CHAPTER 3

CONCEPTUALISING ‘DISPOSSESSION’: STATE, LAWS AND LAND ACQUISITION IN INDIA

“Every state is known by the rights that it maintains”

Harold J. Laski (A Grammar of Politics, 2010:97)

3.1. Introduction

Land, as a factor of production, under the state-led development regime rarely provoked the controversy which it has now. For all the hardships which the victims of “development” underwent, the state used to take refuge under the high moral ground of “public purpose”. Violation of rights was, thus, justified under the majoritarian notion of democracy wherein one section was happily sacrificed at the comfort of another. But today, when the motive of land acquisition is largely meant to serve the profiteering attitude private players even the ‘public purpose’ has presumably lost its credence. Consequently, the land question has returned from the oblivion to haunt the neo-liberal capitalist system even while the ‘reluctant’ state plays its bit in tilting the discourse of acquisition in the latter’s favour. This chapter attempts to provide a historical trajectory of the legal discourse on land acquisition till now. Another objective is to provide a conceptualisation of dispossession which transcends the issue of displacement and offer a perspective to understand its broader dimensions.

Liberalisation of the Indian economy since 1991 has entrusted the role of promoting economic growth and development of the country to private capital. Although being recognised as the creator of wealth in the neoliberal growth model, the private sector relies upon the assurances and delivery of capital-friendly environment by the state. Apparently, states in their quest to outperform their counterparts have competitively extended perks to private investors often prompting “race to the bottom”\textsuperscript{21}. States like Gujarat, Maharashtra, and many others which had the initial edge over the BIMARU (Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh) States due to already developed private entrepreneurship were the earliest to adopt the new strategy. However, this high-growth model has invited the wrath of

\textsuperscript{21} Bedi and Tillin (2015:195) refers to this as the cut-throat competition among the regional states to attract more and more private investment through not only providing different concessions but also lowering expenditure on public goods.
various discontented sections against the regional governments. Fate of growth, thus, hangs on the State’s capacity to ‘fairly’ deal with such sections whose concerns ranges widely from unequal distribution of resources to dispossession of land. Also, of all the resources intrinsic to capitalist development land has taken the centre stage in an era when we have reserve army of labour and finance capital ready at hand. Hence, any mishandling of land issues can be politically suicidal as it figured prominently in the State politics of West Bengal.22

While land is not seen as a commodity by certain communities articulating their protest in the name of culture and identity, for many others land is an economic entity and protest against its appropriation is based in the speculation of better profitability. In the present context, dispossession connotes a loss of control upon land along with other ‘commons’ like forest resources, grazing field, running streams etc. Among all these resources land is owned through property rights and is the major bone of contention. However, property rights itself in the neo-liberal era have remained elusive as it has expanded and shrunk at the same time. It has expanded to bestow upon an individual (or group), an inalienable ownership upon ‘a nonliving invention’ in the form of Intellectual Property Rights (IPRs) (Hirsch, 2010: 351). Concomitantly, property rights have also shrunk because the principle of eminent domain used for land acquisition has been broadened to serve private investments under the “public purpose”. Implications of this kind of property regime can be understood from the instance where introduction of generic drugs for common good was vehemently contested by the drug manufacturing companies complaining violation of IPRs (Wise, 2014). Moreover, the gradual liberalisation of Indian economy since the 1980s has impelled private capital as the major drivers of growth and the state facilitates land acquisition for them in its endeavour to achieve development. Hence, a protest movement against land dispossession not only raises the issue of distributional bias but also tend to challenge the dominant ideology of development. This takes us to the question that, whether property rights have favoured the rich over the marginalised by prioritising certain kind of rights (to IPR) over others (land rights)? This query has been approached in this chapter, by looking into

22 State’s excesses against the protestors following the attempted land grab at Singur and Nandigram of West Bengal played a significant role in routing out of more than three decades old Communist government.
the changing nature of the Indian state through revisiting the discourse of land rights and understanding land dispossession.

Furthermore, land has gained unprecedented significance in the recent times due to its prospect as a resource to garner profits through private investment, on the one hand and claims based on legal or customary rights on the other. Using the principle of ‘eminent domain’ the state is acquiring land for private companies in the name of public purpose, thus, aiding the capitalist accumulation (Sampat, 2013: 46). Many movements against dispossession which have mushroomed all over the country have successfully averted the “land grab” while many failed to do so. But, what is more interesting to notice is that some movements enter the lexicon of public knowledge and imagination, whereas others do not. Movements against POSCO, Vedanta, Tatas and Salem group have captured the public imagination while other localised movements have not. Nevertheless, the latter’s concern over dispossession is not anyhow less significant and they form the subject matter of this study when we try to conceptualise dispossession.

The present chapter is structured into five sections including the introduction. The second section traces the change in application of the principle of ‘eminent domain’ right since independence to the era in which the Indian state adopted neo-liberal reforms. Conceptualisation of various forms of dispossession will be dealt in the third section. This is followed in the fourth section by a brief account on the colonial as well as post-colonial mode of exploitation of people and resources in Jharkhand with particular emphasis on West Singhbhum. Finally, the chapter will conclude by summing up the modalities of dispossession and argue for a more relevant framework to analyse the politics of dispossession.

3.2. State, Laws and Land acquisition in India

In the pre-colonial period, land was regarded as a means of sustenance and claim to it was laid on the basis of custom, inheritance and obedience to the sovereign shown in the form of taxes (Banerjee & Iyer, 2005:1192; Khasnabis, 2009:59-60). During the colonial era, land emerged as the major source of revenue generation
through different land settlements viz. Permanent²³, Ryotwari²⁴ and Mahalwari²⁵ (Banerjee & Iyer, 2005:1192). But after the industrial revolution in England during the later part of the 18th century, land was seen as a major infrastructure component for the development of Railways and other projects. In order to facilitate the availability of land the colonial government started framing land acquisition laws. Although the law dates back to the Bengal Regulation Act (1) of 1824, land acquisition process was finally consolidated through the Land Acquisition Act (henceforth LAA) of March 1894.

