INDIA INFRASTRUCTURE REPORT 2009

Land—A Critical Resource for Infrastructure

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Introduction
It is widely believed that the growth momentum of the Indian economy in recent years cannot be sustained unless the infrastructure bottlenecks are swiftly and adequately removed. Further, a view is gaining ground that deficiencies in infrastructure are impacting the poor the most. Infrastructure development not only creates a large number of jobs for the poor in terms of ensuring their economic security, but also contributes to other indicators of human development such as health and education. In appreciation of the significance of infrastructure in satiating the penetration and sustainability of the gains from development, the government has been showing increasing commitment to the facilitation of higher investment in infrastructure, which would ensure sustainable delivery of infrastructure services at low prices. Historically, the public sector has been the dominant provider of infrastructure services; but in recent years focus has been shifting to private provision and the government has been progressively taking the role of a facilitator. Indeed, getting private capital into infrastructure services has become the cornerstone of the infrastructure development strategy.

With rising investments, infrastructure is emerging as a dominant source of demand for land, which often entails compulsory land acquisition by the government for projects promoted either by state agencies or private conglomerates. As the scale of such acquisition rises, it intensifies two issues: discontent among the landholders regarding the compensation they receive and concern about the loss of traditional livelihood activities. Thus, while at a nationwide level, infrastructure development is mitigating poverty by reducing unemployment and improving health and education standards, it is also causing impoverishment of the people displaced by the projects, and is thus proving to be a setback to the anti-poverty programmes. This is happening because of deficiencies in the Rehabilitation and Resettlement (R&R) policies and their implementation. The aim of this chapter is to create a deeper understanding of the livelihood and compensation issues and the impediments to their mitigation through the current legal and policy instruments. Some initiatives to overcome these barriers are mentioned below.

Consequences of Infrastructure Development
In this section we will focus on the consequences of infrastructure development at the local level, broadly from three perspectives: change in traditional livelihoods, emergence of new livelihood opportunities, and unexpected changes in land prices and later of other items.

Traditional Livelihoods Get Affected
Poor people are usually engaged in more than one activity to sustain themselves. These form their diversified

1 S. Datta, V. Mahajan, and G. Thakur (2005), 'A Resource Book for Livelihood Promotion' Discussion in Module 1, p. 25.
portfolio of subsistence activities' (DPSSA). A large majority depend on land-related activities such as forest product collection, agriculture, and animal husbandry. The impact of land acquisition on their sources of livelihood is profound and well recognized. But there are also people engaged in related activities, for example, small enterprises which supply tools and inputs to support agriculture and other village-level activities such as trading in agricultural produce, loading-unloading-transportation, and storage, who also get impacted. Furthermore, with loss of land, some may lose their livelihood from the entire DPSSA and others may lose only a part of it.

Another category of people that get adversely affected is the most dependent on common property resources (CPRs). A study (Singha et al. 2006) in the non-forested areas of Keonjhar, Jagatsinghpur, and Bolangir districts of Odisha in 2007 shows that about 25.7 per cent of the income of the poorest households came directly from the CPRs, such as vegetation in the embankment, village forest, and upland orchards. As the policy of land acquisition in many states aims at minimizing displacement, they first target CPR lands because from the prevailing viewpoint of the government, only acquisition of land belonging to households is considered alienation. This is because the Land Acquisition Act (LAA), 1894 recognizes only ownership rights and not usage rights such as grazing, gathering grass and branches of shrubs, collecting soil and sand, and directly grazing. Interestingly, the Indian Forest Act, 1860, recognized customary usage rights or 'nudum' rights and permitted their continuation when a forest area was 'reserved'. But there was no such recognition of usage rights in the LAA, 1894, enacted 34 years later. This has serious adverse outcomes for those who are dependent on CPRs for sustenance.

The nature of impact is often complex and it is difficult to gauge the net impact on a community. A study by Sills et al. (2006) is probably the first systematic analysis of local environmental and social impacts of mines in India and reveals some interesting insights. The analysis combines information from household and community surveys, spatial data on land cover, location of mines and villages, and Census data to examine the impact of iron ore mine on the forest resources and local livelihoods in Keonjhar district of Odisha. The study suggests that mine location is negatively correlated with forest benefits (such as major non-timber forest produce sold and forest products in diet) and various other measures of household welfare (such as health, education, cash income, and production assets), but may create local factory and industry jobs (see section 14.2) and proximity to infrastructure (that is, bus-stops and all-weather roads).

NEW LIVELIHOOD OPPORTUNITIES EMERGE

Due to infrastructure development, several new livelihood opportunities emerge both within the project as well as the surrounding areas during and after the infrastructure development phase. In the development stage, requires inputs for construction work, transportation, gauges for maintenance of vehicles and construction equipment, and land brokers, etc.

