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Land and Resource Grabbing in India

An Analysis of their Present Status

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AN ANALYSIS ON LAND AND RESOURCE GRABBING IN INDIA

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Author's Introduction

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In general, the rising economic impoverishments, socio-political inequalities, ethnic-conflicts, religious fanaticisms, and erosion of democratic values, are some of the critical threats looming large over the contemporary South Asian societies. Moreover, in recent years, the dilution of civil liberties, and the clamping down on civil society spaces, has deepened, widened and accelerated further. This has arisen largely due to the frictions over control of vital natural resources by certain vested-interest groups, private corporate giants, and other power-elites, using manipulated legal regimes, which in fact is antagonistic to the natural rights of the natives and locals, as well as the customary rights of the indigenous populations.

It is already well known that our planet – earth, is the fundamental source for all life forms, not only for their existence but also for their subsistence. Particularly, ‘the commons’ existing as the nature, forms the nerve centres for most livelihood basis for all humans - to lead a life and living, in dignity and peace with security, in a natural way. People have the rights to utilize responsibly the sources optimally for oneself, in synchronisation with others and ‘the common good’. Nothing should prevent any member of a society to access or use ‘the commons’ - equitably, rationally, and conscientiously.

In practise however, only a few privileged ones get to access all resources and benefits, which actually in-turn further enhances the power of the already privileged, to dominate and control rest of the population. This has further led to fractured economies, and to predicaments in the ability of elected representatives, governments, to fulfil their supposed responsibilities to their fellow citizens. Climate crises, democracy deficits, and fundamentalisms, which have been caused and compounded by the policies and practices of many governments in South Asia, and the blanket privileges gained by big domestic and transnational corporations, have caused increasing social unrests between peoples and governments.

Various studies show that the current challenge in South Asian region is essentially the tendency of unsustainable consumption processes and patterns causing irreversible damages to our planet earth. Nearly three decades of neoliberal economic policies based around deregulation of markets, increasing influences of transnational corporations, and non-compliant multilateral institutions have created huge crisis due to excessive exploitation of natural resources and plundering of ‘commons’, leading to increasing poverty and exclusion of ordinary citizens. In essence, the gap between the rich and the poor has widened further, and access to resources, livelihood opportunities and essential public services have tilted from bad to worse. This has fueled polarizations in societies and creating atmospheres of partisan politics that threaten to tear people apart in countries of South Asia.

Ironically, the statistical economic growth in certain countries of South Asia like India, in the name of ‘development’ has been founded on this desecration, abuse and destruction of our commons, our land and water, our natural resources, and our environment. The climate crisis has already demonstrated a faster phase of annihilation of several species, as historical injustices on environment continue. The mother-nature has been gravely devastated by the reckless behaviour of some people and a system that promotes greed of a few socio-economic groups than being susceptible to the needs of everyone and all. Not only have ‘the commons’ been abused but also several populations been forcefully expelled and displaced from their ancestral lands. Forced evictions as well as strong resistance to such land grabs is a growing reality for millions of people in South Asia, more particularly in India.

Current Scenario

Just ahead of the parliamentary elections recently, the Supreme Court of India had put on hold its 13 February 2019 order for a few months, which had directed the federal states to complete the eviction of tribespeople and forest dwellers, whose claims over forest land were rejected under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. In an extraordinary move, the central (national) government failed to appear in court to defend the tribespeople's rights, and the Court therefore ruled in favour of the evictions, which it decreed should be completed by 27 July 2019.

This biggest mass eviction order in the name of conservation ever, is likely to affect more than 2.3 million households, with experts estimating it to mean more than 10 million individuals likely to be evicted now – and the number is likely to rise, as some states have not provided details as to how many will be actually affected. This judgement is seen as a death sentence for millions of tribespeople in India, as a land-theft on an epic scale, and as a monumental injustice. Human rights organisations see it as an urgent humanitarian crisis and believe that it will lead to wholesale misery, impoverishment, disease and death, and it will do nothing to save the forests which these tribespeople have protected for generations. Will the big conservation organizations of the world condemn this ruling and pledge to fight it, or will they be complicit in the biggest mass eviction in the name of conservation, is to be seen in months to come. However, the Campaign for Survival and Dignity, a pan-India platform of Adivasi and forest dwellers' organisations, announced "a national wave of struggle over the following weeks" against the attack on tribespeople whose claims under the FRA were rejected. But the organisations – Wildlife First, the Nature Conservation Society, and the Tiger Research and Conservation Trust – on whose plea SC passed the order state that the court order "does not affect genuine claimants." The forest rights activists on the other hand say that rejection of claims is not grounds for believing a person has no right as the claims are often turned down due to "illegal intervention" by forest officers. "The main issue here is not environment versus people, but bureaucracy versus people. The question is not whether the environment should be protected, because people (who live in forest) are also fighting to protect the environment. The question is whether the forest officers should have life and death power."

