away in just the past decade or so across different states.

**Given all the above, the following are our main demands:**

- Suspend all land acquisition across the country immediately given that the debate around issues like eminent domain and public purpose is still unfolding in the country with no clear answers forthcoming
- Bring out a comprehensive and accurate white paper on the status of land and land acquisition/promised land allotments and the land lying unutilized with public and private corporations,
- Bring out a white paper on the people displaced, resettled and those awaiting R&R since independence and institute a National resettlement and Rehabilitation Commission. before moving ahead
- Improve the land acquisition and R&R bill taking on board all the concerns of a vast majority of Indians. This requires the formulation of a committee consisting of representative of people's and farmers' movements to lead a more extensive national debate on Public Purpose etc..
- Return land that has been diverted from the stated purpose when land was acquired
- Take up a comprehensive land use planning process with the Gram Sabhas taking the lead in this

**We also believe that the government should implement the Forest Rights Act better and support cooperative/collective farming by farmers to make farming a viable and dignified enterprise for our farmers. It is also suggested that boundaries for urban areas be fixed immediately.**