CHAPTER IX
NEW ECONOMIC POLICY AND THE LAND ACQUISITION ACT

India is the seventh largest country in the world having a total geographical area of 328.7 million hectares. The gross cropped area is 190 million hectares and the net sown area comes around 141 million hectares. The average GDP growth was only 5.9% during 1950’s and gained momentum after 1970’s. During the period of 1992-93, the average GDP rate was 6.5%. This was mainly due to industrial growth and massive investment in infrastructure sector.

9.1 New Economic Policy

The new economic policy of the government aimed at decentralization and globalization has led to the mushrooming of Indian and foreign industries in India. The recent move of the Government with its noble idea of adding more territories under Special Economic Zone Act, 2005, and the conversion of agricultural land into industrial land had been opposed by the displaced people. Agriculture is the single largest private sector occupation that provides employment to 56.7 percent of country’s work force. As an agrarian country, farmers have the ‘right to cultivate’ in their land. It is also considered as part of the right to livelihood, guaranteed under Article 21 of the Constitution of India.

In Chameli Singh v. State of U.P, the apex court held that “agriculture land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity”. The importance of agriculture in the Indian economy can never be underestimated. According to Mahatma Gandhi, the soul of India lies in villages. Villagers mainly depend upon agriculture for their economic safety. The transition from an agrarian economy to an industrial or service economy is not easy for most people. This may be one of the main reasons for the growing social

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3 AIR 1996 SC 1051.
discontent regarding land acquisition. In addition to this, poor compensation, undervalued market price of land, inadequate rehabilitation and resettlement schemes have given rise to many disputes.\(^4\)

The undervaluation was as high as four to ten times, due to both *regulatory arbitrage* (government has to provide clearance for change in use of land) and *information asymmetry* (difficulty to identify title holders due to poor record keeping). On 25 February, 2009, the Central government decided to modify the prevalent Land Acquisition Act by amending the definition of public purpose, increasing the compensation package, imposing restrictions on non-used land, and simplifying the process of dispute resolution\(^5\).

### 9.2 Economic Analysis of Acquisition Law

Law is an obligation backed by a State sanction. Laws are not just arcane, technical arguments; they are instruments for achieving important social goals. In order to know the effect of laws on those goals, judges and other lawmakers must have a method of evaluating the impact of law upon social values. Economics predicts the effects of policies on efficiency. Efficiency is always relevant to policy making, because it is always better to achieve any given policy at lower cost than at higher cost\(^6\).

Economics provided a scientific theory to predict the effects of legal sanction on behaviour. To economists, sanctions look like prices, and people respond to these sanctions much as they respond to prices. People respond to higher prices by consuming less of the more expensive good, so presumably people respond to heavier legal sanctions by doing less of the sanctioned activity\(^7\). Economics provides a behavioural theory to predict how people respond to changes in laws. In addition to that, economics provides a useful normative standard for evaluating law and policy.

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\(^4\) *Supra* n. 2 at pp. 202-212.
\(^5\) The Land Acquisition (Amendment) Bill, 2007 was passed by the Lok Sabha on 25th February 2009 (the last day of the session) but the bill lapsed with the dissolution of the 14th Lok Sabha.
\(^7\) *Ibid.* at p. 3.
Economic analysis is always related to legal institutions such as property and contract, which drastically affect economy. Property is defined as a bundle of rights\(^8\). These rights are not immutable; they change from one generation to another. Property law involves the fundamental questions of ownership rights, privately owned property, owner’s right; and the remedies for the violation of property rights. So any law which provides eviction directly affects the economy also.

Analysis of acquisition law is an interdisciplinary subject that brings together two great fields of study and facilities a greater understanding of both. There is increased demand for land arising from housing and rising level of urbanization and industrialization\(^9\). In the past, a shift of land from agriculture to non-agriculture uses, was to some extent compensated by converting forest land into agricultural land.

In the United States, a bill was introduced in the house to protect the private rights of and individual from the encroachment of government under the eminent domain theory\(^10\). U.S. House has passed the Private Property Rights Bill in 2011, to prevent States from using eminent domain over property to be used for economic development have taken on added importance especially considering rising land values. Agriculture is extremely capital intensive. Property being that much valued, government must ensure that the farmers are able to maintain their property. That it is not taken away from them\(^11\).