The criticism against government by the indigenous people is also that the land occupied by tribespeople is being handed over to big private companies and multinational giants for various projects and also for mining under the programme of "ease of business". In the last few years, government had passed several laws which dilute and eliminate the protections given by the Forest Rights Act. These include amendments passed to the Mining Act, the Compensatory Afforestation Act and several notifications from the MoEF (Ministry of Environment and Forest) which dilute the FRA. During the last two years, several groups of farmers including tribespeople have marched to big cities like Mumbai and Delhi demanding rightful price for their farm produce, loan waivers, proper implementation of labour laws and the FRA.

An earlier eviction drive - between 2002 and 2004 - to rid the forests of so-called encroachers resulted in some 300,000 forest dwellers being forced out from their ancestral lands. Villages were set on fire, houses demolished, crops damaged and people killed in police shootings. Tribespeople and other forest dwellers become encroachers simply because their ownership rights have not been recorded and settled by officials as stipulated by the forest laws. India's tribespeople, according to historian Ramachandra Guha, suffer from what he describes as a

"triple resource crunch", living as they do in India's "densest forests, along with its fastest-flowing rivers and atop its richest veins of iron ore and bauxite". Over the years they lost their homes and lands to dams, mines, and factories. Now a mass court-mandated eviction from forest land, again, proves how vulnerable they remain.

Socio-Economic Indicators

India is the seventh-largest country by area, the second-most populous country with over 1.33 billion people, and the most populous democracy in the world. India holds its uniqueness in its diversity and an immensely rich cultural heritage including numerous languages, traditions and people. Its governments has welcomed international companies to invest in it with open arms since liberalisation in 1990s. Thus, India has been attracting many global majors for strategic investments owing to the presence of vast range of investment avenues and successive pro-industry governments. Huge population, mostly comprising the youth, is perceived as a strong driver for demand and an ample source of manpower. India's GDP is estimated to have increased 6.6% in 2017-18 and is projected to touch 7.5% in 2018-19.

India had been relying on large welfare programmes including price-support for food, energy and fertilisers and has the world's largest programme guaranteeing the "right to work" in rural areas. However, many Indians still lack access to core public services, such as electricity and sanitation. Public spending on health care, at slightly more than 1% of GDP, is low. Although almost all children have access to primary education, the quality is uneven. Female labour force participation also remains low. However, some other indicators of gender equality have improved, such as female life expectancy at birth and participation in education. Deprivation is starkly pronounced in rural areas and urban slums. In terms of Human Development Index India (HDI) stands at 130 out of 189 countries in the latest human development rankings of the United Nations Development Programme (UNDP). 26.8% of India's HDI value is lost on account of inequalities -- a greater loss than for most of its South Asian neighbours (the average loss for the region is 26.1%). This confirms that inequality remains a challenge for India as it progresses economically. One-fifth of global poor live in India – the largest for any country in the world. India has one-fourth (208 million) of world's 800 million under-nourished people. Similarly, child malnutrition is the world's highest.

Land Distribution & Ownership

India is 70% rural with high dependence on land - agriculture, fisheries and forests. 83% of farmers are small farmers having less than 2 hectares. Small farmers produce 41% of country's food grains. 60% of cultivable land owned by 10% of population. Unequal ownership of land is found to be an important root cause of poverty and hunger. Landless and 'near-landless' citizens in India is estimated to be around 220 million people. 90% of landless poor are Dalits and Adivasis (Scheduled Castes & Scheduled Tribes). Majority of them work as agricultural laborers and sharecroppers. Access to land is a key determinant of their food sovereignty and livelihood protection. Women perform more than 50% of all agricultural work and depend greatly on land for subsistence. 35% of rural households are women-headed, but less than 2% women hold titles to land. Migration of men to urban areas is found to result in overburden of women in agriculture. Women are largely not recognized as farmers in practice in most situations.

Failure of Land Reforms

Post-independence land reform focused on (a) abolition of system of feudal landlords (Zamindars) and (b) tenancy reforms to transfer 'land to the tiller.' Redistribution of land was through the 'ceiling' on holdings. However, the land reforms were not successfully implemented in most states. There was no focus on equity of gender and caste. More than 2 million acres of land was declared surplus but not yet distributed to citizens due to several hurdles of litigation /other reasons. Post-1991, situations in India changed significantly with the pro-liberalization agenda. It gradually pushed for removal of land ceiling restrictions. Since then there had been no political will to implement land reforms. The Twelfth Five Year Plan (2012-2017) did not even mention land reforms.

