



Press Release

Land Acquisition Debate and the Constitution of India

Land acquisition by the government has been one of the most contentious issues in the Indian politics recently.

India's market based economic reforms have created a new appetite for land, required for urban and industrial expansion. However, the market based institutions for land markets are lacking and government led compulsory taking of properties for the new public purposes are increasingly contested.

Although only about 4% of the country is occupied by cities and industries, their expansion obviously need land as a primary resource, presently held by farmers, mainly small peasants created by India's land reform programs just after its independence.

Large tracts of lands were taken from the landlords (*Zamindars*) to distribute to the landless, to create a new class of small property owners, as per the vision of founding fathers of independent India. The landlords sought to invoke strong private property protection rights in the constitution of India, to protect themselves from compulsory takings. The government responded by watering down the fundamental right to property.

In the late 70s, India was officially declared a 'Socialist' country, and the fundamental right to property was completely eliminated, in the 42nd and the 44th amendments respectively. This period also coincided with nationalisation of several industries. The decades thereafter were a disaster for the Indian economy.

In the above context, in 2007 the Supreme Court of India was petitioned by Sanjiv Agarwal and his trust Good Governance India Foundation, for restoration of fundamental rights to property and deletion of 'Socialist' from the preamble to the constitution. The court observed that while the issues were of importance, it was not ready to go into the question. The two petitions were dismissed without going into the merits, which meant that the issue could be raised again before the court. Efforts are being made to revive the petitions in view of the latest scenario.

In 2015, the land acquisition laws are still being hotly debated in the Indian parliament. The present government is bent on diluting some of the provisions of the new land acquisition law, to facilitate easier availability of lands for urbanisation and industrialisation. This is being fiercely opposed.

A discussion moderated by eminent author Gurcharan Das was organised to address the above issues, by the Good Governance India Foundation and the Centre for Civil Society, in New Delhi.

A book titled *The Indian Federalist*, the original will of India's founding fathers, authored by Sanjiv Agarwal was also released.



The main thrust of discussion was that for India to really achieve its aspiration of a functional market based economy, it cannot possibly address the land question in a 'Socialist' way. It must establish free and fair markets of lands, using modern techniques and technology, as all developed countries have done. Government led compulsory acquisition of lands for urbanisation and industrialisation cannot effectively substitute for a free and fair market of lands, as the recent experiences have shown.

To usher in free and fair land markets, it was argued, apart from restoring the constitution to its original liberalism that provided for strong protection to private property, institutions like efficient land titling and registry systems will have to be built, using modern techniques and technologies that are abundantly available.

Contacts for further information: sanjiv@ggif.in, june@ggif.in