### 9.3 Foreign Investment in India

India has undertaken a major commitment to liberalize trade regime under World Trade Organization agreement. Foreign Investment Promotion Board (FIPB) has been set up and a programme of disinvestment of public ownership in Public

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\(^8\) For a discussion on the philosophical and jurisprudential conceptions of property, See Supra Chapter II, pp. 20-39.


\(^11\) Section 9(1) of the Private Property Protection Bill, 2011 (US) reads: economic development means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health.
Sector Corporation has been launched. New Industrial Policy (NIP) and subsequent amendments brought far reaching changes in the policy regime governing the industrial investments: Upto 50% of foreign ownership is permitted in 6 mineral industries; 51% ownership is allowed in 35 priority industries, 74% in selected priority infrastructure sectors and 100% of foreign ownership on automatic basis to investment proposals in ports and roads\textsuperscript{12}. The aftermath of all industrial outbreaks through new economic policy affects acquisition of land for companies. Foreign investment policy of India augmented the grievances of peasants in India.

### 9.4 Land Acquisition Act and Economic Policy

One of the main objects of the Land Acquisition Act is to acquire land for the companies to enable construction works for public utility\textsuperscript{13}. There is a clear-cut difference between the acquisition of lands for a “public purpose” and the acquisition of lands for the purposes of a “company”. As per the Act, such acquisition of lands for a “company” had to be always in the “larger public interest” and was clearly never meant for the “private purposes” of a “company”\textsuperscript{14}.

By this statutory requirement, the “on-going control” of the State was exercised over the “utilization” of the acquired lands, when the sovereign power of eminent domain was brought into play for the benefit of a “company”. The only requirement under the Act is that acquisition must be for ‘public interest’ rather than for making profit. There is no provision in the Act to the effect that when land is acquired for a company, it must be for a public purpose\textsuperscript{15}. Even though the object of

\textsuperscript{12} Nagesh Kumar (ed.), \textit{Indian Economy under Reforms: An Assessment of Economic and Social Impact}, (Book well, New Delhi), p.11.

\textsuperscript{13} See, Section 40 of the Land Acquisition Act, 1894 which reads: (1) Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under Section 5-A, sub-section (2), or by any enquiry held as hereinafter provided (a) that the purpose of the acquisition is to obtain land for the erection of dwelling house for workmen employed by the Company or for the provision of amenities directly connected therewith, or (aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or (b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public.

\textsuperscript{14} Part VII of the Act consists of Sections 38-A to 44-B which are applicable where acquisitions are made for companies.

\textsuperscript{15} For the meaning of “public purpose”, See Supra Chapter VII, pp.156-157.
sections 44-A and 44-B of Land Acquisition Act is intended to safeguard public interest, after acquisition has become final, diversion of the land for private profit may take place; defeating the purported public interest for which the acquisition has been made. Nothing in the Act prohibits further alienation of the acquired land. Hence, a private company is free to dispose the land after getting acquisition.

9.5 New Industrial Policy (NIP), 1991

The New Industrial Policy (NIP) of 1991 was announced with the aim of growth in productivity. The number of industries reserved for the public sector since 1956 was 17. The NIP removed 9 industries from the list and the number has been reduced to 8. This process which came to be known as privatization made a major reform in trade policy regime.

After the second *Arora’s Case*, the Central Government, in exercise of the powers conferred under Section 55 of the Land Acquisition Act, made rules for the guidance of the State Government: the Land Acquisition (Companies) Rules 1963. It invested unbridled powers upon the Government to acquire land for companies including private companies. In *General Government Servants’ Co-operative Housing Society, Agra v. Wahab Uddin*, the Allahabad High Court held that in

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16 Section 44-A says: "No Company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government”. Section 44-B: “Notwithstanding anything contained in the Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company”.