The Phenomenon of Land Grabs

Reference to land grabs generally is the process of takeover of people's land by both State and non-State actors. It is mostly forceful / involuntary. It is largely unregulated/ illegal/ without due process and often justified with 'public purpose' clause. People generally are left with no legal recourse/ access to remedy. This has been since occurring at an unprecedented scale both in rural as well as urban areas.

Usually it is grabbed over in the name of 'Development' projects like building dams, mining, natural resource extraction, ports, roads, infrastructure projects, mega-events, etc. Other factors include Special Economic Zones (1 million face threat of eviction) and slum demolitions/ 'urban renewal.' India is estimated to have the highest number of people displaced annually as a result of 'development' projects: since independence (1947) almost 65 million have been displaced.

The policy shifts to industrialization of agriculture, reduction in agricultural subsidies, high prices of patented /GM seeds & fertilizers, increasing bio-fuel production (3.2 million hectares), creation of carbon stocks for 'climate mitigation', and creations of National Parks/ Eco-tourism are also the key factors in land grabs across India.

Contemporary Situation and Trends

The 54th Round of the National Sample and Survey Organisation (NSSO), carried out in 1998, studied the use of land and common property resources across the country. Though the NSSO figures are likely to be an underestimate, this is still the only quantitative national study on common resources that has been done till date. The NSSO survey found that approximately 15% of the country's land area is used as common property resources. This area estimate excludes government forests. However, most government forests, excepting those in extremely remote areas, are also used as common property. Since such government forests constitute at least 19.3% of the country's land area, roughly 34% of the country can be considered common land. In terms of livelihoods, the NSSO found that approximately half of the households surveyed collect materials from forest and common lands, 20% reported grazing livestock on them, and 30% reported using common water resources for livestock. 73% of the households using fuel-wood (which constituted 62% of the population) relied on common property resources for this purpose. Similarly, 64% of the households that reported irrigating their lands (who were 36% of the total population) did so using water resources on forest and common lands. While the Survey reported wide variations in the available area of common land and the kinds of uses that were made of it, it found that a significant part of the

population was dependent on forest and common property resources in all the States surveyed. As would be expected, dependence on common property resources was highest among landless households and in smaller villages.

In all areas, the loss of forest and common lands is a major blow to the livelihoods and survival of rural communities. State-driven takeover of land and forest has two primary forms. The first is the reclassification of land under regulatory regimes intended to restrict use, which effectively curbs or destroys the rights of those who are using the land. The most common form of such takeover is conversion of land to forest land. Though this is a relatively unnoticed method, it is most likely larger in scope and size than any other form of land takeover since Independence. The area of land recorded as forest has increased from 41 million hectares at Independence to 76 million hectares at present — an increase of 63%. Whether it is particular or common lands that were taken over in this manner, individuals and communities effectively lost most of their rights on such lands.

At present, excepting a sudden jump that followed a Supreme Court order, the trend of declaring new areas to be forest land has slowed down considerably. However, a similar process now occurs within forest lands, whereby lands are either physically taken over or brought under progressively stricter laws. Plantations, of trees or biofuels, comprise one manner of such takeover (Rajasthan and Chhattisgarh). Conversion of forest lands to protected areas (national parks, sanctuaries, tiger reserves, etc.) is another. Between 1970 and 2010, the number of national parks increased from 5 to 99, covering an area of 38,199 sq. km, while the number of sanctuaries increased from 62 to 514, covering an area of 118,419 sq. km; another 74 national parks and 217 sanctuaries were proposed as of November 2011. The vast majority of lands that are subject to such “regulatory takeover” are forest and common lands.

The second form of state-driven takeover is the forced annexation of private and common lands for large projects. There are no consolidated figures available for such takeover at the national (or even at the State) level, but some indicative statistics exist for forest land. Between 1980 and 2011, 830,000 hectares of forest land were “diverted” or cleared for non-forest use by projects (this does not include the area of land that was diverted in order to “regularise encroachments”). Diversion has been rising steadily, with the number of clearances peaking in 2010 (1938 clearances given) and the area peaking in 2009 (87,884 hectares). Of the total land reassigned for projects since 1980, 17.8% (148,000 hectares) was for purposes of mining; if one looks at the process since 2007, the proportion of mining rises to 25%. Similarly, 20.1% of the total land cleared (164,000 hectares) has been for power projects. These sectoral figures on takeover of forest land are corroborated by some available statistics on land use. Large areas of land have been set aside for mining and power projects, and more will be made available in the future. In 2009, limestone mining leases covered 1,30,096 hectares, iron ore mining leases covered 94,308 hectares and bauxite mining leases covered 31,230 hectares. Leases for 59 metallic and non-metallic minerals covered 4,914 sq. km in 2009. This does not include coal, for which it is estimated that 149,000 hectares of land have been used. A simple total of all these forecasts results in an estimated 114,475,59 sq. km of land being required over the next few years.

