



Rediscovering The Right To Property With Critical Appraisal Of Private And Public Law

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ABSTRACT

The nature of land as property, communal land rights, individual property rights on land, as well as the state's role as appropriator for communities or sponsor for the public good all influence land purchase in India. Determining what constitutes public use or the public good has long been a contention between the state and individual/communal land owners. As indicated in the pre independent law from the year 1894 and later modifications and legislative ratifications following independence, rule and policy building for land acquisition and suitable compensation reflects a secondary controversy between *law* and *justice*.

This study focuses on three of the important facets of land procurement law and explores how the impression of public good to the benefit of the public discharge of its function has historically evolved from legislative and legal contexts as well as how the states theoretical model of repayment is intrinsically associated with the debatable definitions of the common good and community rights as explanation of public purpose, the requirement of consent, and compensation against acquisition.

KEY WORDS: public property, private property, public-private law divide, property rights, fundamental rights

INTRODUCTION

According to the moderate perception of private property, property is a unit of private rights. Property which is not considered as an object that one possesses legally. Instead, it is a collection of rights which can be shared across several individuals or organizations. Included in these are the rights to use, the power to prevent others from using, and the capacity to transfer the asset. When the government defends private property in this manner, it safeguards individual ownership rights. Property rights holders are free to act however they like as long as they refrain from interfering with the rights of others who share those interests. "In light of this statement, the government appears to serve only as a mediator between private parties. Therefore, a

libertarian or liberal perspective of government constraint accepts property as a collection of rights with ease.”¹

According to classical and contemporary scholars, private initiative results in public good. John Locke argued that protecting private property rights benefited the public, as men would labour to plough, seed, as well as grow their crops with the assurance that they would reap the results of their labour and communities would gain from agricultural production. Contemporary legal scholars refer private rights as the optimal remedy to coordination difficulties, such as the prospect misuse of land for animal grazing and the issue of urban expansion².

Private property, as defined by both proponents and opponents, is the safeguarding of individual authority over limited resources. The institution is seen as a safety net for controlling remotely over resources by opponents of private property. Karl Polanyi contends that “private property is the converse of the common good. He saw the development of capitalist as a "double movement" among the private acquisition facilitated by the concept of private property and the production of public goods facilitated by socially regulating actions taken by the government.”³

The distinction between public and private land ownership can be understood as revolving around a number of explanations, including the character of immovables with property, the type of common immovable property ownership and its right, the character of each land ownership, and the assertion by the state as an appropriator for particular goals or a patron for the common good.

The variety of rights associated with land that have developed in various states of republic of India and the central governmental framework of the present federal Indian can also be included. Because of a combination of factors, land is one of the most controversial earth's resources and also one of the hardest land conflicts to resolve.

SCHEME OF CHAPTERS

It is divided into three parts. The first chapter, titled “History of Right to Property in India”⁴, discusses the evolution of property rights in the colonial and post-colonial eras. The second chapter, ‘The Doctrine of Eminent Domain’, discusses the legal status of eminent domain and its evolution in India. The third chapter, ‘Land Acquisition for Public Purposes, Consent and Compensation’, highlights various contentious aspects

¹ Radin Margaret Jane, Government interests and takings: Cultural commitments of property and the role of political theory. In S. E. Gottlieb (Ed.), Public values in Constitutional Law 69–96. (University of Michigan Press, 1993)

² Ellickson Robert C, Order without law (Harvard University Press 1991)

³ Polanyi Karl, The great transformation. New York: Farrar & Rinehart. Inc. Reprinted (1957) (2001) (Beacon Press 1944)

⁴ ALLEN T, “The Revival of the Right to Property in India: Asian Journal of Comparative Law” (*Cambridge Core* August 20, 2015) <<https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/revival-of-the-right-to-property-in-india/D1972E4D6FBE73384888525AE9DD6E41/core-reader>> accessed April 17, 2023

of the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013.”⁵

RESEARCH QUESTIONS

1. What is the history of private property rights in India?
2. Is the Indian legal code balanced between acquiring land for development (a public law issue) and protecting property rights of land (a private law issue)?
3. What are the contentious aspects of the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013?”⁶