In post-independence India, land became the property of the individuals recognised duly under Article 19 (1) (f) of fundamental rights of the constitution subject to alienation through the due process of law. While the property rights were justified in the name of preserving liberal values, it soon came into conflict with the socialist ideals of the leadership and constitutional obligation for equal distribution of land. Land governance is assigned under the State list of Schedule VII of the Constitution while acquisition and requisitioning of property is enlisted under entry 42 of the concurrent list²⁶ (Upadhyay & Sinha, 2009). As a result, the implementation of land redistribution rested with the respective State governments. But, to initiate the redistribution of land government had to amend the constitution whereby fundamental right to property was made subject to state’s discretion.

However, the Indian state faced the paradoxical situation of fulfilling its commitment towards the poor and marginalised while acting in connivance with the rural elites (Frankel, 2005). Several works on political economy (Bardhan, 1984; Frankel, 2005; Rudolph & Rudolph, 1987; Vanaik, 1990) has embarked upon the nature of rural elite and the composition of ruling section to state that land reforms achieved “very limited success” in India²⁷ (GoI, 2009:8). In the post-liberalisation

²³ Land settlement which was in vogue in the eastern parts of India belonging to Bengal and Benares Provinces in which revenue upon a piece of land was determined for a long time and land was largely held by landlords with ownership rights.
²⁴ This was mainly applicable in the Southern parts of India (Madras Presidency) in which land revenue were paid by the tenants.
²⁵ Mahalwari settlements were applied in the Bombay and Punjab Provinces with the communal ownership of land and revenue was also paid by the community to which the land belonged.
²⁶ Videh Upadhayay and Chandrima Sinha (2009) have classified the land laws at the state level broadly under three categories, i.e. land administration and development laws, laws relating to land reforms and land acquisition laws.
²⁷ The committee on ‘State Agrarian Relations and the Unfinished Task in Land Reforms’ constituted in 2008, citing the NSSO (2003) report on landholding states that, small and marginal farmers
period, the Indian state is still facing a paradox albeit in a new form. While still retaining the “vexatious sovereign authority” (Sampat, 2013) upon the land, the state aims at addressing the problem of underdevelopment by following the capitalist path of development.

After independence, LAA was retained by the state through Article 372 of the constitution which allowed all colonial laws to remain in force unless explicitly repealed (Ray & Patra, 2009:41). Land acquisition takes place under the principle of ‘eminent domain’ through the use of ambiguous definition of “public purpose” which is left to the discretion of the state. Huge tracts of land were acquired using the provision of ‘public purpose’ for public sector units. However, even during the Nehruvian era the same principle was used for acquiring land for private companies and was legally challenged in which the judicial verdict went against the Government. Hence, the LAA was amended in 1962 to allow land to be acquired for a company which was ‘engaged in or was taking steps for engaging in any industry or work for a public purpose’ (ibid.: 42). Thus, the land rights were compromised and the horizon of acquisition was broadened which was to acquire only lethal dimensions with economic liberalisation.

Although the land reform achieved “very limited success” for all practical purposes the ideological contest between liberal property rights and socialist ideals constituting 95.65 per cent of the farmers owns only 62 per cent of the land. However, the medium and large farmers who constitute 3.5 per cent of that population own 37.72 per cent of the total cultivated area. Recognising the fact about increase in the number of landless and marginal farmers the committee also states that, 7,50,000 acres of land has been transferred for mining and another 250,000 acres for industrial purposes during the last two decades (Centre for Science and Environment as quoted in India 2009). Moreover, a glance at the data on available land for redistribution will reveal the official apathy toward addressing the issue of landlessness in India. Out of the 141 million hectares of net sown area during 2003-04 only 1.86 per cent was declared surplus and around 13.18 million hectares of land as culturable wasteland. These figures falsify the argument of unavailability of land for redistribution (GoI, 2009).

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28 The Supreme court in its verdict in Daulat Singh Surana vs First Land Acquisition Officer, 2007 revealed the judiciary’s position on the scope of eminent domain. The Court ruled that, Public purpose cannot and should not be precisely defined and its scope and ambit be limited as far as acquisition of land for the public purpose is concerned. Public purpose is not static. It also changes with the passage of time, need, and requirements of the community. Broadly speaking, public purpose means the general interest of the community as opposed to the interest of an individual. The power of compulsory acquisition as described by the term ‘eminent domain’ can be exercised only in the interest and for the welfare of the people. The concept of ‘eminent domain’ is an essential attribute of every State.

29 In its landmark judgment in R.L.Aurora vs State of UP, 1962 the Supreme Court ruled that the government could not justify acquiring land for a textile machinery manufacturer as a ‘public purpose’. The Court also declared that, ‘the LAA did not contemplate that the Government should be made a general agent for companies to acquire lands for them for their private profit’.
continued between the Judiciary and Parliament. The entire debate, however, for the
recognition of land as a property was put to an end through the 45th constitutional
amendment of 1978 brought by the Janata government. Property in land was no more
the fundamental right but a legal right under Article 300A of the constitution.
Parliamentary debates preceding the amendment is testimony to the fact that several
crucial issues concerning land governance and rights of the people, especially the
poor, were raised at that time30 (Sharma, 1990:241-249). With the adoption of
socialist pathway to development with mixed economy as a mode where hegemony of
public enterprises was maintained, land acquisition had been legitimised under the
principle of “eminent domain”. But the shift in the role of drivers of growth wherein
the private players became prominent, the process of land acquisition did not carry the
same ideological justification (Ray & Patra, 2009:43). Moreover, the present model
of development violates the core principle of being a Pareto-improvement, i.e. not
hurting some people while leading to substantial income generation for many others
(Morris & Pandey, 2009:13).