After the development of the infrastructure, many new livelihood opportunities emerge in the area. Some of them are created by the infrastructure itself. Irrigation, infrastructure, for example, leads to improved agri-cultural production in the area, while road infrastructure supports transport and trade. Additionally, many support enterprises open up new livelihood opportunities. For instance, seeds, fertilisers, and other input supply in an area with modernising agriculture, or automobile repair shops and sauceries in areas with new road infrastructure uncover new livelihood opportunities. This also leads to immigration, triggering demand for more new jobs in repair and maintenance, transportation, retail, trade, hotels and dhabas, and business services such as telephone booths.

These new opportunities are mostly in service industry and small enterprises and are less dependent on natural resources. Some shifts may occur within the agricultural hinterland of the project—for example, cash crops such as floriculture and vegetables become possible, as demand rises and market channels get strengthened due to infrastructure development. This has also been illustrated in the case of land acquisition for the Rajiv Gandhi International Airport in Sambalpur, discussed later in this chapter.

Nowhere is the debate about the loss of traditional livelihoods versus the gain of new livelihoods more acrid than in the case of Special Economic Zones (SEZs), which experts believe would lead to about 100 million workers moving out from agriculture into industry and services (Sharma & Goswami 2006). The SEZ Policy of the Government of India was announced in April 2000 with a view to attracting larger foreign investments into India by overcoming the bottlenecks created by the multiplicity of controls and clearances and the absence of world-class infrastructure. The SEZ Act, 2005, supported by SEZ Rules, came into effect on 10 February 2006, providing for simplification of procedures and for single window clearance on matters relating to central as well as state governments.
The land required for all the planned SEZs, however, constitutes a minuscule part of India's total arable land. Without entering into the debate of whether SEZs yield net benefits, we observe that one positive anticipated consequence of development of SEZs is rapid urbanization of the area and shift of livelihoods from agriculture and allied activities to the industry and service sector. However, this desirable inter-sectoral shift is accompanied by the obvious fall-out that those who lose their traditional livelihoods rarely get jobs in the new enterprises that come up in the SEZ, or even in the relaxed and supporting services. When they do, the jobs are typically low paying ones, such as security guards, domestic help, and drivers.

UNPRECEDEDNTED RISE IN LAND PRICES

Demand for land goes up as soon as a site for infrastructure development is identified. While the actual land requirement for the project may not always be significant, demand for land goes up sharply because of purchases by land speculators in the areas surrounding the project much before the actual commissioning, which often lead to rise in land prices. Speculation is motivated by the (appropriate) expectation that after infrastructure development, land prices would be much higher than at the time of acquisition.

In Singur, West Bengal, the location from where the Tata shifted the Nano car factory, farmers were paid Rs 8.5 lakh per acre for single-crop land and Rs 12 lakh per acre for double-crop land during 2005-06 (see West Bengal Industries Development Corporation website: www.wbidc.com). But by the beginning of 2008, the authors found that industrial plots in Singur were quoted for as high as Rs 40 lakh per acre. This differential was one of the main causes for the resistance.

Similarly, the Government of Andhra Pradesh had acquired about 100 acres of land from small and marginal Dalit farmers in Medak district (about 40 km from Hyderabad) during April 2006 with a promise to set up a brewery factory. Landowners were paid Rs 1 lakh per acre and promised a job in the factory. While the offer was attractive at that time, the market value of the same land rose to Rs 20 lakh per acre in six months, even though the promised factory was not in sight (The Hindu, 25 November 2006).

Speculators are not always private-sector players; even the State Industrial Development Corporations (SIDCUs) sometimes engage in speculation. The case of Kalinga Nagar illustrates the point (see Box 15.1).

Compensation and Livelihood Agenda under Different Regimes

To understand how the livelihood agenda is currently being addressed, it would be useful to gain a historical perspective. The strategies to gain this historical perspective are mentioned below.

EVOLUTION OF THE LEGAL AND POLICY REGIME

Following is a brief description of how the regime for land acquisition and the policy regime that aimed at mitigating its consequences evolved over time.

ORISSA R&R POLICY, 2006

Following several deliberations on the policies and best practices of other states, a group of ministers of the Government of Orissa recommended a balanced policy for R&R, which is a significant improvement over other policies of similar nature. The policy and institutional arrangement was finalized by the Orissa State Cabinet on 14 May 2006. The key features of the policy are as follows.