1. HISTORY OF RIGHT TO PROPERTY IN INDIA

1.1. Right to Property in the Colonial Era

The process of creating legally sanctioned private property on land can be dated back to pre-independent legislation. In his masterful study of the Bengal Permanent Settlement of 1793⁷, Ranajit Guha demonstrates the way policy of land settlement become the first significant step "to ensure the right of private property in land"⁸because land with rightful acknowledgement and safety towards ownership was considered as a prerequisite to "capitalist development in agriculture."

The Permanent settlement's idea of private proprietorial rights in land was considered entirely on the hypothesis that zamindars stood as an homogeneous class with even rights⁹, an assumption coloured by a model derived from contemporary England¹⁰, and therefore ignorant to the customs of the Indian agricultural system. This belief also contradicted the multifarious and diverse spectrum of land ownership rights that resist tidy categorization into 'standard labels of "landlord," "tenant," "labourer," "creditor," and "debtor," and so on'¹¹.

The fact that some types of property, like meadows or pastures, were communally owned has never been in doubt, notwithstanding historians' disagreements over the nature of property ownership in ancient India ('communitistic' versus 'individualistic'). Contrary to established assets with fixed revenue accruing to the state, areas designated for everyday use have ambiguous titular rights and its assertions, which leads to the state securing these property without assent from private parties having rights on their property.

⁵ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013

⁶ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013

⁷ Bengal Permanent Settlement of 1793

⁸ Guha Ranajit, A rule of property for Bengal: An essay on the idea of permanent settlement. (Orient Blackswan 1982)

⁹ Ibid

¹⁰ ibid

¹¹ Tomlinson B R, The New Cambridge History of India. Vol. 3. (Cambridge University Press 1993)

1.2. Right to Property in the Post-Colonial Era

As initially enacted, Article 19(1)(f) of the Constitution of Independent India provided all the people with the “right to acquire, hold, and dispose of property”¹². Article 31 specified that (reproduced below):

“

1. No person shall be deprived of his property save by the authority of law.
2. No movable or immovable..., shall be taken possession of or acquired for public purposes under any law authorizing the taking of such control or such acquisition unless the law provides compensation for the property taken possession or received. Either fix the compensation amount or specify the principles on which and how the compensation will be determined and given”¹³.

These provisions are placed in the fundamental rights provisions of the Constitution of India Act therefore subsequently repealed. In its place, article 300A, placing differently than the section on fundamental rights, was added. Article 300A states, in an ambiguous manner (reproduced below),

"[N]o person shall be deprived of his property save by the authority of the law.”¹⁴

The referenced inadequate definition of constitutional property rights opened the scope for statutes and law authorizing the acquirement of immovable property by the state. Moreover, Article 372 of the Constitution of India provides that all pre independence legislations to remain enforce until formally revoked. This enabled the “Land Acquisition Act of 1894”¹⁵ to remain applicable in India.

In order to centrally register and manage the customary property law by establishing property rights, land laws in pre-independent and post-independent India which sought to establish a "standard grid" out of "exceptionally complex, illegible, and local social practises." Land acquisition policies were driven by the imperative of alienating land for sale via a "right to consent," which marginalised entire classes of people with sporadic rights to land, complicated relationships between ownership and subsistence needs, and those without legal avenues to seek payment for state-acquired land.

2. THE DOCTRINE OF EMINENT DOMAIN

Eminent domain's legal standing, which identifies the government as the only entity having acquisition rights, is a traditional concept that is not fundamental to the character and behaviour of the nation. Evidence from history reveals that eminent domain seems not as a general attribute of state authority then again was

¹² Article 19 (1)(f), Indian Constitution

¹³ Article 31, *ibid*

¹⁴ Article 300A, *ibid*

¹⁵ Land Acquisition Act of 1894

traditionally created contrary to the traditional wisdom with law makers and the legal system in India that "all countries enjoy, as an essential component of their sovereignty, a power over their geographical resources."¹⁶

Eminent domain is the king's or Government's authority to take over a private individual's property when required for a public purpose.