Even though this change is associated with the economic reforms vividly
adopted during 1991, a close analysis of the policy changes reveals that the neo-
liberal reforms made its inroads soon after Indira Gandhi assumed power in 1980
(Kohli 2006: 1257). Indira’s populist slogan of ‘garibi hatao’ which had a socialist
blend was silently replaced with economic growth. In this endeavour, the government
ignored to introduce more neutral ‘pro-market’ reforms and favoured ‘pro-business’
policies (ibid. 2006:1252). This simply meant that the state was patronising business-
friendly environment for the domestic “big” corporates to pursue high economic
growth (Kochanek, 1996). Thus, the state embraced Indian capitalists as its main
ruling ally (Kohli, 2006:1258). Landed gentry who earlier formed a component of the
ruling coalition suffered a setback with this new development. But the worst victims
of this ruling coalition were the marginal and small peasants who had received limited

30 The constitution (forty-fifth Amendment) Bill was introduced by Law Minister Shanti Bhushan on
15th May 1978. It intended to delete Article 19 (1)(f) which guaranteed to every citizen right to acquire,
hold and dispose of property. Thus, “Right to Property” under Article 31 was removed from
Fundamental Rights and was retained as a legal right under Article 300 A. Ram Jethmalani wanted the
retention of Article 19 (1)(f) because he thought its deletion would do disservice to the cause of
democracy, freedom and the rule of law. Though Jethmalani accepted that all private property must
yield to paramount public purpose, he insisted that, in the retention of right to property lay the hope of
the poor. Referring to Jethmalani’s observations, Bhushan said that “he heard for the first time that
Article 19 (1)(f) was a charter of the poor”. Bhushan further argued that, poor people’s right to elect
their government was a full guarantee so far as their property was concerned.
benefits from land redistribution. In fact, the initiative of land reforms itself gave impetus to more crisis than relief. Several tenants were evacuated from the land by the landlords who retained their land under the guise of “personal cultivation”. Moreover, the legislation led to the growth of landless rural proletariat by increasing their number from 28 per cent of the rural population in 1951 to at least 37 per cent by 1981 (Patnaik, 1986:786). In the wake of “jobless growth” in the post-reforms period, (Mathew, 2014) dependence upon land for the marginalised section became more crucial for livelihood. Subsequently, land acquisition for private projects has assumed gigantic proportions curtailing the land rights of the individuals in the name of development. For instance, more than five lakh hectares of forestland were seized for ‘development projects’ between 2001 and 2006 (Walker, 2008: 580).

Despite the significant presence of the capitalist forces and their ability to connive with the bureaucracy, it will be wrong to assume that state simply acts as an agent of the former. Under the rubric of structural Marxism, as propounded by Poulantzas31(1968), analysis of laws related to land acquisition ascertains the relative autonomy of the state. Plummeting of the colonial LAA and passing of the new Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR here onwards) in September 2013 approves of the autonomy enjoyed by the state. It not only attempts to address the problems faced by the capitalists in land acquisition but also rationalise the domain of land acquisition by considering the concerns raised by the land owners as well as other stakeholders. The new Act has enhanced compensation and routed the acquisition of a major part of the project through open market rather than eminent domain. But it has also overlooked the proposals like fixing compensation rate at six times the market rate and prohibition on acquiring irrigated multi-crop areas under all circumstances. Moreover, several provisions have been retained which reduce transparency, deny stakeholder participation and impose unjust compensation. Even with these anomalies the existing law is looked upon as an impediment and the corporate sector has already started asking for a “hasty revision” (The Hindu, 2014). As the new legislation has

31 Nicos Poulantzas (1968) stated that, the state comprises of a complex cobweb of socio-economic institutions which exist structurally in a power relation. The decisions made by the state are an indicator of the relative proximity the social classes or institutions enjoy. However, none of them enjoy undisputed access to the state resources and every benefit accrued to the different sections is a result of hefty bargaining among themselves as well as their capacity to capture state’s attention. But certain actors have historically enjoyed a better access to the state.
completed only six months into being, it needs to go some more miles before any meaningful analysis. However, in the present chapter an attempt will be made to conceptualise dispossession as taking place under the regime of LAA. With the deepening democratic values and a vigorous civil society, the overarching provisions of the LAA which empowered the state to acquire land have been challenged on several grounds including legal (Sundar, 2009). But the resistance movements and their salience can hardly be properly understood without engaging with the exercise of placing the contemporary dispossession in a perspective. In the next section, we make an attempt to engage conceptually with the nature of dispossession and carve out a framework to analyse them.

3.3. Conceptualising ‘Dispossession’

Land dispossession has taken place at a rapid pace in both urban and rural areas. ‘Demand induced alienation’ takes place due to industrialisation and increased flow of people into urban areas. ‘Supply induced alienation’ is mainly applicable in rural areas where needy people approach the money lenders and this ultimately leads to alienation of land (Ray & Patra, 2009). However, industrialisation has also been a major source of land alienation in rural areas. Being the main victims in most of the cases, adivasi communities have always remained at the epicenter of debates around land acquisition (Ekka & Asif, 2000). This has remained so since the colonial era, initially, due to the state ownership of the forests and later due to initiation of developmental projects in Post-independent India.

