Streamlining land acquisition

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IT needs no elaboration that most infrastructure projects are delayed over land acquisition and relief & rehabilitation. It is also well settled that the delays have their origins in three factors—popular protests on equity concerns, lengthy procedures, and non-cooperation by states in central projects. The first two are substantively covered by policy/legislation, but the third could also have formed part of this. The two Bills on the subjects, introduced in Parliament last year, could not be carried through and have to be re-introduced. This article argues that there is an urgent need to revisit both, though for reasons different from the ones that stalled them in Parliament.

Both The Land Acquisition (Amendment) Bill, 2007, and The Rehabilitation and Resettlement Bill, 2007, have been drafted with the sole purpose of securing the monetary and livelihood interests of the affected persons. This is in sync with the government emphasis on inclusive development and a realisation that popular resistance to land acquisition and rehabilitation feeds on perceptions of less than fair compensation. It is difficult to fault the two Bills on this score. The LA Bill amplifies the ambit of "persons interested" to those who have any kind of rights over the acquired land (beyond just those owning that land), expands the "cost of acquisition" to all possible expenditures and lays down a comprehensive scheme of valuing the land at market value. The R&R Bill enhances the scope of "affected family" by including all those who lose their livelihood due to the acquisition (like agricultural and non-agricultural labourers, landless persons, rural artisans, small traders and self-employed persons and not just those either owning that land or having some kind of rights over that land). It also lays down the minimum values of all possible components of an exhaustive scheme for R&R.

However, the Bills commit the traditional mistake of 'missing the woods for the trees'. In trying to secure equity for the affected persons the Bills have lost sight of the very purpose for which land is supposed to be acquired–implementation of projects. Unfortunately, the Bills have been poorly designed to secure the speedy implementation of infrastructure projects.

The two Bills lay down extensive procedures of acquisition and R&R. Also, time limits of procedures mentioned in the individual Bills have little meaning in practice since the procedures are supplementary. Thus, although section 14(5) of the LA (Amendment) Bill says: "It shall be the duty of the collector to ensure that physical possession of the land is taken over and the amount of compensation paid within a period of 60 days commencing from the date of the award," section 29 of the R&R Bill renders this time limit inconsequential—"In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected persons."

The R&R Bill creates a plethora of bodies/committees/authorities, many of which are not needed and may actually delay the process of R&R by getting embroiled in inconsequential issues of cross-jurisdiction. The Bill creates, for example, administrators for R&R, at

project level (required), commissioner/secretary for R&R, at state level (required), R&R committees, at project level (required), standing R&R committees, at district level (not required), ombudsman (required in principle but the proposed dispute settlement authority under the LA Bill could do this job), a national monitoring committee, at the central level (not required as the committee that matters is the R&R committee at the project level), an oversight committee for each major project, in the ministry/ department of the appropriate government (not required), and a national rehabilitation commission, at the central level (not required).

There is no reason why land acquisition and R&R should require two separate enactments. The two are so connected that the second (R&R) is merely an extension of the first, particularly since out-of-project land may have to be acquired as an R&R measure. Ideally, therefore, a common enactment should have dealt with both subjects. This would have given uniformity to the procedures and facilitated common and co-terminus procedures, leading to quicker completion.

Even if it is not possible to merge the two Bills into a single enactment now, it should be possible to redraft the Bills in such a way that the procedure for land acquisition runs concurrently and is co-terminus with that of R&R.

The time limits of different steps under the two procedures should be so coordinated that it becomes possible to make it mandatory to take possession of the acquired land within a specified period.

It should also be possible to merge corresponding authorities under the two enactments into common authorities. For instance, the land acquisition officer under the LA Act and the administrator for R&R under the R&R Bill should be the same for a particular project. He could be called the LAO and R&R administrator under both the enactments.

The commissioner/secretary for R&R at state level, under the R&R Bill, should also be the commissioner/secretary for LA under the LA Bill. The R&R committee at the project level, under the R&R Bill, should be a common LA and R&R committee, under both the Bills. The Land Acquisition Compensation Disputes Settlement Authority, under the LA Bill, should be the LA and R&R Compensation Disputes Settlement Authority, under both the Bills. There is no need for a separate Ombudsman under the R&R Bill.

Legislations are essential tools of governance but they need not snuff out life from the purpose of the legislation itself by smothering everyone with a mountain of procedures.

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