The doctrine of 'eminent domain' is predicated on two maxims:

- i. '*Salus populi supreme lex esto*' means the people's well-being is paramount.
- ii. '*Necessita publica major est quan*', which translates as public necessity, exceeds private necessity.

Eminent domain try to state that land as an immovable property can be acquired because the government possesses a exclusive and higher level of property rights¹⁷ via the concept of the public or common good—'*public purpose*'—validated as self-apparent in what is principally confiscation by transferring their right as that of the public or common good. Even prior to the official codification of land acquisition laws, the requirement that land taken for public or common use provided the compensation as the recognized norm.

Additionally, it infers that assent and recompense part do not concern uniformly to all groups from which property is required, as parties with higher negotiating strength have the potential to exploit the legal provisions to their gain. Furthermore, as Walter Fernandes noted in Singur's case and much of "West Bengal, the colonial Land Acquisition Act of 1894"¹⁸ misses that land provides subsistence to its owner and landless service groups in the rural economy¹⁹.

"The Supreme Court held in *Chiranjit Lal v. Union of India*"²⁰ that eminent domain is a sovereign state's inherent authority to acquire and take private property concerning to a person for public use. The state also supervises the use of private property through its police power. However, police authority can be distinguished from eminent domain authority.

While the police authority restricts the use and the enjoyment of the property, the eminent domain authority allows the nations to seize immovable to the property from the landowner for public purpose.

Despite this widespread action of police authority, exercising police authority is limited to maintaining peace and order. As police merely assist machinery, this authority appears comparable to eminent domain authority.

There is, however, a critical distinction among the two capacities. Eminent domain as asserted is a dominant authority which is subject to public suitability, aiming to promote public welfare and public purposes. In

¹⁶ De, G. (2016). Whose Land Is It Anyway? Property, Law and Rights in the Land Acquisition Question in India. *Journal of Land and Rural Studies*, 4(1), 23–35. <https://doi.org/10.1177/2321024915616670>

¹⁷ Reynolds Susan, Before eminent domain: Toward a history of expropriation of land for the common good. (University of North Carolina Press 2010)

¹⁸ West Bengal, the colonial Land Acquisition Act of 1894

¹⁹ Fernandes Walter, Singur and the displacement scenario (2007) 203-206 *Economic and political weekly* <<https://www.jstor.org/stable/pdf/4419155.pdf>> accessed 29 Dec 2021

²⁰ *Chiranjit Lal v. Union of India* (1950) SCR 869

contrast, police power ensures, among other things, that law and order are adhered to to protect property rights, accomplish public purposes, and so forth.

The eminent domain authority is an unobstructed right aimed for compensating the subjected party, however the police authority is subject to the Government's law enforcement agencies and law protecting wings being scrapped. The eminent domain authority is derived from constitutional provisions, but the police authority is derived from legal provisions that are not inconsistent with constitutional provisions. When eminent domain authority is exercised forcefully and unequally, it necessitates specific sacrifices on the part of those affected, whereas this situation does not emerge when police authority is exercised. While exercising the eminent domain power takes away one's right to property, exercising the police power gives security for one's person and property²¹.

3. LAND ACQUISITION FOR PUBLIC PURPOSE, CONSENT AND COMPENSATION

India enacted the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013²²” (LARR) on September 27, 2013, repealing the Land Acquisition Act of 1894. The founding law amended the state’s status of *eminent domain* authority associated with the property compensation standards, acquisitions, and resettlement as well as rehabilitation procedures. Some of the critical aspects of land acquisition law— definition of public purpose, requirement of consent, and compensation against acquisition have been discussed in this section.