Presently, discourse of displacement has been used to conceptualise dispossession in most of the studies (Baviskar, 1995; Nilsen, 2010). However, for the present study we will attempt to conceptualise dispossession devoid of its present connotation by looking at the more subtle aspects like gradual loss of agri-based livelihood in the wake of industrialisation, distress migration signaling assault on the conventional resources and so on. Nevertheless, the word ‘dispossession’ has a connotation which should be perceived in a relational context; most appropriately in a context wherein two parties are negotiating in a domain marked with unequal power relations. This kind of power relation is visible between states, state-individual relation as well as relations between two individuals or groups. Our attempt is to
understand this power relation in a “discursive formation” having actors from diverse class and culture. To be precise, these actors can be identified as the local state, capitalists, social elites, political parties, middle-men, civil society organisations (CSOs) and so on.

The process of dispossession as an integral factor in the analysis of nature of capital has been pursued under “accumulation by dispossession” (ABD henceforth). While originally conceived by Harvey as a theoretical tool to analyse dispossession in context of post-colonial development, Nilsen (2010) and Levien (2012) have established its significance in analysing dispossession due to domestic capital. However, in deviation with Nilsen’s concern over displacement and Levien’s analysis of post-accumulation regime, ABD is used in this study to analyse the pre and post-accumulation scenario in a tribal dominated society. Aiming to extend the critique of dispossession to the neo-liberal capitalist system, the present study considers only private projects. However, before proceeding with the conceptualisation of dispossession, it is pertinent to revisit a few notions inherent to the regime of land acquisition.

In the contestation over land, Government’s stand is skewed towards better utility of available land though it is also concerned about the rights of the land owners and traditional users. The LARR has removed the ambiguities on “public purpose” and “compensation” and mandates acquisition through market route in case of Public-Private Partnership (PPP) and private projects. But it has failed to address several grey areas, e.g. there are around thirteen other laws used by the state to acquire land which will not be governed by the LARR (subsequently brought under LARR through the amendment ordinance). In most of the cases of land transaction, people avoid to mention the original prices to evade the stamp duty and money is exchanged without any records. In such a situation, is it possible to fix a market rate agreeable by the land

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32 Michel Foucault (1972) refers to this as the site which is quite diverse, or intentionally made so, to camouflage the factors of subjugation. This site needs to be deconstructed to identify the real factors of power domination so that they can be challenged more vigorously.

owners? Protective legislations in their quest to curb land alienation make the sale of land difficult in most of the scheduled areas. This further leads to the existence of a restricted land market thus reducing the bargaining power of the owners. In such a scenario, whether the new law will empower the people or make them vulnerable towards intriguing by the capitalist forces? Finally, we attempt to analyse the structural and procedural aspects of perceptibly less vigorous anti-dispossession movements. But, before proceeding with further understanding of contemporary forms of dispossession it will be useful to look at the debate which brings land to the centre-stage.

Comparatively better utility of land under industrial over agrarian mode of production has served as the logic behind “land grab” in the neo-liberal era. Apart from other market-based manipulations, utility is generated not simply through exploitation of labour but also by under-valuation of land prices. Several scholars have interrogated the ‘ontology’ of land grab by revisiting its salience in ensuring food security and environmental conservation (McMichael, 2014: 35). It is also argued that while most of the land grab in Latin America and Africa are done under the garb of ensuring ‘food security’, land grabs in China and India has more to do with industrial and urban purposes (Levien, 2015:149). Interestingly, on the issue of land grab, Agostina Costantino (2014:32) has identified three categories of states, i.e. only grabbed countries, only grabber countries and mixed countries with net outcome. Given a thriving domestic capital, not very surprisingly, India ranks amongst the mixed countries having “net grabber” status.

A natural corollary of this perspective leads to the question that, whether land as an entity should be used for maximum profit or optimum utility? This reminds us of the discourse of capitalist development Vs. sustainable development (itself an outgrowth of the capitalist order) and attempts to find solution to the ills of capitalism by waging a war on its consequences without questioning its basic premise of unbridled profiteering. The conservationist discourse, however, tends to disown the livelihood concerns because of the belief that the capitalist use of land is more capable of ensuring better livelihood options to the dispossessed people. Therefore, livelihood issues are addressed by yet another trope of land use ontology which locates land under the framework of rights or sovereignty (McMichael, 2014: 47). Such section
has emerged in response to both the above mentioned discourses of capitalism and conservatism. Moreover, the debates concerning ontology of land use can be conveniently arranged into three tiers, i.e. of the capitalists, the conservationists and the skeptics. But this categorisation does not stand for the denial of interaction which takes place occasionally between the second and the third tier. However, what perturbs us here is the interaction between the first tier comprising of the capitalists and the third tier of the skeptics or the opponents of land acquisition who are quite heterogeneous.

Dispossession has both a covert and overt dimension. The covert concern over land dispossession is based upon the prospective losses which becomes the basis of protests against land acquisition all over the country. However, dispossession becomes overt in cases of distress migration consequent from the assault upon traditional livelihood support in the wake of industrialisation. In analysing covert issues it becomes imperative to understand the process of dispossession from the perspective of the dispossessed. One way to capture their perception is through listing the demands which form the basis of their protests. Even the laws dealing with dispossession significantly frames the public imagination thus deciding the nature of protests. For instance, protests in Singur were carried by the landless workers, share-croppers and others associated with the land rather than the owners who engaged in different vocations in the cities and had left their land to be cultivated by the former (Ghatak et al., 2013). The particular attitude of the protestors could be attributed to the fact that due to a narrow definition of “Project-affected family” (PAF) this group would have been left out of the benefits extended as a result of land acquisition.