18 Ibid.

19 Rule 4 of the Land Acquisition (Companies) Rules, 1963 provides that whenever a company makes an application to the appropriate Government for acquisition of any land, the Government shall direct the Collector to submit a report on the matters mentioned therein. Those matters are (1) that the company has made its best endeavour to find out lands in the locality suitable for the purpose of acquisition (2) that the company has made all reasonable efforts to get such lands by negotiation with the persons interested therein on payment of reasonable price and such efforts have failed (3) that the land proposed to be acquired is suitable for the purpose (4) that the area of land proposed to be acquired is not excessive (5) that the company is in a position to utilize the land expeditiously and (6) where the land proposed to be acquired is good agricultural land, that no alternative suitable site can be found so as to avoid acquisition of that land.

20 AIR 1984 All. 283.
respect of acquisition for companies, the observance of Rule 4 of the Land Acquisition (Companies) Rules 1963 is mandatory.

9.6 Right to Housing

The basic needs of man have traditionally been accepted to be three fold: food, clothing and shelter. The right to life is guaranteed in every civilized society. That would take within its sweep, the right to food, the right to clothing, the right to decent environment and a habitable dwelling to live in. The Constitution of India aims at ensuring the fuller development of every child and that would be possible only if the child is in a proper home. This does not, however, mean that every citizen is assured a well-built comfortable house but a reasonable home particularly for people in India can even be mud-built thatched house or a mud-built proof accommodation

As per the report of the Planning Commission of India, land owned per house hold by social groups is as follows:

9.6.1 Land Owned per House hold by Social Groups 2003 Rural area

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>S.C</th>
<th>S.T</th>
<th>OBC</th>
<th>Others</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of area of land owned</td>
<td>9.04</td>
<td>11.2</td>
<td>43.5</td>
<td>36.3</td>
<td>100</td>
</tr>
<tr>
<td>% of house hold</td>
<td>21.6</td>
<td>10.6</td>
<td>41.6</td>
<td>26.26</td>
<td>100</td>
</tr>
</tbody>
</table>

### Urban area

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>S.C</th>
<th>S.T</th>
<th>OBC</th>
<th>Others</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of area of land owned</td>
<td>4.76</td>
<td>3.25</td>
<td>36.08</td>
<td>55.21</td>
<td>100</td>
</tr>
<tr>
<td>% of house hold</td>
<td>15.47</td>
<td>2.91</td>
<td>34.05</td>
<td>47.57</td>
<td>100</td>
</tr>
</tbody>
</table>

From the above data it is very clear that land occupied by different social groups in India varies according to their social status. Socially backward groups like Scheduled Castes and Scheduled Tribes may be affected very badly by acquisition because the land owned by such group is comparatively less than other social groups. Any type of acquisitions; whether for social, industrial or economic development, would affect the living standard of these social groups. If they were thrown out from the land or home, they could not survive in the society. It will naturally increase the number of payment dwellers. The general motto of the laws of the land should be to safeguard the rights of the members of society; and the laws of land should be allowed to moderate the laws of economics, only to that extent.

Contrary to a common perception, the people protesting against land acquisition across the country are not against land acquisition *per-se* but are against forceful acquisition.\(^{23}\) The central issue of the protest is the lack of proper economic policy of the government. A large-scale farmland acquisition will lead to displacement of farmers from agriculture and they will become landless, coolie workers; and complete marginalization of the rural landless labourers\(^{24}\).


\(^{24}\) *Supra* n. 1 at p. 223.
The Supreme Court in India has placed great emphasis on guaranteeing the right to shelter as part of the large goal of achieving social and economic equality\textsuperscript{25}. In \textit{Olga Tellis v. Bombay Muncipal Corporation}\textsuperscript{26}, the apex Court observed that the right to adequate housing, shelter and livelihood is considered as a part of right to life under Article 21 of the Constitution.

A large majority of agriculturists, who are displaced due to land acquisition, are unable to find a similar means of livelihood or other means of survival. Communities get split, families are divided and large numbers are reduced to penury. It is estimated that various development projects have displaced some 38 million people in India since independence\textsuperscript{27}. Originally, the Land Acquisition Act 1894 allowed the government to acquire land for a public utility purpose. Nevertheless, in recent decades it has been used to buy land from reluctant peasant farmers for private profit.