3.1. Acquisition for Public Purpose

“The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”²³ (LARR Act) specifies that the authority can only buy land for the private sector for initiatives that are intended to benefit the public good. The word 'public purpose' has been broadly defined, and the following types of initiatives that fall within its purview are given in S 2 (1) of the Act (reproduced below):

“2 (1)

- (a) for strategic purposes relating to the naval, military, air force, and armed forces of the Union, including central paramilitary forces or any work vital to national security or defence of India or State police, the safety of the people; or
- (b) for infrastructure projects, which include the following, namely: —

²¹ Doctrine of Eminent Domain < <https://www.defactolaw.in/post/doctrine-of-eminent-domain-for-upsc-law-optional>> accessed 29 Dec 2021

²² Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013

²³ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

- i. all activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section), dated the 27th March 2012, excluding private hospitals, private educational institutions and private hotels;
 - ii. projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such as dairy, fisheries, and meat processing, set up or owned by the appropriate Government or by a farmers' cooperative or by an institution set up under a statute;
 - iii. project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy;
 - iv. project for water harvesting and water conservation structures, sanitation;
 - v. project for Government administered, Government aided educational and research schemes or institutions;
 - vi. project for sports, health care, tourism, transportation or space programme;
 - vii. any infrastructure facility as may be notified in this regard by the Central Government and after the tabling of such notification in Parliament;
- (c) project for project-affected families;
- (d) project for housing for such income groups, as may be specified from time to time by the appropriate Government;
- (e) project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas;
- (f) project for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected because of the implementation of any scheme undertaken by the Government, any local authority or a corporation owned or controlled by the state.”

As the above definition is broad, a private sector company can seek government aid in obtaining private land in various sectors. It makes no substantive change from the previous act —the Land Acquisition Act, 1984, which contained no definition of public purpose.

Restriction on misuse of public use has been provisioned within the LARR Act, 2013.²⁴ In such cases, the deciding factor is the notification published under section 6 of the LARR Act, that requires a formal declaration that the certain notified land is needed for a public use or private use "when the Government is

²⁴ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

satisfied after considering the report, if any, made under Section 5A (2)."²⁵ This declaration is expressly concerning and viewed with the requirements of Part VII of the Act²⁶, specifically the chapter "Land Acquisitions for Companies".²⁷ Thus, Section 6 reaffirms the separation with respect to acquisitions for public purposes and acquisitions against business.

Section 6 contains a significant and critical proviso determining whether an acquirement is for private or public usage. The second proviso reads, "no such declaration shall be made unless the compensation to be granted for such property is to be paid entirely or partially by a corporation using public funds or a fund controlled or administered by a local government."

Explanation 2 of the provision states that in a place where recompense is to be provided, it must be remunerated from the funds of a state-owned or regulated firm, and such recompense is deemed to be "paid from public revenues." Suppose the mentioned company is not engaged in public benefit. In that case, the acquisition shall not be considered a public use acquisition provided until a portion of the recompense is allocated from public funds, accounting to a local government or a state-possessed or authorised corporation. Thus, a provision for compensation, totally or partially funded by public funds or any fund regulated or controlled by a local government, considered as a sine qua non for declaring that a particular piece of land is required for public welfare.

Another critical condition is Sub-Section (3) of the Act²⁸, that states to a condition that such an affirmation is decisive proof that the land is required for public purposes by a private party and that upon notification of it, the suitable authority of a state is empowered to procure the land in compliance of the Act's other provisions. This is, however, in consideration to the state's judgement, which might be contested and the declaration deemed void and null.

"*Gayatri Prasad and Others v. Shri Kishore Bhaduri*, the Chattisgarh High Court"²⁹ discussed the terms contained in the Section 6 of the Land Acquisition Act on September 4, 2012. On relevant grounds, the judge determined that in a condition none of the portion of the recompense was to be given from public funds, the pronouncement that the land was required for a public use could not be adequately established. The purchase could not be recognized to be for a public use.

The court has acknowledged that the expression public purpose must be comprehensive and not fixed and could be imprudent to describe it extensively and definitively³⁰. Notably, *planned development* appears to have a significant degree of legitimacy. In *Radhey Shyam v The State of Uttar Pradesh*, the Supreme Court remarked:

²⁵ S 5A (2), LARR Act, 2013.