Another issue regarding perception of dispossession can be clarified if we look at the account of *Narmada Bachao Andolan* provided by Amita Baviskar (1995). In her study, she has described how the interests of the *Patiadors* differed with that of the adivasis 34. Despite the factionalism within the movement it was consolidated exceptionally by pan-Indian organisations like National Alliance of People’s Movements (NAPM), People’s Union for Civil Liberties (PUCL), People’s Union for Democratic Rights (PUDR) etc. The participants were able to look beyond their

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34 While the patidars saw the submergence of their cultivable land as the reason for dispossession the adivasis viewed the loss of forest resources in addition to the forest land which they cultivated as their dispossession.
particular interests because of the bigger threat in the form of ‘displacement’. But in the absence of any common concerns conjoining the interests of different sections it becomes very difficult to bring the participants together who are primarily occupied with individual benefits in assessing land dispossession. Moreover, in a situation where displacement is not the major concern of the people and the heterogeneous society is fragmented along individual preferences a viable protest against dispossession is difficult.

Class and culture are the two central issues around which anti-dispossession movements are organised. Civil Society Organisations (CSOs) in their projection of the dispossession have remained consistently strategic as public imagination is ripe with one-dimensional picture of state atrocities while social complexities acting at the disadvantage of the movements are seldom highlighted. There are also the “not-so-popular” movements which are disowned by the CSOs either for the lack of inherent recipe which could be cooked to draw larger attention or because of serious disagreements with the social elites acting as the custodians of the movements. The discourse of dispossession in such a society is marked with the presence of social elites eager to protect their customary honour; people aspiring to access better livelihood options over less remunerative agriculture; symbolic presence of cultural practices; middle-men conspiring to improve their lot by conniving with the capitalists; and idle political leaders who avoid to earn disrepute from their constituency while implicitly supporting the capitalists in their endeavour. Thus, a contest against dispossession simultaneously needs to be a struggle against the aspirations of the people who witness abject poverty, class distinctions and, most importantly, a political system with scarce promise to redeem their position.

Furthermore, a noticeable commonality in almost all the anti-dispossession struggles in India is their engagement with “Jury Politics” (see Pg. 15) which has emerged as a common denominator. Experiencing the different results of this particular strategy, scholars hold different views regarding its adoption to counter dispossession. Nilsen (2010) holds the view that jury politics as a strategy reduces the scope of a matter which is political at core and curtails the prospect of protest. Taking the example of Narmada Bachao Andolan case he states that when subjected to judicial pronouncement a social movement,
…run the risk of abrogating the strategic repertoire of social movements from below at a conjuncture in which subaltern groups are under increasing pressure from social movements from above that seek to expand the power of dominant proprietary classes through even more aggressive forms of accumulation by dispossession. (Nilsen, 2010: 145)

Contrary to this view on jury politics, Levien (2013) argues that despite the odds which the strategy suffers, it has the chance of buying time which is crucial for the activists. He further explores its virtue and argues that there are instances when due to the legal hurdles and resulting delay, projects were withdrawn. While there is merit in both the views, Nilsen’s opinion stay vindicated if we consider the Judiciary’s approach in *Narmada Bachao Andolan* Case. In October 2000, the Supreme Court in its verdict declined to halt the rising height of the *Sardar Sarovar dam* on the ground that ‘development’ is a policy domain under government responsibility and the court is not entitled to interfere in such issues. Moreover, we can observe a volte face of the Supreme Court if we consider its earlier ruling in *Samatha Case* of 1997 which declared any acquisition of tribal land in scheduled area as illegal and considered the private mining companies as a non-tribal ‘person’ (GoI, 2013: 252). Hence, the present situation entails a clash between the developmental commitment of the state on the one hand and its constitutional resolve to safeguard the culture and identity of the people on the other.

However, even the judiciary does not seem to be consistent while dealing with different cases of land acquisition under different pre-texts. Let us consider, for example, the Court’s verdict in Niyamgiri case of Odisha which highlights the state’s paradox in the “Development-Culture standoff”. Protests against the Bauxite mining company Vedanta in Niyamgiri of Odisha were organised by the resident Dongria Kondh tribes under the framework of culture (Jena 2013:14). The Niyamgiri hills identified as the mining site is worshipped by the Kondhs as *Niyam Raja* and is deeply attached to their cultural practices. The judiciary through its verdict in *Orissa Mining Corporation vs. Ministry of Environment & Forest & others*, 2013 has expressed its sensibilities to the culture and livelihood of the tribals. The Court ruled that if any Bauxite mining operations are to be pursued by M/s Vedanta in Niyamgiri area, the company need to get the permission of the aggrieved party, i.e. the villagers of Niyamgiri, and the mining proposal need to be endorsed by the *Gram Sabha*
meetings. Hence, the verdict can be seen as a triumph of the tribals who can now legally deny any industrial and mining operations which they perceive as a threat to their culture and livelihood.

Broadly, the protests against land acquisition can be clubbed under two groups. First group is that of those who question the compensation, rehabilitation and resettlement package whereas the second belongs to those who sternly oppose land acquisition. Apart from raising genuine livelihood concerns as well as state’s distributional bias towards the capitalist forces, the first group also comprises of people who hold a very high ‘reserve price’ for the land based on some speculation. However, the second group comprises of the people who do not perceive land as a commodity but attribute cultural value to it. This perception of land as a ‘territory’ with right to ‘work, abundance, living and dwelling’ (Sauer, 2012: 97) prevails mainly among the adivasis. Thus, we can observe that there are several pretexts under which the protest can be organised.