A survey conducted in Thiruvananthapuram, the capital of Kerala shows that out of 425 respondents belonging to displaced/interested persons category, 92\% complained about the involvement of extraneous interference in land acquisition procedures.

\begin{table}[h]
\centering
\begin{tabular}{ |c|c|}
\hline
\textbf{SOURCES} & \textbf{NO. OF PERSONS SUPPORTED} \\
\hline
Political & 206 \\
Religious & 64 \\
Economical & 121 \\
Total & 391 \\
\hline
\end{tabular}
\end{table}


\textsuperscript{26} (1985) 3 SCC 545.

\textsuperscript{27} Supra n. 1 at p.228.
53% of the respondents stated that there was political interference in this regard.

16% of the respondents pointed out religious influence as the source.

31% of the respondents complained that the rich/influential managed to escape from acquisition of their land.

9.7 Land Reforms and Agrarian Reform Issues

In 1970, the then Prime Minister of India, Smt. Indira Gandhi observed that28, land reforms are the most crucial test which our political system must pass in order to survive. The Directive Principles of State policy in the Constitution of India also lay down that the ownership and control of the material resources of the community are to be so distributed as best to sub serve the common good and prevent concentration of wealth and means of production in a few hands to the common detriment29. Land reforms are comprehensive in scope and include all aspects of institutional development including land reforms, tenure, production and supporting services, structure and related institutions such as legal governments, public administrations. The abolition of intermediaries was the first step in land reforms legislations to

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29 See Article 39 (b) and (c) of the Constitution of India.
protect tenants from unlawful eviction. The prescribing of a minimum period of tenure to enable more tenants to become land owners\textsuperscript{30} also deserves a special mention in this context.

One of the main consequences of the land reform legislation is the fragmentation of farm land into small areas of cultivation. Poor peasants of the country became land owners; who could survive on the basis of earnings from their own property. This brought about drastic changes in their life style and economic improvements.

The Planning Commission has also realized the significance of land reform in the economic development of India. The First Five Year Plan recognized the importance of the pattern of land ownership and cultivation. The Second Five-Year Plan emphasised the objectives of land reforms; and again, in the Sixth Plan, the Planning Commission asserted that the object of land reform policy over the successive plans has been to remove such impediments to agricultural development as arise from the agrarian structure inherited from the past and to eliminate exploitation and social injustice within agrarian system so as to ensure quality of tenure status and opportunity to all\textsuperscript{31}.

All economic reforms whether it is land reform or other kinds of distribution of land, aim to secure the life of the vast majority of the tenants and actual tillers of the soil. These legislations advocate acquisition of land from land lords; and the grant of the same to the land less. But what is actually happening under the Land Acquisition Act is just the reverse of what is achieved under land reform legislations.

\begin{footnotesize}
\footnotesub{31} \textit{Ibid.} at p.308.
\end{footnotesize}
9.8 Special Economic Zones and Land Acquisition Problems

As per the reports available, in India a total 1,34,000 hectares of land is getting acquired for 67 Multi-Product SEZs. In Maharashtra, almost 75 percent of the land, proposed to be acquired for the SEZ project, is agricultural land.

9.8.1 Land Requirement for the Approved SEZ in each State Notified as on 29-09-2007

<table>
<thead>
<tr>
<th>Name of the State</th>
<th>Area in Hectares</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhara Pradesh</td>
<td>5760.265</td>
</tr>
<tr>
<td>Chandigarh</td>
<td>31.4966</td>
</tr>
<tr>
<td>Goa</td>
<td>143.565</td>
</tr>
<tr>
<td>Gujarat</td>
<td>6657.6729</td>
</tr>
<tr>
<td>Haryana</td>
<td>340.48385</td>
</tr>
<tr>
<td>Jharkhand</td>
<td>36.4218</td>
</tr>
<tr>
<td>Karnataka</td>
<td>803.503</td>
</tr>
<tr>
<td>Kerala</td>
<td>513.1913</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>50.907</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>2811.5721</td>
</tr>
<tr>
<td>Orissa</td>
<td>69.15</td>
</tr>
<tr>
<td>Punjab</td>
<td>45.75</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>262.138</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>882.044</td>
</tr>
<tr>
<td>Utter Pradesh</td>
<td>100.19153</td>
</tr>
<tr>
<td>West Bengal</td>
<td>77.5343</td>
</tr>
</tbody>
</table>

