By DALE LUIS MENEZES

“Public Purpose” and Aggressive Land Acquisition Laws

The 2017 Monsoon session of the Goa Legislative Assembly ended about a month ago. In what could be construed as a remarkable show of governmental efficiency, six bills were passed and one referred back to the select committee for further deliberations and clarifications. Of these bills, The Goa Compensation to the Project Affected Persons and Vesting of Land in the Government Bill, 2017 and The Goa Requisition and Acquisition of Property Bill, 2017 have come under the scanner of activists due to the consequences such laws might have on the ownership of property, and especially of marginalized communities. It is believed that a combination of these two laws would allow the government unfettered power in acquiring land from the people of Goa, to be disposed of as the government deems fit. In many ways, activists argue, such laws would secure the rights of investors over and above those of the common people of Goa. Goa is no stranger to such laws with the Investment Promotion Act, 2014 being at the centre of the Tiracol controversy.

What is cause for concern in The Goa Requisition Bill, 2017 is an absence of a proper definition of what constitutes “public purpose”. One should in fact ask: who constitutes this public? Goan society consists of multiple strata of communities who are unequal in terms of wealth, social status, and access to land. *Mundkars* do not have similar access to wealth and social status as, a *bhatkar*. The “public purpose” also claims to serve the landless. Around the beginning of 2017, the case of a small tribe, the Vanarmares, who were literally and figuratively living at the margins of Goan society came to light. They were landless and disenfranchised in multiple ways, and denied even the right to vote. Will such a bill or law enable the government to acquire land in favor of such communities? At the end of the day, the government needs to produce a meticulous report so that the Goan public is made aware of the consequences and ramifications of land acquisition legislations.

The aforementioned bills are not solely a creation of our times; they have a precedent in the past. The Land Acquisition Act, 1894, is said to be the forerunner of successive land acquisition or requisition acts in British and post-British India. What is crucial in these laws is the notion of “public purpose”, a claim made to justify such legislations. Interestingly, both the Land Acquisition Act, 1894, and The Goa Requisition Act, 2017, contain statements of “public purpose” in them. One can think of these laws as introduced in separate political and

historical contexts: one by the British colonial state and the other by a democratically-elected government within sovereign India. Ideally, one would prefer the independent nation-state to completely move away from the practices of the colonial state; at least this is the assumption by which we try to function in a democracy.

Laws or bills like The Goa Requisition Act, 2017, are similarly structured as the Land Acquisition Act, 1894. For instance, the notion of what the law-makers understood by the acquisition of land for "public purpose" is same. The idea of "public purpose" in both these laws is rather a British colonial construct. Both the laws have provisions in them to acquire land to rehabilitate the landless [vide 1894 Act, sec. (3) (f) (v); 2017 Bill, sec. (2) (m) (v)]. Ironically, the same laws empower the government to clear slum areas [vide 1894 Act, sec. (3) (f) (vi); 2017 Bill, sec. (2) (m) (d) (iv)]. Thus, the law that could be used to acquire the land of slum-dwellers and therefore potentially evict them also claims to rehabilitate the landless. The law-makers in the 1894 and 2017 legislations act as if eviction and rehabilitation are *not* two sides of the same coin; what if a developmental project requires the land of those who dwell in slums?

Thus, one can suggest that the definition of "public purpose" has remained the same in the 1894 and 2017 laws. Indeed, it is common practice for states to follow laws and rules formulated by a previous political formation. For example, kingdoms and states in medieval Europe based many of their laws on older Roman laws. Similarly, one can understand that most of the laws formulated or amended in independent India were derived from the laws of the British colonial state. But 70 years after the departure of the colonial state, if practices pertaining to the colonial state still persist then there is an urgent need to change the way governance functions.

The abovementioned legislations can be juxtaposed alongside the notion of "public purpose" in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. While this law was a step forward, it was subsequently diluted to circumvent many of its progressive provisions. The 2013 Act not only has an elaborate list of what constitutes "public purpose" [vide sec. (2)], but it also further states that prior consent of at least 80 percent of the affected people is necessary in the land acquisition for private companies and 70 percent in the case of public-private partnership. Such checks and balances are not visible in the draft of the Goa Land Requisition Bill, 2017.

In a situation where it is estimated that around 300 million are landless in India, land acquisition by the government *per se* should have led to an equitable distribution of resources. However, that is not the case, with private companies benefiting the most from such laws. The larger question, therefore, would be if such laws do indeed promote the interest of the public.

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