Culture and identity have remained major issues of articulating protest movements against land dispossession in tribal-dominated regions. Sen (2012a) has argued that, ethno-history of tribes can be studied through re-defining archaeology by considering tribal artifacts as the source of their history. Thus, any loss of these archeological evidences is not only a loss of tribal identity and history but also their legal claims. While these arguments have remained central to the articulation of anti-dispossession movements on cultural grounds, it is pertinent to investigate other underlying reasons. One question which can be asked at the outset is that, do the adivasis subscribe to cultural view voluntarily or adopt this due to some compulsion? The answer to this question cannot be straightforward as the tribal societies are still comparatively more closely knit and less pervaded by individualistic norms. However, it will be wrong to assume that they are entirely driven by these values when facing land dispossession. They have to hide under the veil of receding cultural curtain to avoid land loss in a scenario of “not-so-remunerative” land prices existing due to poor land market as a result of protective legislations.

35 Asoka Kumar Sen (2012a) considers the desauli (village deity); sasandiri (burial stone), kursinama (genealogical tree) and village names as the archaeological tools relating to the Ho adivasis.
Another reason to use the cultural notion is to portray the anti-dispossession movement as seemingly homogenous and hide the non-tribal aspect. Moreover, the protest under the rubric of indigeneity provides a better leverage to appeal for the protection of cultural rights of the citizens (Harvey, 2005:175). This is a common feature of protests in majority of the tribal dominated areas. But such movements run the risk of projecting some illusory concerns over the vital livelihood issues with the lurking danger that, “a politics of nostalgia for that which has been lost will supersede the search for ways to better meet the material needs of impoverished and repressed populations” (Harvey, 2005:177). It is due to this imminent danger that Harvey advises to,

 discriminate between progressive and regressive aspects of accumulation by dispossession and seek to guide anti-dispossession movements towards a more generalised political goal that has more universal valency than the many local movements, which often refuse to abandon their own particularity. (David Harvey, 2005:179)

This brings us to yet another question, whether the present form of land dispossession is ‘progressive’ or ‘regressive’? The empirical studies conducted on land acquisition have sufficiently established the “windfall” benefits accruing to the capitalists at the cost of dispossession of the owners. This fact serves as a sufficient reason to identify land dispossession as regressive. However, another way to analyse the nature of dispossession is through considering the alternative land use options suggested by the people and deliberately ignored by the state. It is important in this context to draw attention to the violation of environmental norms by the capitalists avoiding even the legal regulations (Ramesh, 2015). Moreover, the ‘rate of accumulation by dispossession’ calculated by Levien (2012) approves of a perspective on compensation which should be guided by the end use of land and the resulting utility. The proposal for making the land owners a shareholder in the growth process for an automatic delivery of development is another long awaited idea. Finally, allowing the commodification of land in sectors which requires urgent government intervention is not the only way to achieve development. Real estate is one such example. Leaving the housing requirements of the people to the whims and fancies of the realtors has created highl profits to this sector. Despite this highly remunerative end use the original land owners are compensated on some ill-defined market value of
land. Largely, due to the lack of these considerations in the present law on land acquisition, the process of land dispossession has remained objectionable. Even though anti-dispossession movements suffer from many limitations, including those raised by Harvey, they can ill-afford to wait for an opportune moment when a broader ideological apparatus against ABD is constructed. It is due to the sense of urgency that the movements engage strategically with the forces of dispossession and fight this battle on the turf of neoliberal state.

The immediate issues with which these movements are concerned relates to compensation along with rehabilitation and resettlement. And, it is the continued perseverance of these movements that steps were taken to address the concerns related with the Rehabilitation and Resettlement (R&R). Initiative was taken as late as 2003 when the Government of India (GoI) announced the National Policy on Resettlement and Rehabilitation (NPRR) which came into effect in February 2004 (Choudhary, 2009:84). However, due to number of limitations a revised National Rehabilitation and Resettlement Policy (NRRP) was announced in 2007 and a failed attempt was made to pass the National Rehabilitation and Resettlement Bill, 2009. Finally, a new law on land acquisition officially known as Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement (LARR) Act was passed on 26th September 2013. Although a truncated effort has been made to redefine compensation and R&R, the government needs to go a long way to ensure compensation in tune with the end use of land and recognising the owners as shareholders in the process of growth. As stated earlier, the anti-dispossession resistances are either guided by material or cultural concerns. And, by promulgating the LARR the state has attempted to find a solution to both the issues. Whereas, a formula for fixing the compensation has been provided to address material concerns the provision of consent potentially resolves the issue of cultural reservations. Despite this, the resistance movements are hardly relenting due to several reasons. One such issue is the huge mismatch between the officially stated land prices and the reservation price held by the individual owners.

Nevertheless, the neglect of a particular aspect of dispossession while framing the rehabilitation, resettlement and compensation policy draws our attention in this study. A lot has been written regarding the rising land prices wherever a project is
coming up but rarely have we noticed the fate of an adjacent land made futile due to new projects. Even though the project-affected-families (PAFs) find their place in the R&R policy, dispossession of the people due to gradual loss of land fertility has evaded the attention of the policy makers. In fact, this situation entails an analysis where a dispossession of this nature needs to be comprehended. This exercise requires more empirical evidence and will be undertaken in its entirety in the fifth chapter on politics of dispossession. As far as culture is concerned, its use as an intangible entity for organising anti-dispossession movements cannot be simply regarded as nostalgia as this will tantamount to disowning the deeply embedded public memory of the past dispossession and some ongoing real concerns. In this situation, the government carries the responsibility of framing a land acquisition law which not only ensure a proper livelihood option but also do not threaten the socio-cultural fabric in the post-acquisition scenario.