Prior to Land Acquisition

• The Policy requires that a socio-economic survey (consisting of socio-cultural, resource mapping, and infrastructural sub-surveys) should be undertaken for the identification of displaced families and for recording their socio-economic status.
• A comprehensive communication plan for awareness creation should be formulated and executed in the affected area.
• Gram Sabha or Panchayata at the appropriate level shall be consulted in Scheduled areas before initiating the land acquisitions proposal.

<table>
<thead>
<tr>
<th>Land Allocation for SEZs</th>
<th>Area in sq. km</th>
<th>% to total land mass</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Total landmass in India</td>
<td>297,3190</td>
<td>54.5</td>
</tr>
<tr>
<td>B Arable agriculture land</td>
<td>16,20,388</td>
<td>9.01</td>
</tr>
<tr>
<td>C Land in possession of the 260 SEZs notified</td>
<td>299</td>
<td>0.02</td>
</tr>
<tr>
<td>D SEZs in pipeline for which approvals have been granted</td>
<td>477</td>
<td>0.03</td>
</tr>
<tr>
<td>Total approved and possessed land under SEZs (C+D)</td>
<td>976</td>
<td>0.03</td>
</tr>
</tbody>
</table>

Gifted with abundant natural resources, such as forests and minerals (coal, iron ore, manganese ore, bauxite, nickel, cobalt, and chromite), Odisha has become the home for steel and aluminium producing companies worldwide. The growing demand for steel in the international market has resulted in steel manufacturing plants the world over eyeing Odisha for their industries. The Government of Odisha, in a bid to capitalize on the growing international interest in the state, launched a systematic effort to bring investments into the state through the nodal agency for investment promotion, Industrial Promotion Investment Corporation Limited (IPICOL). Significant effort was put into capacity building within IPICOL which now houses teams of some of the state’s best officers on its rolls. Following this, at least 45 MOUs were signed with the steel sector. Of these, 13 major steel plants are coming up in Kalinga Nagar, where more than 100000000 tonnes of steel are already in operation.

The disconnect between the investment promotion agendas of the state and local issues of the people were starkly exposed after the police fired on a rally of Munda tribes of the area, resulting in the death of more than 10 tribals and injuries to more than 30. The residents at Kalinga Nagar alleged that Industrial Development Corporation Limited (IDCO) had been acquiring their lands either by force or at low prices and selling the same land to venture companies at higher prices. They also alleged that they were not consulted or provided with access to information, and were excluded from the decision-making processes that affected their livelihood.

The firing incident led to national and international outrage and prompted the government to go for wider consultation and to engage experts to design a new LRDR policy to address all the concerned issues. The Policy restored confidence and several of the investors have commenced their projects in the state including Kalinga Nagar.

Table 15.1
Acquisition and Compensation Policies—1894 to 2018

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Mode of acquisition</th>
<th>Compensation and livelihood Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAA, 1894</td>
<td>Drawing strength from an English law; the concept is known as the Law of Compulsory Purchase. It yields extraordinary power to the state to acquire land with mere notification.</td>
<td>The LAA, 1894 is a highly efficient instrument in the hands of a state, designed to facilitate acquisition of land for public purpose. This law empowers the state, (as an exception to the general rule) to compel the owner of a property to subdivide it to the state, any agency or entity authorized by the state on the ground that the property is required for the use of the state (for an inadequately defined &quot;public purpose&quot;). In effect, the state can appropriate private property rights for public purpose—which has a wide and generous definition. The pretext of &quot;public purpose&quot; is often accused of harbouring private interests. LAA, 1894 does provide compensation for the loss of asset ownership but there is no clear emphasis on livelihood.</td>
</tr>
<tr>
<td>LAA, 1894 (as amended in 1984)</td>
<td>Acquisition process as above</td>
<td>The Amendments in 1984 enabled greater private sector participation but the state's role was still pre-eminent. There was still no emphasis on livelihood security.</td>
</tr>
<tr>
<td>National Policy on Rehabilitation and Resettlement (NPRR), 1998 (Harishchandra Rao Committee)</td>
<td>Acquisition under LAA, 1984</td>
<td>The NPRR-1998 recognizes the rights of owners and agricultural labour and is broad-based to address the livelihood issues to include both the displaced and affected.</td>
</tr>
<tr>
<td>World Commission on Dams, 2000</td>
<td>Acquisitions for dams and irrigation projects financed by multilateral aid loan</td>
<td>The World Commission on Dams recognizes ‘good practice’ and advises greater focus on means of livelihood and their protection rather than assets. It recommends baseline surveys and assessments to arrive at a ‘just compensatory’ for livelihood loss. These recommendations were not made mandatory. The implementation history of these recommendations is poor.</td>
</tr>
</tbody>
</table>