The large area of land taken over in this manner is one more indicator of how the acquisition of private land is only one facet of India’s land and displacement conflicts. It would be surprising if there was any large project in the country today that did not involve some

takeover of community or forest and common lands. Further, the forest and common lands are generally targeted first. Official records in many States do not distinguish common lands from other lands. There is hence no aggregate national data. Within the existing official data, the measurement and demarcation of lands is a questionable exercise, since it is usually carried out by revenue officials without any transparency or local consultation. The result is that totals and figures often fluctuate wildly.

DIRECT IMPACTS OF LAND GRABBING

- Increased forced evictions: 40-50% of displaced are tribal/ indigenous peoples.
- Increasing landlessness/ homelessness.
- Acute agrarian crisis.
- Growing indebtedness of farmers.
- Rise in farmer suicides (+ 250,000 in 15 years).
- Forced migration to urban areas.
- Deepening poverty and hunger.
- Arbitrary arrests /attacks/ detention of human rights defenders.
- Criminalization of social movements.
- Social unrest and violence: rise of insurgency and counter-insurgency movements.
- Disproportionately severe impacts on women.
- Violation of multiple human rights.

Direct Loss of Livelihoods

One major and obvious impact is the loss of livelihoods from the land areas that are taken over. This includes the loss of minor forest produce, the destruction or takeover of shifting cultivation lands, the loss of grazing areas, etc. Such damage does not always involve direct physical displacement; but the devastation it causes is no less severe. The NSSO data indicate that approximately 50% of rural households rely on forest and common lands for key materials and for their livelihood activities. As such, the takeover of a large area of common lands effectively results in deprivation for half of the surrounding population. Further, forest and common lands may also overlap some forms of individual use, such as cultivation of “encroached” plots or building of huts or residences on government lands. These also get destroyed as a result.

It is extremely rare for any compensation, rehabilitation or other benefits to be provided for the loss of these forest and common lands and the livelihood resources they contain. In this sense, the takeover of forest and common lands hits the most marginalised and oppressed social sections in a more brutal fashion than the takeover of private land. Moreover, in effect, it is also a massive subsidy to the developer and/or the state at the expense of the local community. Once again, if one applies the NSSO figures, it is clear that those who depend the most on common lands are landless and poor households, and indeed, also the most vulnerable. NSSO estimated that rural labour households collected 777 INR worth of materials from common lands — higher than that by any other social group. Thus, for such families, a key source of livelihood may be destroyed by common land expropriation without any state compensation or welfare measures at all. These are also, of course, the families who have the least alternative resources to survive such a loss. Existing and proposed rehabilitation policies fail to deal with this issue and are usually restricted only to those that fall within narrow definitions of project-affected families; within such limited definitions, ambiguous language

and overly broad restrictions offer many opportunities for administrative officials to exclude even those that such policies ostensibly intend to protect. For instance, the current Land Acquisition, Resettlement and Rehabilitation Act 2015 has been referred to as a law that protects not only landowners but all those who depend on the area for their livelihood. Yet what its provisions actually state is that those who lose their primary livelihood and who have been living in the area for at least three years will be considered to be project affected. It is unclear what constitutes a “primary” livelihood. Further, with very high rates of seasonal migration among Adivasi and Dalit communities (save those who are not settled agriculturists at all, such as nomadic communities and shifting cultivators), how is the 3 year condition to be interpreted? In the absence of clear definitions or a transparent and accountable procedure for deciding such questions, the results will likely be exclusionary and discriminatory.

Impacts beyond the Land Area Taken for the Project

In several types of land takeover, the consequences extend well beyond forest and common lands and their direct uses. The effects include pollution, damage to the water table, additional resources taken from the surrounding area, changes in the ecosystem and so on. The loss of livelihoods from the destroyed lands is compounded by the fact that often those in the surrounding areas — whether on private or common land — are also damaged or destroyed. Furthermore, project developers often draw resources not only from the forest and common lands taken for the project, but from adjacent and nearby common areas as well. It is common for project developers to take construction materials, water and wood from surrounding areas. Thus, the area of common land that is affected, or even destroyed, by the project can greatly exceed the area that is formally appropriated. Finally, this issue — the impact of projects outside their formal areas — is totally ignored by current policies and laws.