²⁶ LARR Act, 2013

²⁷ Ibid.

²⁸ Ibid.

²⁹ *Gayatri Prasad and Others v. Shri Kishore Bhaduri*, the Chattisgarh High Court, 2012

³⁰ *Devendra Kumar Tyagi and others v State of Uttar Pradesh and others* (2011) 12 SCC 572

“Even though the concept of public purpose was introduced by pre-Constitutional legislation, its application must be consistent with the constitutional ethos, especially the chapter under Fundamental Rights and the Directive Principles. In construing the concept of public purpose, the mandate of Article 13 of the Constitution that any pre-constitutional law cannot in any way take away or abridge rights conferred under Part-III must be kept in mind”³¹.

In the similar case of “*M/S Orchid Hotels*”³², the apex court of India stated unconditionally that no alteration in public purpose should be accepted, and as the government could not later transfer land procured for public purpose to private organizations for private purpose, which resulted in divergance of public use, and that public purpose cannot be stressed to justify an illegal and illegitimate exercise³³.

According to these cases, the judiciary appears to be pursuing a broader task in assessing as to what consist a public purpose in real land use lacking necessarily attempting to furthermore the legal objectives.

3.2. Requirement of Consent

Since land acquisition for the private segment is such a sensitive issue, the recent Act makes specific provisions for regulating it in S 2 (2) of the Act.

It states explicitly that getting land for a private corporation requires the permission of 80 per cent of impacted families³⁴. Similarly, when land is to be achieved for a private-public partnership project, 70 percent of disturbed families must be approved³⁵. This assent must be obtained in the appropriate method.

While other necessities, such as a social impact evaluation statement, preliminary notice, and the Collector's issue of a public notice, apply equally to property purchase for government or private sector use, the consent requirement applies only in the two instances listed. This consent requirement expresses the legislation's pro-poor and pro-farmer nature in the most significant conceivable way.

3.3. Compensation against Acquisition

If the area of land acquired by the private sector through private negotiations exceeds the restrictions the concerned state government imposes, rehabilitation and resettlement fees must be paid. The state government will decide on such restrictions after considering all applicable aspects and situations that the state government considers earnest of contemplation.

- I. Intention to buy the land;
- II. The purpose attached with such a purchase;
- III. Details of land to be bought.

³¹ (2011) 5 SCC 553.

³² *M/S. Royal Orchid Hotels Ltd & Anr vs G. Jayarama Reddy & Ors* on 29 September, 2011 SC

³³ *M. S. Royal Orchid Hotels Private Limited and another v G. Jayarama Reddy and others* (2011) 10 SCC 608.

³⁴ S 2 (2)(b)(i), LARR Act, 2013.

³⁵ *Ibid* S 2 (2)(b)(ii)

The cost of rebuilding and resettling for the entire area, which includes both a part of land purchased and the portion of land obtained as an entirety, will be the responsibility of the private party when it purchases a part of land for a public use that surpasses the state government's limits and then requests that the government acquire the remaining land.

The Supreme Court interpreted 'compensation' as a requirement of law under Article 300 A in the *KT Plantation case*³⁶. In prior cases, compensation was deemed just corresponding to what the owner has been dispossessed of in the case of *Bela Banerjee*³⁷, something that is not misleading in the case of *Shantilal Mangaldas*³⁸. As per the LARR Act, which defines the market value as the greater of the following: the average sale price of adjacent lands over the last three years, the amount specified in the Stamp Act applicable to registering sale deeds, or as the agreed-upon total recompense. This figure is then reproduced by a ratio of 1–2 as seen in the rural areas (depending on the remoteness from the next municipal area) and by one in urban areas.