Table 15.1 (Contd.)
<table>
<thead>
<tr>
<th>Milestones</th>
<th>Mode of acquisition</th>
<th>Compensation and livelihood Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Policy, 2005</td>
<td>Acquisition for Irrigation Project under LAA, 1894</td>
<td>The definition of agriculture was broadened to include all allied activities and artisans.</td>
</tr>
<tr>
<td>SEZ Act, 2005</td>
<td>Acquisition for SEZ</td>
<td>The focus of this Act was primarily on the creation of new jobs at the cost of traditional existing livelihoods. The transition is particularly difficult for project-affected persons (PAPs).</td>
</tr>
<tr>
<td>Odisha R&amp;R Policy, 2006</td>
<td>Acquisition for all kinds of projects under LAA, 1894</td>
<td>This R&amp;R policy has broadened the definition of a family with a major focus on livelihood analysis and planning, prospective infrastructure planning in the resettlement area, socio-cultural and socio-economic survey to give recognition to wide-ranging livelihood options in the affected area. This is the first attempt at benefits sharing with the offer of preference shares.</td>
</tr>
<tr>
<td>National Rehabilitation and Resettlement Policies, 2007 (NRRP 2007) and Land Acquisition (Amendment) Bill, 2007</td>
<td>Acquisition through a narrowed-down version of public purpose</td>
<td>NRRP 2007 recognizes traumatic, psychological, and socio-cultural consequences on the displaced population, which calls for affirmative state action for preserving their rights. It talks about the concept of indexed benefit and direct negotiations similar to the Odisha Policy mentioned above. LA (Amendment) Bill lays down that compensation, in order to qualify for state intervention in land acquisition, must raise at least 70 percent of the land required through market mechanisms. They can seek state support in only acquiring the pending 30 percent. This is a major paradigm shift which recognizes livelihood damages and takes a causal look at the employability possibilities of PAPs in the new project.</td>
</tr>
<tr>
<td>Multilateral-financed projects in 2008</td>
<td>Acquisition under LAA, 1894</td>
<td>The Asian Development Bank (in Uttarakhand Road Investment Programme, 2005), and the World Bank in Odisha Community Tank Management Programme 2008 developed an Employment Matrix recognizing the rights of the affected persons and provided separate compensation for land acquisition, livelihood assistance, and rehabilitation assistance.</td>
</tr>
<tr>
<td>Private sector industrial projects, 2008</td>
<td>Mostly complying with the Act and state policies or project-specific packages</td>
<td>Pohang Steel Company Ltd (POSCO) Project in Odisha offers additional compensation for traditional livelihoods and shops for trading as well as skill building opportunities. Videocon Project promises profit sharing by offering shares in West Bengal and Maharashtra (2008).</td>
</tr>
</tbody>
</table>

Benefits as per the R&R Package

- There are special provisions for the indigenous and primitive tribal groups. As far as practicable, indigenous communities should be resented in a compact area close to their habitats;
- The rehabilitation grant is indexed to the Wholesale Price Index (WPI) and is revisited by the government once in every two years thereafter;
- The project proponents may opt for direct purchase of land on the basis of negotiated price after issue of notification requiring acquisition of land under relevant Act(s). If acquisition of land through direct purchase fails, other provisions of the relevant Act may

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1Ashok Singh, along with colleagues Sarat Mohanty and Sarni Naryak were involved in developing the integrated safeguard analysis and design of the Odisha Community Tank Management Project for the World Bank.
be invoked. This would ensure that displaced people get the maximum value of their land.

Monitoring the R&R Process

- A Rehabilitation and Periphery Development Advisory Committee (RPDAC) is formed to encourage participation of displaced people in implementation and monitoring of the R&R package, to oversee, and to monitor periphery development;
- A State-Level Committee on Resettlement and Rehabilitation (SLCRR) is formed to advise, review and monitor the implementation of R&R Policy. The SLCRR is headed by the state's chief minister;
- A directorate of R&R is constituted at the state level to discharge and oversee the implementation of the R&R Policy.

While the policy has several positive features such as provision of a survey to identify the displaced families and benchmark their socio-economic status, consultation with the Gram Sabhas, a more inclusive approach to identification of beneficiaries, well-defined benefits, package, and strong monitoring mechanism, it has been criticized on the following grounds:

- The policy fails to ensure employment guarantees to the displaced; it carries just stipulations that the industries give job preference to at least one nominated member of each affected family;
- The policy is non-committal on ensuring land for land rehabilitation for the displaced families; and
- The policy remains silent on the government's role in cases where people don't want to be displaced by projects.