Neo-Liberal Land Policy

There is a definite acceleration of land alienation under the current phase of imperialist globalization. The combination of corporate land grab and state-sponsored land alienation has resulted in an unprecedented loss of land of all kinds and land based resources for the direct producers. The separation of direct producers from land has been achieved through the following overlapping routes: (a) Enclosures: The State has enclosed forest land through the Forest Conservation Act and diverted of forest land based on fraudulent Environment Impact Assessments with disregard to Schedule 5 provisions, PESA, FRA, and other protective legislation. It now proposes titling land into two categories – private and government - to create government monopoly over commons. It has handing over ‘barrens’ and ‘wastelands’ that are home to the poorest communities to the corporate sector and for bio-fuels. (b) Evictions through land acquisition: Using the land acquisition act for compulsory and cheap land acquisition for private companies and profit in mega projects rather than genuine public purpose (c) Land use policies: promoting crop diversification away from food security to high value commercial crops, encouragement of corporate farming; and permitting post facto and un-scrutinized change in land use from agriculture to industry, infrastructure, real estate, etc. (d) Reverse land reforms: legalizing reverse tenancy, Increasing land ceilings, ignoring/sanctioning dubious mechanisms of Dalit and Adivasi land alienation. (e) Land takeover by the land mafia and corporate sector: Large areas being bought up through the

market and simply grabbed in an unregulated manner with a view to subsequently change land use.

There has also been a huge demand for liberalisation of land use policies. Even though the draconian Forest Conservation Act vests absolute powers over 'forests' (amounting to 23% or more of India's geographical area) in the State's Forest Department, this was not considered enough by adherents of neo-liberalism since it gave rise to huge contestation between forest dwellers and the state, as well as with the corporate sector to whom large areas were handed over. Thus the Forest Rights Act was proposed to settle marginal rights over family plots while releasing other territories from forest dwellers' subsistence. Though the State failed to fully attain this in the law due to stiff resistance from people, it has succeeded significantly by sabotaging its effective implementation. In the case of land acquisition, the demand from global and national capital was to dilute 'public purpose' for invoking eminent domain of the state, fully making the state a real estate agent for capital, using both force and compensation, depending on what was more effective. This is the opposite of what was demanded by peasant organisations and Adivasi movements, who demanded that the old colonial Act be replaced by a new one which (1) Tightens and democratises definition of public purpose and land use (2) Compensates all land dependent people irrespective of their legal titles at replacement and augmented rates. (3) Compensates and replaces common property resources, not only private land and incomes (4) Gives livelihood losers and land losers a share in profits and enhanced land values after the change in land use. (5) Protects food security (6) requires prior informed consent from all affected and interested persons (7) Regulates land use changes and market purchases.

Instead, the government has made land acquisition much easier and further diluted the public purpose and land use policies. Similarly in the context of land titling, the demand was to settle occupational rights by giving security of tenure etc. to those using it for bona fide livelihood purposes in urban and rural areas. Instead, every bit of commons is being classified as 'government land', leaving only private land with established titles for the masses. The result of these developments is that government land, public land, common property resources and acquired land, which was under agriculture, or under agro-pastoral systems, or under urban slums and forests, or considered wastelands and barrens where the poorest eke out their subsistence, has been shifted to real estate, infrastructure mega projects, industry, etc.

In essence a compartmentalised understanding of land takeovers has resulted in a debate focused overwhelmingly on private land, compensation measures and rehabilitation. The underlying mechanism of land takeover and environmental destruction, and the historical and political dynamics that drive them, have received little attention. Two key facts are rarely noted: first, that the "national interest" is often wrongly conceived of (as a result of colonial policies), and second, that many present projects do not serve public interest in any sense.

Policies and Laws that Promote the Land and Natural Resource Grabbing

- Disguised use of Land Acquisition Act (1894) which allows state takeover of land under guise of 'public purpose.'
- Neo-liberal economic policies and obsession with 'GDP growth.'
- Changes in land laws to facilitate conversion of agricultural land and to ease land sale.

- Manipulation of laws and takeover of land by the state for private companies often using violence.
- Alienation of tribal lands.
- Violation of 'ceiling' laws in rural areas.
- Failure to implement progressive laws.
- Failure to implement positive court orders.
- Lack of human rights-based laws and policies (e.g. Rehabilitation Policy).
- Unplanned urbanization.
- Repeal of Urban Land (Ceiling & Regulation) Act.
- Inequitable land use policies: lack of space for urban poor in cities/towns.
- Unchecked real estate speculation.
- Absence of housing, health, employment schemes for the urban poor.

Trade & Investment Agreements

- India has signed 21 bilateral investment treaties with 22 of 27 EU states.
- EU-India FTA: 'investor protection chapter' - conflicts with human rights obligations.
- Risk of takeover of community land for large-scale investment by transnational companies.
- Obligation of Fair and Equitable Treatment (FET) – against human rights /no 'public interest' exemption.
- 'Free and Prior Informed Consent' not required.
- Lease of 99 years – could interfere with land reform.
- Investor-State dispute settlement – gives foreign investors undue rights over Constitution of India & international law.

Policies and Laws that Prevent Land and Natural Resource Grabbing

- Panchayat Act (1996) & 73rd Amendment Act which devolves powers to local self-governing bodies.
- Forest Rights Act (2008).
- Hindu Succession (Amendment) Act 2005 which provides for equal inheritance rights for men & women.
- Directives on joint registration of land for both men & women.