In India, sixty percent of the land is arable and about thirty percent encompasses forests, pastures, etc. Only about ten percent of our land is totally

33 Supra n.1 at p. 235.
Most of the land which comes under the SEZ belongs to arable land. Any development work which is to be done, would affect cultivable land. Almost every dam would submerge some cultivable area. Roads, railway tracks, canals and power lines would cut across a substantial amount of cultivable land.

Mining may be on forests and waste lands, but here environmental criteria would apply which may activate the brakes. The acquisition of farmland to establish special economic zones is the gravest implications of the SEZ policy of the Government of India. The Committee on State Agrarian Relations and Unfinished Task in Land Reforms highlighted in its 2009 report that the total area of land under SEZs is expected to be over 200,000 hectares and this land is capable of producing around 1 million tons of food grains. It is estimated that farming families will have to face losses of around Rs. 212 crore each year in total income. This will also put India’s food security at risk. This is inevitable in a country where a major part of land is cultivable and actually cultivated. If land is needed for development works, it is axiomatic that a substantial portion of it will come from the cultivated landmass in India.

In 2007, the government of India had introduced National Rehabilitation and Resettlement Policy (NRRP) to keep a tab on ever-decreasing cultivable land in the country. But it seems that most states have not followed the norms laid by NRRP leading to a sharp decrease of cultivable land in the country.

Though the present Land Acquisition Act permits the State to acquire land for public purpose, ‘public purpose’ is not clearly defined and, therefore, a mere certificate from the authority acquiring land that it is needed for public purpose is sufficient justification for acquisition. This provision has been misused. For example, in the Nandigram case as much as thirty-eight thousand acres of land was notified for acquisition by the West Bengal Government, with the objective of allotting it to a

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foreign company for setting up industry in the corporate sector. The fact that employment would be generated thereby does not make this acquisition fall within the definition of public purpose because the Land Acquisition Act was never designed to help private parties obtain access to land by State coercion. There are innumerable cases where land has been acquired for setting up industrial estates, individual parcels have been allotted to industry and many of these plots have subsequently been resold by the allottee. This is a clear violation of the original objective of acquisition of the land in question.

The latest example of this is the *Greater Noida* case in which the Supreme Court quite rightly quashed the orders of the Uttar Pradesh Government whereby thousands of acres of land was acquired for industrial purpose and then passed on to private builders for construction of houses for profit. In doing so, the land use was changed, which is also a gross misuse of power.

### 9.9 Effect of Globalization in Rural Areas

The majority of the world’s extremely poor people live in rural areas and have livelihoods which are bound closely to smallholder agriculture as farmers, labourers, transporters, marketers and processors of produce and as suppliers of non-agricultural services to household whose income is principally agriculture-derived. The disequating trends in Indian agriculture that have persisted since the 1990’s include declining profitability of agriculture, increasing risks, degradation of natural resources, steep fall in technological innovations in agriculture, and collapsing agriculture extension. Agricultural growth has hardly been 2.2% per annum, falling short of the targeted 4 percent growth in 10th Five Year Plan. Further more, the poor in rural towns and the larger cities are often engaged in the processing and distribution of agricultural products from the hinterland. The phenomena of globalization directly and indirectly promote economic growth through industrialization. Many developed

nations started their business activities in developing nations under W.T.O. According to the U.S Congressional Research Service, developing countries, in general, are expected to increase incomes from US $ 36 billion to US $89.1 billion annually, as a result of agreed W.T.O\textsuperscript{40}.

Most of the multinational companies are interested in acquiring rural agricultural due to low compensation to be paid to poor peasants. Tata’s Singur project in West Bengal, Vedanta’s (Sterlite) project in Orissa, Posco’s Paradeep project in Orissa and Jindal’s Raigarh project in Chattisgarh are some classic examples in which companies’ attempt has failed due to strong opposition from the rural people.