NATIONAL POLICY ON R&R

In October 2007, the Government of India (GoI) notified the NRRT-2007 formulated by the Ministry of Rural Development (MoRD), to replace the earlier National Policy for Rehabilitation and Resettlement, 2003. A review of the Policy shows that there has been a renewed emphasis on inclusiveness and greater sensitivity to social impact of the project. The new Policy and the associated (proposed) legislative measures aim at striking a balance between the need for land for developmental activities and the need to protect the interests of the landowners, and others such as the tenants, landless, the agricultural and non-agricultural labourers, artisans, etc. whose livelihood depends on the land involved. The benefits under the new Policy shall be available to all affected persons and families whose land, property or livelihood are adversely affected by land acquisition or by involuntary displacement of a permanent nature due to any other reason such as natural calamities, etc. 1

HOW SUCCESSFUL HAVE THE R&R POLICIES BEEN?

In the area of livelihood, R&R policies typically aim at protecting and sustaining the income and wealth of the PAs and hence, the degree of its success must be assessed in terms of its ability to advance this objective. Though over the years, the R&R Policy has tended to be not only more comprehensive, providing for both social (including health, education, and other facilities) and economic (including alternate sites for taking up activities, necessary infrastructure, market, and credit support) rehabilitation, but also more sensitive to gender issues and the interests of the vulnerable communities, it often leads to non-feasible solutions for the project authorities. Though the Policy very clearly states that only cash compensation is not adequate for R&R, in the absence of any other viable alternative, the provisions are often converted into their cash equivalent.

To assess the success of R&R implementation, the question to examine then becomes whether the sum received as compensation by the seller of land is invested in a manner that would assure income flows that are not less than his/her previous income. What happens in practice? Anecdotal evidence from Rajiv Gandhi International Airport at Shamshabad shows that the experience is not encouraging (see Box 15.2).

KEY IMPLEMENTATION CHALLENGES

Clearly it is not enough to put in place policies that are more sensitive to the livelihood issues of the PAs. These policies can deliver only if the implementation challenges are adequately addressed. There are two broad categories of implementation challenges: valuation problem and benefit sharing problem.

Valuation Problem

Complexity of the valuation of a land acquired for infrastructure arises from three sources. The first relates to the treatment of user ship rights. Though a land parcel is owned by one person, there are many others who derive utility from the land by its usage. For example, when the land is acquired, not only is the livelihood of the farmer who owned (and tilled) the land in question but also the agricultural labourers who worked for him.

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1 Please see Eminent Domain Powers: Rationale, Abuse, and Way Forward' by Yirmal Meshanya in this report.
Land Acquisition and its Aftermath: Rajiv Gandhi International Airport at Shamshabad

The Rajiv Gandhi International Airport at Shamshabad is about 40 km away from Hyderabad city and involves an investment of Rs 2,478 crore. The project is spread over 5,265 acres of land which was acquired in different phases by the government. The construction work started in 2001 and the airport began operations in 2008. This project impacted the local communities in many ways, causing disruption to the livelihoods of more than 1,500 families and taking agricultural land of another 500 families of the surrounding villages. In the later stage, some real estate players started buying private land from the surrounding villagers to construct residential apartments as well as tech parks.

With the construction of the road connecting the airport to the city and increasing traffic, the area has undergone a major transformation from its rural setting. Several villas and bungalows have been constructed along the railway station to the airport. With them have emerged several auto repair workshops. A large number of restaurants of different standards have also cropped up in the area. Several residential apartments have started coming up in the area because of availability of relatively open spaces and improved infrastructure. This has also attracted several hardware shops and offices of several construction companies in the area.

In the whole process, the slew of new economic activities in the area has transformed the lives and livelihoods of the local people. Those who saw their entire agricultural land to the acquisition got severely affected because of challenges and uncertainties in the new set of livelihood activities, though they got financial compensation and 250 sq yards of land at an alternate location for house construction. For example, Annand and his family lost all their holdings of 5 acres as well as their house to this project. The family invested the whole compensation amount in a small house, a grocery shop, and a Q&A shop. The bank did not extend any further support to the bank. Meanwhile, Annand got a job at the airport as a driver. He tried to sell the Q&A shop to recover the back loan while he could not resign his job for more than six months, as he did not match the expectations of the employee. The sale in the grocery shop run by his elder brother, also diminished substantially, as many similar shops mushroomed in the same area. All these pushed the family into a financial crisis.

In some cases, in absence of patta (land title documents), some people did not get proper compensation and also became victims of corruption as in the case of Sandhir Satish from village Manipally who got compensation for only 2 acres although he had 12 acres of land.

Job assurance for each family who got displaced in the airport project was met with little compliance from the authority. According to Nandhini, one of the villagers interviewed by us, "We lost our lands eight years back and now they (authority) are telling us that our capacities do not match with the required job profile.