Measures to Curb the Land Grabs and Abuses

We have seen that India's legal system at present encompasses two different institutional paradigms of land control: one rooted in colonial policies, which is arbitrary and centralised; and the other, emerging from popular struggles that tends towards being democratic, collective and accountable in nature. Many assume that centralised bureaucratic decision making ensures planning, effective use of resources, and development. Yet, in practice, the current process has not achieved any of these objectives. There is no meaningful planning or coordination at the Central, State or district level regarding common lands and the process fails entirely when it comes to the acquisition of private and common lands for large projects. Decision making on projects, land acquisition, environment and forest clearances all run in parallel, in different Ministries, and at different levels of the federal structure. There is no evidence of centralised control leading to effective management of resources either. The clearest trend in this regard is evident with respect to forest land, which has seen both increased concentration of power and increased land takeover since 1996. This period has been accompanied by a rapid rise in diversion of forest land and in loss of natural forests. Going by the scale of land expropriation in India today, the rate of diversion of forest land has been higher between 2007 and 2011 than at any preceding period since 1980. Meanwhile, it has been estimated that India's natural forests are being destroyed at a rate of 2.7% per year.

Finally, regarding development, neither form of land takeover — the imposition of more stringent regulations or the transfer of lands to “development” projects — appears to generate significant benefits. First, contrary to projections of acquisition for projects generating “industrial employment” in the formal sector, employment in the country has stagnated over the same years that land takeovers have greatly accelerated. Indeed, in a study it was found that the major industries that require land expropriation, such as mining, energy generation and real estate, are either not significant generators of employment or have seen a net loss of employment after 1991. As a second indicator, increased production of energy for India's poor is often cited as a justification for land takeover for hydroelectricity, coal mining, biofuels, wind power projects, etc. However, between 1983 and 2005, while overall electricity consumption increased, the share of rural households dependent on biomass remained almost perfectly constant. Only the top 10% in rural areas showed a slight shift towards electricity. Similarly, though generation capacity increased by 100,000 MW between 1996 and 2006, the percentage of Indians without electricity dropped only from 50% to 40%. The government's estimated generation need for these remaining households to be electrified is 20,000 MW annually; this is one-tenth the amount of thermal power capacity cleared by the Environment Ministry between 2007 and 2011 alone. The centralisation of power over land use has clearly not met its stated objectives: if anything, it is acting as a hindrance to realising them.

A move toward the second institutional paradigm — a democratic, collective and accountable system of regulation of land use — is therefore required to push the system toward addressing the needs of the majority of India's people. The recording of collective and common rights is the first step in overhauling the forest and revenue land administration systems in this direction. Thus, it can also be the first step toward a future where the current trend of destructive land takeover, displacement and impoverishment will no longer dominate so many parts of India and the lives of so many Indians.

We can clearly observe two key problems with the manner in which state power over land is exercised at present. The first is that it is exercised undemocratically — with very little control or accountability to either affected communities or to the public in general. The second is that it is exercised arbitrarily— without any inclusive process of planning. Even as the overall course of action is justified by rhetoric about “development,” there is no attempt to align land use towards actual development goals, and decisions are made on the basis of ad hoc pressures and the desire to please particular investors. Certain short-term measures can be taken to address some of the more egregious problems through directives, instructions and regulations with specified compliance mechanisms. First, there is a need for strengthening the implementation of laws that already provide for recording of collective and common rights. For instance, on forest land, the following measures can be considered on the Forest Rights Act:

- Provide instructions to forest officials regarding community rights: Direct forest authorities to respect the power of gram sabhas to manage land use and collection of forest produce, as well as to protect forests, wildlife, biodiversity, water catchment areas and the cultural and natural heritage of forest dwellers (Section 5).
- Clarify directions on evidence: Instruct authorities to accept all forms of admissible evidence and to strictly follow the procedure in the Act, pointing out that violation of this procedure is a criminal offence.
- Ensure transparency: Address the very high rate of rejection of claims for rights by holding public hearings, making all documents, decisions and status of claims public, and encouraging re-filing of claims to address illegalities and anomalies in decision making. This can include appointment of special officers for every state to begin the process of public hearing and report the status of current claims and the progress in re-filing and reassessment of claims in a time-bound manner
- Regarding the PESA Act in Scheduled Areas, similar methods could be:
- Asserting PESA’s validity over conflicting state laws by amending the Act to clearly state that it overrides State laws that are inconsistent or in contradiction to its provisions (this is implied by Section 5 at present).
- Consolidating gram sabhas’ powers over common resources through uniform and clear procedures established by Central and Federal/State governments for operationalizing PESA’s provisions that empower gram sabhas to manage water bodies, community lands, grazing areas, other community resources and Adivasi lands.