Conflicts between the centre and states over land acquisition stem from the Constitution's provisions, which define land as a state subject³⁹ and property acquisition and requisitioning in the concurrent list. The latter is defended as a need because many national initiatives involve interstate cooperation, most notably those involving the development of roadways, railways, and nuclear energy projects⁴⁰. The right of states is not revoked because it is a concurrent list entry. States retain the authority to create their legislation and accompanying rules. The legislative issue is settling a differences among the central Government and the states. In cases of opposition, central legislation succeeds over concurrent list legislation on the same subject. In such circumstances, efforts will be made to interpret such legislations—state or the central—over the lens of harmonious interpretation principles first and then through the lens of the topic's 'pith and substance'.

Additionally, when it comes to addressing the mixed challenges of permission and recompense relating to the case of land procurement, simple fiscal design grounded on market value appear to skip over stratified agrarian relations based on property. Moreover, the disagreements between the state and the central authorities of the government remain unresolved⁴¹. Furthermore, the assent provisioned in the section provided in the legislative Act persist as a contentious issue, as consent (of a Gram Sabha) is frequently an activity of patronage networks held by local figures—the heads of local co-operatives, the landowners, the panchayat leaders, the wealthy, as well as the caste elites⁴². Considering Gram Sabhas as a democratic tool for obtaining consent complicates matters further as differentiated property rights in land are merged into a

³⁶ *KT Plantation Pvt Limited and Another v State of Karnataka* (2011) 9 SCC 1 (Constitution Bench)

³⁷ *State of West Bengal v Bela Banerjee and others* (AIR 1954 SC 170);

³⁸ *State of Gujarat v Shri Shantilal Mangaldas and others*, 1969 (AIR) 634

³⁹ Seventh Schedule, list II, entry 18, Constitution of India

⁴⁰ Ramesh Jairam, and Muhammad Ali Khan, *Legislating for Equity: The Making of the 2013 Land Acquisition Law* (Oxford University Press 2015)

⁴¹ Austin Granville, *Working a democratic constitution: The Indian experience* (Oxford University Press 1999)

⁴² Kohli Atul, *Democracy and discontent: India's growing crisis of governability* (Cambridge University Press 1990)

single legal entity lacking the consideration of the social paradoxes inherent in agrarian property relations⁴³. Thus, approval granted by the Gram Sabha may be relevant only to specific regions, such as where tribals' customary possession⁴⁴ of forest lands can be viewed as a shared interest unifying them against the non-tribal occupation. Even when the administration deemed it necessary to obtain Gram Sabha's consent, it acquired the assent using brute police force⁴⁵. Thus, to resolve the land acquisition problem, it is critical to inquire into about whose assent the law requires in getting the property and how land is obtained in the background of unequal land rights.

4. CONCLUSION

Where the nature of the dispute incorporates both public and private law elements, the divide that originally exists between them becomes blurred. The state's authority to take land belonging to an individual stems conceptually from the right of eminent domain. As a result, the right to property is not absolute; it permits the state to interfere with it for legitimate causes. However, the Constitution demands that the public interest justify the state's interference with the private property. Government intervention may take the form of appropriating subjects' existing property when the public interest thus requires.

The law operates within a defined political economy comprised of frameworks and institutions and that the people execute. The law has the challenging task of balancing economic development and the right to private property through balancing political perceptions and legal means.

As a matter of fact, the issue of balance outweighs and will not end. Oddly, even while striving for balance continues to elude us, it is precisely in the endeavour that the LARR Act's continued relevance may be assured.

In reality, ensuring a balance between the need for development and the safety and security of property rights is an organic process contingent on the effectiveness with which political support is mobilized by making varied stakeholders together to arrive and agree to an understanding of the political compromises required by democracy.

⁴³ According to Sathe in his study of Maan village near Pune in Maharashtra in 2015, Dalits may not be significantly impacted by the compensation for land, given they do not possess much land in the first place. The issue that arises as a result of land acquisition is another. Due to the fact that Dalits typically do not own much land, they have traditionally worked as agricultural labourers on the land of others (generally the upper castes). As a result, when these landowners lose their land, the Dalit labourers livelihoods are also impacted.