In many a case, villagers from the villages surrounding the project started selling their land to builders and others to take advantage of the sudden increase in price. But this sudden inflow of money encouraged many families to indulge in indiscriminate spending on luxurious assets, but focusing little to ensure future income flows. Satish, a farmer from Tikkuguda village sold 5 acres of his holding of 10 acres at Rs 20 lakh. He spent the whole amount in constructing a house, purchasing a Scorpio with a bank loan including purchasing a land. A 50 km away from his village (so far to be put to cultivation). He did not invest the money in any income generating activity. Meanwhile, the financier confiscated his car as he could not pay his installments. Now Satish has again started farming to maintain his family with only half his plot at his disposal.

There were some positive results too. Children from many families started going to school. Anjanaya, a small landless shopkeeper in front of the school in Naganam village explains, 'I was an agricultural labourer before but started this shop two years back with the money I got as compensation and the support from the Sarpanch. The shop is successful as many children have started coming to school, I don't want to go under the sun anymore to work hard to earn my bread'.

Source: Based on personal interviews with several farmers from Naganam, Maheshwaram, Tikkuguda, Manipally, and Gollapudum villages around Shamshabad International Airport.

Though the R&R policies have tried to compensate for the ownership value of the land, its user ship value has not been adequately compensated. In India, while ownership rights are established with some difficulties which arise due to poor maintenance of records and unclear titling, establishing user ship rights is even more complicated and hence is often not even attempted. Many times lands used for infrastructure development projects are CPRs and most of the dependents on such land do not have a title deed to establish their ownership over the land and its use that they are deprived of.

The second difficulty arises in measuring the 'location value' of land, which is distinct from its 'productive value'. For example, the location value of a hamlet just next to a forest, grazing land or the village pond is far higher than a homestead on barren land. Though the R&R policies...
have compensated for the productive value of the land, it has often failed to compensate for the locational value, which also seriously affects the livelihoods of the Project-Affected Persons (PAPs).

The third problem is the unpredictable nature of the change in land value following development of infrastructure. It is well known that land value in the vicinity of a project changes because of the project's externality. So, even if compensation were to be forward looking, at the time of determining compensation it would be difficult to gauge with any reasonable degree of accuracy as to what the future value of the land in the vicinity would be.

Benefit Administration Problem

The second area of implementation challenges arises from the benefit administration of monetised and non-monetised compensation components. Often the agencies engaged in infrastructure development do not have the necessary competencies for making interventions in the area of livelihood, which are complex in nature. For example, the R&R Policy of Orissa asks the requiring body to map the potential livelihoods of the PAPs, about which the requiring body often has no clue. Therefore, no action is taken in this direction.

Usually the compensation is distorted as a lump sum amount in a single or a few installments. This often leads to expenditure patterns by PAPs that do not cater to their long-term livelihoods needs. This can be seen in many areas, such as Gurgaon, where significant compensation was given to landowners. But most of them utilised the capital funds received in various forms of conspicuous consumption expenditure as reflected in a higher standard of living, but without assurance in creating future income streams that can support such lifestyles. This has also been illustrated in the case of land acquisition for the Rajiv Gandhi International Airport inSamadhabad.

Way Forward

Infrastructure development is inevitable not only for the growth of economy but also to make economic growth more inclusive and to that extent, land use will have to change with changing needs of the time. The fact that all the proposed SEZs together account for less than 0.06 per cent of the total land mass of the country, shows that the problem is not an account of the number of acres to be acquired, but the process followed in the course of this acquisition. We argue in this section that there are several possible steps needed to protect the livelihood options for the PAPs in an infrastructure development project. These include:

1. Establishing a relationship based on trustworthy communication between the requiring body and the likely PAPs.
2. Fine-tuning the benefit administration process to ensure that the benefits accrue to the PAPs over a fairly long period of time.
3. Requiring body to make balanced investment in natural, physical, human, social and institutional capital, in addition to making just financial compensation, and in this context collaborative arrangement with other institutions may be necessary; and
4. Extending technical assistance and support services for the emerging livelihood opportunities after being a Livelihood Opportunity Analysis as is currently being done in Orissa.

The message from troubled projects of Singur, Nardigrim, and POSCO is that no matter how generous the compensation, unless the R&R Policy is comprehensively communicated and credibility of its implementation firmly established, farmers will always be reluctant to part with their land. We can also learn from the success of a dozen other projects where land has been acquired and communities have moved to alternate locations and livelihoods, without any bitterness in its wake. For example, even at Singur was smuggering, the Jindal Steel Works (JSW) site in Salboni, Midnapore district witnessed acquisition of 4,680 acres, or over four times as much land as Singur, without any significant protest.

