

# Webinar: Paper Launch: When Land Comes in the Way: India's Connectivity Infrastructure in Nepal

November 2020

- On 6<sup>th</sup> November, 2020, the Centre for Social and Economic Progress (CSEP) organized a webinar to discuss a recent research paper titled “When Land Comes in the Way” co-authored by **Constantino Xavier**, Fellow, Foreign Policy and Security, CSEP and **Riya Sinha**, Research Associate, Foreign Policy and Security, CSEP.
- The event commenced with introductory remarks from **Rakesh Mohan**, President & Distinguished Fellow, CSEP. The panel discussion featured **Vijay Gokhale**, former Foreign Secretary of India; **Govinda Raj Pokharel**, former Vice Chairman, National Planning Commission, Nepal; **K. P. Krishnan**, former Special Secretary, Department of Land Resources, Ministry of Rural Development; **Namita Wahi**, Director, Land Rights Initiative, Centre for Policy Research; and **Riya Sinha**.
- The event was moderated by **Constantino Xavier**.
- This event was part of the larger research on land and property rights supported by the Omidyar Network.

The paper sheds light on the challenges of land acquisition in the implementation of Indian Government funded infrastructure projects in the neighbourhood. It examines two case studies in Nepal - the Postal Highway (Hulaki Rajmarg) and the Jogbani-Biratnagar Railway Line – and forwards policy recommendations to address land related issues across the region. Following introductory remarks by Rakesh Mohan, Constantino Xavier and Riya Sinha presented key points of discussion from their paper.

## Accountability in land acquisition issues

The webinar discussion began with Vijay Gokhale commenting on India's infrastructure projects in the neighbourhood and posing a question to other panelists - where a foreign government is involved, should it be the Indian Government's primary responsibility to rehabilitate and resettle the land in order to get land free of encumbrance? He pointed to the proclivity of India's neighbours to be critical of Indian led projects when they are delayed due to land acquisition complications, but do not realize the benefits of better cooperation when projects are completed.

Adding to this, K P Krishnan provided an example of federal financing in India where the Indian Government picks up the cost of infrastructure, but the cost of land acquisition is always borne by the recipient government.

In response, Namita Wahi argued that there is no straight answer to the question. As per Wahi, donor governments need to bear more responsibility and the failure of implementing partners to respect people's rights should be held up for scrutiny under international law.

## India's capacity building and technical cooperation

The importance of subsuming and incorporating technical experts from various relevant ministries into the Ministry of External Affairs (MEA) to have a professional and better understanding of the projects was highlighted by the panelists.

To facilitate the same, Pokharel mentioned the technical assistance component of the funding given by other governments, such as the United Kingdom, Japan, and Germany. He also pointed to the need for better ministry level coordination between both countries.

Agreeing to Pokharel's point, Vijay Gokhale alluded to the existing vocational training programs of the MEA to train Nepali experts in India. KP Krishnan emphasized the need to devote extensive focus on project preparation and planning, in which technical expertise and capacity building is a serious one-year effort before implementation begins. Namita Wahi echoed the need for better collaboration on building technical expertise.

## Land acquisition and compensation frameworks of multilateral and international organisations

While land acquisition and compensation is a major hurdle for project implementation, it is not unique to government funded projects. Riya Sinha pointed to the Asian Development Bank (ADB) and the Asian Infrastructure Investment Bank (AIIB) which have established best practices in resolving issues of land acquisition and compensation. However, commenting on the distinction between a sovereign nation and an international organization, Vijay Gokhale mentioned how relations with international organizations are not riddled with politically charged issues. Legacy issues and the current status quo between Nepal and India can have a direct bearing on completion of projects. Namita Wahi explained how these multilateral agencies had to adopt procedures on consent, rehabilitation, and resettlement due to a lot of push-back.

Taking a leaf out of these organisations, providing people with viable alternatives to maintain their livelihoods will result in better resolution of land acquisition issues.

## A look at India's land acquisition and compensation laws

Namita Wahi examined the land acquisition law of India and its chronology. Wahi also mentioned the varied perception regarding land between government officials and the public. This is because of the colonial land acquisition law that was implemented in 1894 and was only updated in 2013. While the archaic land acquisition law emboldened government officials to be assertive on their claims to common land and making land a contested issue, the new law adopted a compulsory rehabilitation and re-settlement policy. But since its implementation, the law has perpetually encountered push-backs from state and central governments.



(From L to R): Namita Wahi, Director, Land Rights Initiative, Centre for Policy Research; K. P. Krishnan, former Special Secretary, Department of Land Resources, Ministry of Rural Development; Rakesh Mohan, President & Distinguished Fellow, CSEP; Govinda Raj Pokharel, former Vice Chairman, National Planning Commission, Nepal; Riya Sinha, Research Associate, Foreign Policy and Security, CSEP; Constantino Xavier, Fellow, Foreign Policy and Security, CSEP; Vijay Gokhale, former Foreign Secretary of India.

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