In other revenue lands outside Scheduled Areas, State governments should update records and ensure compliance with requirements under revenue and forest laws to register common lands. In addition to the above, some steps are required to reduce the arbitrariness in decision making on land takeovers. These could include:

- Gram sabha consent: It is important to recognise that any change of land use is a form of acquisition, since it results in a loss of traditional and livelihood rights, and all such acquisitions (as well as those of private land) should require the consent of the gram sabha. At present the legal provisions on this issue are not uniform. On forest land, the consent of the gram sabha is now required before diversion of forest land, as a result of the Forest Rights Act. The Land Acquisition and Resettlement and Rehabilitation Act speaks of the consent of 80% of the affected people, though this provision is effectively rendered meaningless by a series of loopholes. The PESA Act only provides for

“consultation” at present, but the Ministry of Panchayati Raj has proposed amending this to require consent. Requiring consent in this manner imposes a basic level of democratic accountability on the state machinery and requires it to justify the change of land use, as well as whatever compensation or rehabilitation is being offered, to affected communities. Therefore, any change of land use above a certain minimum area, such as the agricultural land ceiling in the State concerned, should be required to receive the prior informed consent of the gram sabha and be subjected to the requirements of resettlement and rehabilitation that apply to the acquisition of private land. For those cases — such as small development works — where powerful communities may use this to block access for the more marginalised, an appeals procedure can be introduced. But this should only be permitted for small works that directly lead to the provision of basic facilities.

- Cumulative impact assessments at the district level prior to clearance: The Environment Ministry, as the agency that grants forest and environment clearances, is a key regulatory body in most takeover processes. At present, however, approvals are granted on a project-wise basis. This results in serious problems, as it makes it impossible for the cumulative impact of multiple projects to be considered; it also inevitably biases the process in favour of the project, since the State government and the project proponent have already committed themselves and can use pressure tactics to ensure the desired decision. The Ministry has already begun trying to address this through the mechanism (once again ad hoc) of “cumulative environment impact assessments” in certain areas, as well as a more general “comprehensive pollution index.” This mechanism should be generalised to require publicly available cumulative impact assessments of existing and proposed projects in all districts, and to ensure that this data is taken into account before any clearance is granted. There should be a moratorium on clearances until this is completed. While problems will continue, this may in a very small way contribute to a more coherent approach to project clearances.

Most importantly, all these measures should be made enforceable, and violations punished stringently through penalties. Clearances obtained through false or incomplete information should be automatically revoked and the responsible proponents prosecuted. Requisite amendments to the concerned statutes for this purpose should be put in place at the earliest

Reducing Space for Speculative Activities related to Land

Further, in order to address the trend toward using land and natural resources for speculative purposes, certain other changes can be instituted:

- Alteration of SEBI regulations to require mandatory disclosure: SEBI regulations should be altered to require that companies publicise the status of all clearance applications and land acquisition proceedings in their documents. Companies should also be required to clearly state that proposed projects may not go ahead if these requirements are not met.
- Modification of RBI credit regulations: RBI should mandate more stringent requirements for loans to such projects. RBI regulations should also require that banks treat any project without clearances as high risk. Such projects should not be provided benefits applicable to infrastructure or similar categories.

- Rationalisation of clearances: Companies should not be granted additional clearances until they can show completion of projects based on earlier clearances given. Where the cleared capacity has exceeded the government's target by a significant margin (as is presently the case in coal mining and thermal power), no further clearances should be granted.

A BRIEF PART ON LAND ACQUISITION ACT, 2013 & THE PROPOSED LAND ACQUISITION AMENDMENT BILL, 2015 OF THE CURRENT GOVERNMENT WOULD BE ADDED HERE.

Local Resistance Situation

People across the country have started uniting to struggle against forceful land acquisitions and abuses by corporate agriculture. Farmers gradually have begun to give-up the dependence on the synthetic chemical fertilizers and pesticides. There has also been a steady growth of organic farming and small farmer cooperatives. At several places women have been seen more often in the forefront in leading movements to occupy village 'wastelands' and promote collective farming/ rights. Non-violent social movements at pan-India levels have begun to mobilize thousands and spreading awareness on the importance of land reform and redistribution to promote food sovereignty, self-governance and dignity.