Interestingly, of this, 569 acres was acquired through direct purchase by JSW, for which they paid Rs 6 lakh per acre. This was divided into three parts—Rs 1.5 lakh in cash right away; another Rs 1.5 lakh in long-term fixed deposit, and Rs 3 lakh in equity of JSW, making the PAPs long-term shareholder beneficiaries of the project. In an SEZ near Pase (Maheshtala), a year-long effort was made in establishing rapport, developing a better understanding of the compensation package, carrying out education in financial management, and committing dialogue with the PAP community's representatives. This led to a smooth process of land acquisition when it eventually happened.

Under the LAA, 1894, land is made available to project promoters necessarily through change in ownership.

7 Nishijan Chatterjee, ‘Sustainable Rehabilitation Interventions through Community Engagement’, in this report.
does not have to be the case. Land may be compulsorily requisitioned for a long term—say 10 year lease. The landowner, who would retain the title to the land, may be paid a lease rent, which may be revised annually by a land regulator. After the stipulated period is over, the ownership may also be transferred to the requiring body and due compensation—based on say 75 per cent of the then prevailing market price as may have emerged after development of the infrastructure—may be paid. The remaining 25 per cent would be saved for investments in collective goods, as described below.

This kind of design would not only help the displaced landowners who would receive a regular lease rent instead of a lump-sum price, but would also minimize speculations, as significant part of the enhanced price would flow to them in terms of higher lease rent over 10 years. In spirit, this provision is similar to the provision for payment of unearned increase to the original owners, in the National Rehabilitation and Resettlement Policy 2007. Box 15.3 represents a successful case of project development where change in land use did not entail change in ownership.

However, the liberal financial compensation is and whatever methods used to smooth the payment over a long period of time, we maintain that unless balanced investments are made in other types of capital, it would

Box 15.3

Magarpatta Township: Delivering Development from the Grassroots
Sheemoyee Das

The Magarpatta, tracing their lineage back to the Marathas, had farmed their lands for three centuries on the fringes of Pune and formed a rural settlement called Magarpatta. As their ancestral home and hearth, Magarpatta had been categorized as an agricultural zone within the jurisdiction of the Pune Municipal Corporation (PMC) since the 1960s. In the decades that followed, the PMC was compelled to explore all possible options of creating urban space for a rapidly expanding Pune and in 1982, the PMC identified Magarpatta as a 'future urbanizable zone' in its draft development plan. This meant that the government could acquire the ancestral Magar lands any time under the Urban Land Ceiling Act.

While the Magars had bitterly resisted attempts to acquire their ancestral lands in the 1960s and 1970s, by the 1980s they came to recognize the inevitability of the slow march of development that already threatened to engulf their erstwhile farmland and consume their lands. With this realization came the awareness that if the process was allowed to take its natural course, the farmers would lose their lands to middlemen or 'land sharks' who would then sell the same acres at huge premiums, effectively cutting the original landowner off from the growth engine spurring development in the region.

Led by Satish Magar, the community devised an ingenious plan which could eliminate ubiquitous intermediaries while yielding rich benefits for the land-owners, transforming their lives forever. Under his visionary leadership, the 123 families of the Magar clan pooled in 400 acres of their lands in order to develop Magarpatta City—modeled as an innovative mixed use township complete with an IT park, 10 towers offering 40 lakh sq. feet of office space, 12,509 residential units, along with schools, hospitals, playgrounds, food courts, and shopping plazas. The idea conceived of in 1993 fructified in 2000 when all the relevant clearances and formalities were completed and the construction began.

Today, the Magarpatta Township Development and Construction Company Limited with SO 9001:2000 certification, is a prominent case study for any discussion on equitable land acquisition for development projects. It is marked by several features which set it apart:

1. The company aimed at bypassing all intermediaries and transforming landowners into entrepreneurs who would develop their land themselves and capture the benefits of this development comprehensively.

2. The most important feature of the model is that the land parcel (712 registrations) remains in the name of these families, safeguarding their ownership over the land. Till the land was developed, the farmers were free to continue farming for a livelihood.

3. Every family was an equity shareholder of the company, proportionate to the size of the original landholding.

4. The company was run by the Managing Director and Technical Director in consultation with eight Board Members drawn from the shareholding families.

5. Each share was equivalent to 1 sq. metre of land and cost Rs 100, in 1998. The current price per share is approximately Rs 1,000 (April 2008). Shares could be sold only to member families.

The NRRA-2007 provides that if the land acquired for a public purpose is transferred for a consideration, 80 per cent of the net unearned income so accruing to the state would be shared amongst the persons from whom the land was acquired or their heirs, in proportion to the value of land acquired.