⁴⁴ Balagopal, K. Land unrest in Andhra Pradesh-III: Illegal acquisition in tribal areas. (2007) 42(40) 4029–4034 Economic and Political Weekly. < <https://www.jstor.org/stable/pdf/40276643.pdf> > accessed on 29 Dec 2021

⁴⁵ Ibid 4033

BIBLIOGRAPHY**PRIMARY SOURCES- Legislation and Case laws**

1. Chiranjit Lal v. Union of India (1950) SCR 869
2. Devendra Kumar Tyagi and others v State of Uttar Pradesh and others (2011) 12 SCC 572
3. M. S. Royal Orchid Hotels Private Limited and another v G. Jayarama Reddy and others (2011) 10 SCC 608
4. Plantation Pvt Limited and Another v State of Karnataka (2011) 9 SCC 1 (Constitution Bench)
5. State of West Bengal v Bela Banerjee and others (AIR 1954 SC 170)
6. State of Gujarat v Shri Shantilal Mangaldas and others, 1969 (AIR) 634

BOOKS

1. Austin Granville, Working a democratic constitution: The Indian experience (Oxford University Press 1999)
2. Damodaran Harish, India's new capitalists: caste, business, and industry in a modern nation (Hachette India 2018)
3. Ellickson Robert C, Order without law (Harvard University Press 1991)
4. Guha Ranajit, A rule of property for Bengal: An essay on the idea of permanent settlement. (Orient Blackswan 1982)
5. Kohli Atul, Democracy and discontent: India's growing crisis of governability (Cambridge University Press 1990)
6. Polanyi Karl, The great transformation. New York: Farrar & Rinehart. Inc. Reprinted (1957) (2001) (Beacon Press 1944)
7. Radin Margaret Jane, Government interests and takings: Cultural commitments of property and the role of political theory. In S. E. Gottlieb (Ed.), Public values in Constitutional Law 69–96. (University of Michigan Press, 1993)
8. Ramesh, Jairam, and Muhammad Ali Khan. Legislating for Equity: The Making of the 2013 Land Acquisition Law (Oxford University Press 2015)
9. Reynolds Susan, Before eminent domain: Toward a history of expropriation of land for the common good. (University of North Carolina Press, 2010)
10. Scott James C, Seeing like a State. (Yale University Press 2008)
11. Tomlinson B R, The New Cambridge History of India. Vol. 3. (Cambridge University Press 1993)

ONLINE JOURNALS/WORKING PAPERS

1. Balagopal, K. Land unrest in Andhra Pradesh-III: Illegal acquisition in tribal areas. (2007) 42(40) 4029–4034 Economic and Political Weekly.
2. De Gitika, Whose Land Is It Anyway? Property, Law and Rights in the Land Acquisition Question in India. *Journal of Land and Rural Studies* 4, no. 1 (2016): 23-35
3. Fernandes Walter, Singur and the displacement scenario (2007) 203-206 Economic and Political Weekly
4. Priya S. Gupta, 'The Peculiar Circumstances of Eminent Domain in India' (2012) 49 Osgoode Hall L J 445

WEBSITES/BLOGS AND NEWSPAPER ARTICLES

1. Dembi Divyanshu, Eminent domain doctrine in India and the lack of due process < <https://www.theleaflet.in/eminent-domain-doctrine-in-india-and-the-lack-of-due-process/> > accessed on 30 Dec 2021
2. Doctrine of Eminent Domain < <https://www.defactolaw.in/post/doctrine-of-eminent-domain-for-upsc-law-optional> > accessed 29 Dec 2021
3. Karthika V, Acquisition of land for companies – a comparative study of the provisions of rfctlarr act, 2013 and land acquisition act, 1894 < https://researchersclub.wordpress.com/2015/11/25/acquisition-of-land-for-companies-a-comparative-study-of-the-provisions-of-rfctlarr-act-2013-and-land-acquisition-act-1894/#_ftnref3 > accessed on 30 Dec 2021