3.4. Conceptualising dispossession in Jharkhand

The colonial administration, mainly interested in generating revenue, overlooked the issue of tribal development. However, they reluctantly took some steps to halt the process of land alienation among the adivasis of the region because of persistent struggle. As a result, the Chotanagpur Tenancy Act (CNTA) was passed in 1908 making the sale of tribal land to non-tribals illegal. However, Section 49 of CNTA introduced by Bihar government in 1969, allowed land acquisition for public purposes such as providing educational and health facilities. In 1995, this section was amended further and provision was made for land acquisition for industrial and mining projects. Although land acquisition for industries and mining activities continued unabated after independence, this step cleared the way for making policies inviting investments.

Implementation of mining projects, establishment of industries, construction of roads, dams, townships etc. emerged as the main source of tribal land alienation and displacement in Jharkhand. Studies have estimated that around 1.6 million acres of land has been alienated in Jharkhand between 1951 and 1995 (Ekka and Asif, 36). Section 46(2)(b) of the CNTA also protects non-tribal land belonging to Scheduled caste and Backward caste inhabitants. For a detailed account on contestations revolving around CNTA see Sujit Kumar (2015) Has Chotanagpur Tenancy Act (CNTA) lost its relevance? Debates and issues. In AAA Faizi, Krishna Gopal Iyer and Ashmeet Kaur (ed.) Tenancy Laws and Practices, New Delhi: Manak Publications.

2000). Around one lakh acres of land has been acquired for projects like Heavy Engineering Corporation (HEC) Ranchi, Bokaro Steel Plant, Damodar Valley Project, and Adityapur Industrial Estate alone, apart from Coal and Iron ore mining (Munda & Mullick, 2003). However, it was after realising the futility of the government’s effort to rehabilitate the displaced people that the tribals started protesting against several projects like Koel-Karo Dam Project, Subarnarekha Multi-purpose Project, Netarhat Field Firing Range Project etc. The Koel-Karo Dam Project proposed to submerge 66,000 acres of land displacing 256 villages inhabited by 1.5 lakh people of which around 90 per cent is tribal population. Movement against the dam construction was led by *Koel-Karo Jan Sangathan* and saw the use of repressive machinery to curb it. On 2nd February 1995, the police resorted to firing and the incident saw six persons losing their lives on the spot. Likewise, the Netarhat Field Firing Range is proposed to affect 245 villages of Palamau and Gumla districts acquiring 1.8 lakh hectares of village land affecting a population of one lakh. Movement against this project was led by *Jan Sangharsh Samiti* which organised a huge demonstration on 28th September 1993.

After the dream of tribal homeland was realised in the form of Jharkhand, initiatives were taken by the government to expedite the process of development. It was in this vein that the New Industrial Policy (NIP) was drafted in 2001 and several MoUs were signed with various companies for industrial and mining projects. Although the influx of outsiders and process of land alienation in the Chotanagpur region continued since long, the anti-dispossession struggles have become severe since the implementation of MoU signed under the NIP. The government needed to lease out certain areas to operationalise the industrial projects. For this, it had to acquire already inhabited land as well as forest areas. Therefore, the government created ‘land banks’ to facilitate the companies. This initiative, however, faced serious opposition from many local people who did not want to surrender their land. When the political parties realised that they will have to bear the brunt of the villagers in the elections, they asked the companies to acquire land on their own. And the companies, on approaching the villagers for land acquisition, had to face severe protests. As of now, the prevailing situation seems to be very complex with several people being ready to sell their land while others oppose acquisition. But the greater public sentiment seems to be against the land acquisition resulting into protest.
movements, mostly peaceful but sometimes violent. Movements reclaiming land and opposing dispossession is also going on in the West Singhbhum district of Jharkhand which is the area of proposed study.

The district of West Singhbhum came into existence in 1990 after Singhbhum was bifurcated into East Singhbhum headquartered at Jamshedpur and West Singhbhum with headquarters at Chaibasa. The district was again divided in 2000 when Saraikela Kharsawan was carved out of it. At present, West Singhbhum comprises of 18 blocks and two administrative Subdivisions. It is the largest district of Jharkhand with an area of 5351.41 Sq. Kms. and a population of around 3.02 million (Census, 2011). West Singhbhum, recognised as a scheduled area, has majority tribal population of around 67.31 per cent of which 95 per cent lives in rural areas (ibid.). While Ho tribe (approx. 34%) is found in majority, tribal groups like munda, santhal, kharwar, birhor, asur, baiga and others are also found in the district. The district is rich in mineral resources and mining activities started during the colonial era. Literacy is merely 48.4 per cent (tribal literacy is less than 35 per cent) with agriculture being the mainstay of the economy.

After separation of East Singhbhum only a cement industry at Jhinkpani remains in the district even though mining activities take place at Noamundi, Manoharpur, Khuntpani, and several other places. Ores for Tata Iron & Steel Co. (TISCO) is extracted from Noamundi mines while Chiria mines supply ores to Steel Authority of India Ltd. (SAIL) plants. Struggle against land alienation dates back to the colonial era and continues till date. Some of the movements against land alienation in the area are Jungle Aandolan of 1978 led by Devendra Manjhi of the Singbhum Jungle Mazdoor Union. The movement cooled off by 1984 and Manjhi was killed in 1994. The Icha-Kharkai Dam movement was organised in 1978 by Icha-Kharkai Bandh Virodhi Samiti against the construction of the dam on Kharkai River. The movement was led by Gangaram Kalundia who was found dead in 1982. The project still awaits completion due to the protests by the people as it proposed to displace around one lakh inhabitants.