Satish Magar, an educated and qualified professional is also a prominent and politically influential landowner whose family owns 40 per cent of the Magarpatta lands.

• The approximate price of an acre of land that was Rs 1.20 crore in 2000 rose to Rs 1.50 crore in 2007.
• Thirty per cent of the land cost of each construction was recovered as cost of land at the current price and paid to the shareholders.
• The family has the option of reinvesting the amount in the company, in the form of a term deposit at an appropriate rate of interest (12.5 per cent for ten years, 11.5 per cent for one year, and 10.5 per cent for three months).
• There were two kinds of shares initially—a preferential share and an equity share. The preferential share was short-term, where the right of shareholders in the company and over their plots were extinguished at the end of the term. The equity share, on the other hand, endowed shareholders with permanent rights in the company and over their lands. Later, preferential shares were abolished and only equity shares that offer lifelong security to the families were retained.
• The by-laws of the company ensure preference to family members of shareholders in employment generated by the company. Shareholders may also invest in the construction of commercial spaces that are rented out to companies.
• Shareholding families also bid for contracts for services such as construction, maintenance, transport, and material suppliers. Farming families became excavation contractors, concrete-block makers, restaurateurs, taxi and truck operators, and grill and cabinet makers. Many became civil contractors too, taking on projects of 10-15 units.

So, Magarpatta was special for several reasons:

• There was no adversarial relationship between the landowner and the project proponent, eliminating scope for corruption, exploitation, as well as acrimony and disruption.
• While the project promoters may have been fairminded, the actual execution of the project was handled by qualified professionals, such as financial, marketing, commerce, art, supply chain management professionals as well as architects and engineers.
• As residential, commercial, and office-suits were built and rented out, the original landowners were able to augment their incomes from rentals on capital investment as returns from service providing employees with jobs from rentals. Hence, benefits that flow from the development of the properties were fully leveraged by the original landowners precluding any possibility of discontent and conflicts.
• Magarpatta was conceived of and executed at a time when the IT-BPO boom had hit Pune and there was study demand for the real estate being developed.
• Sathish Magar as a charismatic and influential person in the area was able to get his proposition endorsed and supported by political and bureaucratic heavyweights.

The next township is being planned in Nanded village on the outskirts of Pune. Meanwhile, several former associates have approached the company, with proposals to study similar change for their lands as well. The Government of India has granted approval to Magarpatta City for development, operation, and maintenance of an SEZ for electronic hardware and software, including information technology-enabled services.

The model lends validity to the fact that it is the prepositive of the original landowners to have a say in the course of events that transform his life and that of his family. He plays a prominent part in the development process and acquires the benefits thereof.

If infrastructural development on a piece of land is incentive-driven for the tillers from whom this land is to be acquired, land acquisition will cease to be coercive, creating an equitable and inclusive system that is both practical and sustainable. It must be acknowledged, however, that Magarpatta offers its success in part to a happy confluence of circumstances, which makes replication of the model a bit of a challenge. In other words, where the land is no longer fragmented or the project proponent heavily politicised, creating a Magarpatta may be impossible.

lead to distorted development. It has been argued by Chambers and Conway (1999) that there are five types of assets or capital:

• Natural capital such as land, water, forests, livestock, and mineral wealth,
• Physical capital such as canals, marker yards, warehouses, electricity, roads, railways,
• Human capital including labour, skills, knowledge base, entrepreneurial ability, education, and health profile of the population;
• Social capital such as relationships of trust and reciprocity within and between communities, including local traditional institutions as well as the legal and policy framework governing the livelihoods of the people in the area; and
• Financial capital—formal and informal credit; savings mechanisms, and other financial services available.

Two common characteristics of capital other than financial capital need to be noted: 1) they require investment much larger than a single household can afford and
Institutions specialize in this kind of work. For example, PRADAN helped rehabilitate persons affected by the "landless proof range in Kela block of Hoshangabad dis-

Indian capital, appropriate arrangements for upgrading the skills of youth on a potential scale, who drop out of school should be a necessary step, after due analysis of livelihood opportunities. In social capital, establishment of self-help groups and producer groups such as dairy societies and strengthening of local panchayats and cooperatives would be a useful step. For facilitating the emergence of livelihood opportuni-
ties in the area for the displaced communities, the project implementation agencies may have to take some proactive steps, particularly since people in the area may not have the competencies for taking up the new livelihood opportu-
ities. Even if they have the skills, appropriate inputs may not be available for them. As these services require different sets of competencies, it may not be feasible for the project implementation agencies to build all of them. There, it may be a sensible option for the promoters to have collaborative arrangements with different agencies which would bring in complementary abilities. This may be carried out in cooperation with institutions specialising in R&K work. Several NGOs and micro-finance

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