Most of the companies look at the land acquisition process purely from the business perspective; belittling factors like adequacy of compensation package to farmers, rehabilitation of farmers and fertility of land. Most often, companies prefer to interact with the farmers through the Government as intermediary or other middlemen and avoid direct interaction with the locals. Both Posco (for their project in Orissa) and Tata group (for their steel project in Kalinganagar, Orissa) avoided direct dialogue with the locals and this ultimately resulted in breeding violent protest amongst the farmers against land acquisition. Vedanta Aluminium Refinery, part of Vedanta (Sterlite) group, was not allowed to commission its open-cast mine project in the Niyamgiri hills in Orissa because of lack of clarity on the rehabilitation package\textsuperscript{41}.

Hence, in addition to the various changes that need to be brought about by the Government in the land acquisition process, companies must also obtain ‘social approval’ by providing attractive compensation to local communities; opening direct communication channels with the locals; avoiding the acquisition of fertile land; resulting in minimal scope for manipulation of the situation by middlemen. Farmers

\textsuperscript{40} Ramesh Chandra, \textit{Globalisation , Liberalisation, Privatisation and Indian Polity}, (Vol.6, Isha Books), p.3.

\textsuperscript{41} \url{http://www.business-standard.com/india/news/land-acquisition-fear-factor-for-companies/382833/} (visited on November 11, 2012).
want employment in the project. They want higher compensation for their land. They want to become shareholders in the project. Whether the new legislation intended to repeal the outdated Land Acquisition Act meet the property owner’s concerns, remains to be seen. To balance the need for industrialization and farmland protection, it is necessary that the State take land management and planning up to the grass root level. In all developmental projects like special economic zones, losers of land can be given equity in the form of ownership of a portion of the land to be developed. This will give farmers a share in the property and make available more land for development.

In *U.P Parents Association v. S.K Bhargava*[^44], the appellant challenged the order of the High Court which struck down the acquisition of land for a private school. While the appeal was pending before the apex court, Government re-notified the land under section 48 of the Land Acquisition Act and de-notified the earlier acquisition. The Supreme Court accepted the contention of the government that the land measuring about 6000 sq.ft., which is actually part of the first acquisition and possessed by the parties was exempted from acquisition.

### 9.10 The Need for a Proper Planning and Evaluation

The initial consultation is an essential part of any land evaluation study. Government should be more cautious while acquiring land for companies. Only through a clear understanding of the objectives and assumptions, it is possible to plan the subsequent activities so that they are directed towards producing information relevant to the purposes acquisition. Planning and evaluation also help to avoid the conflicting interests between natives and beneficiaries of the acquisition. So the following matters should be considered before acquisition:

[^42]: For a critical evaluation of the new legislation, See *Supra* Chapter VII, pp.155-197.
[^43]: *Supra* n.1 at pp.235, 237.
[^44]: *AIR* 2005 SC 1952.
9.10.1 The extent and boundaries of land to be evaluated

These may have been specified prior to the commissioning of the evaluation, as for example in preparing a development plan for a particular administrative unit. Alternatively, the area may be determined following selection of relevant kinds of land use, on the basis that certain areas only appear to have potential for that use. In particular, when surveys of a more intensive nature are being undertaken, maps from previous surveys at reconnaissance or other less intensive scales will be used to select promising areas for specified kinds of land use.

9.10.2 The nature of land use and its relevance for consideration

These are selected on the basis of the objectives of the evaluation and the physical, economic and social background of the area. The objectives indicate whether a wide range of kinds of land use are to be included, or whether the study is directed towards one specific use. In most cases the physical background, e.g. features of climate found over the whole area under consideration, will substantially reduce the range of uses of land which are relevant. There will also be constraints set by economic and social factors, e.g. levels of living or a requirement that a particular type of land tenure, individual or communal, be employed.

9.10.3 The feasibility of two-stage or parallel approach

This depends on the purposes, scale and intensity of the study and also on the times when the specialists are available.