Without taking any clue from the earlier events of displacement and its consequences, around seventeen MoUs have been signed for West Singhbhum alone which proposes to acquire large amount of land. Unlike the large projects, the
industries under consideration do not propose to acquire more than 500 acres of land. This study is premised upon the notion that the process of dispossession has become more strategic in West Singhbhum. The firms pay attention to not only circumventing the legal constraints to land acquisition but also apply tactics to overcome the resistance offered by anti-dispossession struggles. As the villages in West Singhbhum comprises of good number of non-adivasis the companies find it easier to acquire their land in order to circumvent legal complexities under CNTA regulations. The different agents engaged in this politics of dispossession are the adivasis, non- adivasis, bureaucrats, representative of industrial firms, land agents, and so on. As land dispossession takes place in the socio-political domain of a village, day-to-day interaction between the different actors becomes important to understand the politics associated with it. As noticed earlier, the villages in West Singhbhum are ruled by the customary manki-munda system. But the panchayat elections conducted in 2010 agitated the socio-political domain making explicit the otherwise implicit power relations. Owing to this fact, the present study considers the panchayat elections as a vantage point for analysing village society.

Constitutional mandate to establish Panchayati Raj Institutions (PRIs) in non-scheduled areas got passed by the Parliament in 1993. The central government, in order to extend the provisions of Article 243 to the scheduled areas constituted a committee under a tribal MP, Dilip Singh Bhuria in 1995 under clause (1) of Article 244. B.D.Sharma, one of the members of the committee, based on his wide experience on self-rule in tribal areas gave various suggestions. Two important aspects of the recommendations were: one, to build upon the customary law and indigenous administrative political structure and second, giving special powers to gram sabhas in the face of displacement and exploitation. Unlike the usual three-tier structure, a four-tier structure was suggested for scheduled areas comprising of gram sabhas with traditional village councils or nominated heads, village panchayats, intermediate panchayats and district councils. More importantly, the committee made the process of election optional in choosing the local representatives in its quest “to blend the traditional with the modern by treating the traditional institutions as the foundation on which the modern infrastructure should be built” (Jha and Mathur, 1999). Based on such noble recommendations of the Bhuria committee, the Panchayat (Extension to
Scheduled Areas) Act (PESA) was passed by the Parliament on 24\textsuperscript{th} December 1996 (Jha& Mathur, 1999).

Clauses 4 (a) and 4 (b) of PESA clearly emphasise upon the traditional nature of a gram sabha and mention about elections (and reservations) only at the panchayat levels. The JPRA, however, made provisions that elections will take place for gram panchayat members. Moreover, the gram sabha meetings will be presided over by the customary leaders taking decisions on programmes and projects to be implemented and also identify the beneficiaries. But the Mukhia and other gram panchayat members were required to look after the administrative functions and submit reports at the annual meetings on the implementation of the projects. Protests have been registered by different factions supporting the customary institutions resulting into various legal petitions. Role of the State government in constituting gram sabha was also considered to be dubious due to its contradictory arguments. While the issue was still being considered by the Jharkhand High Court, the government forwarded the argument that the gram sabhas need to be consulted before identifying development schemes and beneficiaries. On the other hand, it also argued that the customary institutions have died out and there is no need for any special law for scheduled areas (Sundar, 2005). Surprisingly, the Jharkhand High Court accepted this argument and the aggrieved party further appealed in the Supreme Court.

After the elections were conducted in 2010 the incongruence between the customary and panchayti institutions has provoked a sense of confusion. Whereas the customary leaders assert their right to play decisive role in local affairs of the villages, the elected leaders are also eager to assert their role. This has resulted into a perplexing situation often leading to conflicts between the two institutions and has made the implementation of developmental projects cumbersome. People have come to realise the need to streamline this system but not without differences within their ranks. Whereas, many villagers support the continuation of manki-munda institutions, several others seems to be in favour of panchayat bodies. Thus, the JPRA has played a divisive role in social cohesion which is also a necessary recipe in organising anti-dispossession struggles given the fact that West Singhbhum is a stage to several “land wars”.
3.5. Summary

State, in the neoliberal era, is better identified by the different rights which it maintains for different classes of citizens. While the rich enjoy inalienable property rights, rights of the poor are subject to the capital’s propensity to grow. Giving the example of land rights we have stated, how rights of the marginal sections have been compromised in a manner that a distributional bias in favour of the resourceful exists. Nevertheless, in pursuing its embattled development ideology a democratic state cannot afford to overlook people’s concerns when it comes to maintaining legitimacy in the eyes of the governed. Likewise, in the matter of land acquisition also state emerges out to be the arbitrator and meddle through legislations like the LARR to win over the confidence of all the stakeholders. But even in this balancing act the state is tilted towards capitalists because of its overall concern of “development through growth”.

In this chapter, we have highlighted that, while most of the time the process of land acquisition is quite explicit and violent, many a times it is also subtle and takes advantage of the social fissures. These social fissures appear along the cultural, ethnic, class and other lines and need to be understood properly in the context of particular people and their society. The entire discourse has been framed in a manner that different actors are pooled to play their respective dynamic roles. The method adopted is new in relieving the actors from their conventionally attributed roles and capture the major attributes of anti-land dispossession movement in a tribal-dominated heterogeneous society marked by the presence of an aspiring tribal elite section.

This approach, apart from the embedded structural institutions supporting accumulation also asks for the study of the culture, society and history of the people who are being dispossessed. Pursuing from a grassroots perspective, we will attempt to explain the nature of a tribal-dominated society and the way politics of dispossession unfolds itself. In so doing, we will simultaneously engage with the established notions about tribal societies and attempt to establish some trends which confirm the dynamic nature of the former. Contesting the “cosmetic” notion of
homogeneity and egalitarianism attributed to the adivasi society, the next chapter explains how state institutions and competitive social norms have pervaded the village societies. Finally, these factors will be pooled into the analysis of the specific processes of dispossession prevailing in that society.