The majority of such struggles, whatever their character, are met with police action and brutal repression as a first resort. To reiterate a point, the state machinery has little patience with or respect for attempts to defend common resources. The resulting spiral of violence sometimes culminates in deployment of paramilitary forces, police firings and, often, in death. The same story repeats itself in many areas, whether in campaigns against nuclear power plants, against POSCO's steel plant, against mining in Chhattisgarh, against SEZs in Maharashtra and Andhra Pradesh, against the Narmada and Polavaram Dams, against the Tatas in Kalinganagar, against 8-way lanes in Tamilnadu, or against new tiger reserves. In some places, such struggles do result in projects being withdrawn or in plans for declaration of new protected areas being dropped. The wave of such conflicts in recent years has also acquired electoral significance. But at a systemic level, despite both old and new laws to defend common rights, little change has occurred in the actual practice of land takeover. The state machinery continues to use armed force to secure control of forest and common lands over the dissent of those dependent on it.

Much of the resistance to the contemporary kind of primitive accumulation and land grabs comes from communitarian approaches underlying 'people's movements', with women, peasants, Dalits, and Adivasis forming the backbone. This is no surprise since the gender based division of labour puts the burden of harvesting, collecting and preserving most common property resources upon women. In forest, hills, coastal and desert zones, the neglect in economic development has meant a greater dependence on common property resources. While the communitarian people's movements have been effective in highlighting the annexation of the commons, they unfortunately suffer from extreme localism and their engagement with issue based politics has resulted in a narrow approach and an inability to correctly identify the cause of encroachment of the commons and loss of resource rights as capitalist and primitive accumulation under neo-liberalism through finance capital.

Internally, there is also an underlying romanticism about the community, with a failure to appreciate class, gender and caste-based oppressions. They are thus unable to raise demands and struggle beyond a limit, for a meaningful and sustained democratisation of the community through land reforms, women's greater role in decision making etc. as a necessary concomitant of resisting the government's neo-liberal natural resource policies, to relate the fight for democratic ownership and control over the common property resources to the anti-imperialistic movement. However the left movement which has the greatest potential to take up demands for protecting and deepening common property resources rights and integrating it in an anti-imperialist movement has not done enough to link equitable growth, location specific technologies, economic sovereignty and environmental sustainability.

In the absence of the above mentioned situations, the communitarian people's movements remain the main voices and have the tendency either to be co-opted by right wing forces or are drowned out by NGOs led advocacy and governance politics or service delivery, or fall prey to extreme left militancy.

Recommendations for Regional Interventions at SAAPE Level

- Campaign for ensuring inclusion of strong human rights protection clause in FTA.
- Campaign for Human Rights Impact Assessments to be conducted ex-ante and ex-post – for all trade & investment agreements (as requested by European Parliament in November 2010).
- Campaign for implementation of guidelines proposed by Special Rapporteur on Right to Food regarding land acquisitions & the UN Basic Principles and Guidelines on Development-based Evictions and Displacement.
- Campaign for issuing guidelines to international investors in India which ensure protection of all human rights.
- Campaign with international partners and India to respect rights of urban and rural poor, and protect small farmers and informal workers.
- Campaign to use the Universal Periodic Review (UPR) of India at the Human Rights Council to promote the realisation of human rights to food/land in India.

Recommendations for Domestic Civil Society Interventions

- Advocacy, campaign and lobbying for the adoption of a strong human rights approach in all laws/ policies/ programs.
- Advocacy, campaign and lobbying for the implementation of human rights-based agrarian reform which would include just-redistribution of land and agricultural resources (including seeds), water, information, as well as access to markets.
- Advocacy and campaign for the adoption of urban reform measures and provision of homestead land in urban areas.
- Advocacy and campaign for the provision of legal security of tenure & recognition collective rights.
- Advocacy and campaign for strengthening the National Land Reforms Council.
- Advocacy and campaign for strengthening the Public Distribution System (PDS).
- Advocacy and campaign for according women equal rights to land and other natural resources, property, housing, inheritance.
- Advocacy and campaign for enforcing control on real estate speculations.

- Advocacy and campaign for developing a comprehensive National Land Reform Policy.
- Campaign and advocacy for implementation of progressive laws.
- Advocacy, campaign and lobbying for enforcing all International human rights laws as well as concluding observations of UN treaty bodies & Special Rapporteurs.

What could be done!

In essence, the question is, “what then can be done to reduce the injustice of this process and to address the destruction it wreaks upon both people and natural resources.” Guaranteeing rights of people to own, control and manage their land and other natural resources is critical to promoting food security and well-being, and to protecting multiple human rights. Fundamentally, the legal rights over forest and common lands should be respected. But on its own, a mere reassertion of this fact is far from sufficient. Indeed, numerous officials, Ministers and ‘expert committees’ have said precisely this several times, to little effect so far. The state machinery however is quite adept at overriding one set of laws with another. For the problem to be addressed, the decision-making process for control of land requires fundamental changes. The basic principle of common and collective land use is collective control. The concomitant to this has to be a democratic process of deciding on land takeover. This will help curb the present destructive cycle, as well as reduce the tendency for speculative and vested interests to take advantage of the current legal frameworks.