9.10.4 The suitability of classification

Selection of a qualitative or quantitative classification, and one of either current or potential suitability, is made on the basis of the objectives, scale and intensity of the evaluation. Qualitative classifications are normally employed on
reconnaissance surveys for general planning purposes, quantitative for more specific proposals. Where major land improvements, such as drainage, reclamation or irrigation schemes, are contemplated, classifications of potential suitability are necessary; in such cases it may be desirable additionally to classify the land on the basis of its current suitability, or order that benefits with and without the proposed development can be compared.

9.10.5 The scope, intensity and scale of the required surveys

This is decided by means of comparison between the data required, as determined by the purposes of the evaluation, and that which is already available. The nature of the data required is greatly influenced by the kinds of land use being considered (e.g. soil survey for agricultural use, ecological survey for grazing of natural pastures). It is first necessary to review the existing information e.g. topographic maps, air photograph cover, soil maps, river discharge data, population, production and other statistical data, projections of demand. This is compared with the requirements for an evaluation of the given type and intensity. Decisions made will include, for example, whether new air photograph coverage is required, whether a soil survey is necessary and if so at what scale and density of observation, and what economic data must be collected.

9.10.6 Phasing of the activities

Having made initial decisions on the aspects detailed above, it is then necessary to estimate the time to be allotted to each of the subsequent activities and their relative phasing.

Some of the decisions made during the initial consultations may later be modified, by iteration, during the evaluation. Where a written agreement is executed
between the beneficiary and the interested persons, provision should be made for its subsequent modification, by further discussion and agreement.

9.10.7 Environmental impact assessment

Consideration of the environmental impact, or probable consequences of change for the environment, should permeate the matching process and, indeed, the evaluation as a whole. To provide environmental safeguards, it is essential that land suitability shall normally be assessed on the assumption that the kinds of land use proposed will be sustained, that is, capable of being continued over an indefinite period of time. This requires that any adverse changes to the environment shall be neither severe nor progressive.

Many changes in land use necessitate to some degree adverse effects on the environment. In special circumstances, it may be that some degree of land degradation is accepted as unavoidable. In such cases, the evaluation should state that only short-term use is foreseen, and should give information on the nature and extent of the degradation and on the expected condition of the land when the use ends.

In considering environmental impact, off-site effects, i.e. consequences for the environment outside the area under study, like the effects of forest clearance upon river flow regimes, of changes in river water and sediment content caused by reservoir construction upon navigation, fisheries, etc., and the influence of saline drainage water on the quality of irrigation water downstream, should be considered.

The objectives related to environmental concerns are to preserve and conserve lands under important environmental functions such as those declared as National Parks, Wild Life Sanctuaries, Reserved Forests, Eco Sensitive Zones, etc. and guide land uses around such preserved and conserved areas so as not to have land use conflicts or negative environmental impacts; and also to preserve the areas of natural environment and its resources that provide ecosystem services.
9.10.8 The economic and social analysis

In quantitative studies, economic and social analysis plays an important part, although the nature of the analysis varies according to the land utilization type. The analysis is often concerned with feasibility studies and project formulation. In land development projects, the economic viability of the development proposals is assessed in two ways: with respect to the users of land and with respect to the country as a whole. In the first of these, analysis is concerned with the economic viability with respect to farmers, displaced and other affected persons. The second form of analysis is into whether the proposed development will benefit society, i.e. the people of the country as a whole. This is frequently examined by social cost-benefit analysis, in which costs and prices are adjusted in such a way as to reflect the true scarcity value (opportunity cost) of resources to the community.

Objectives related to social concerns are: (a) Protection of agricultural lands from land use conversions so as to ensure food security and to meet the consumption needs of a growing population and to meet the livelihood needs of the dependent population, (b) to identify and protect lands that are required to promote and support social development, particularly of tribal communities and poor section of society for their livelihood, (c) to preserve historic and cultural heritage by protecting, places/sites of religious, archaeological, scenic and tourist importance, and (d) to promote properly guided and coordinated development in a sustainable manner of all developmental sectors including agriculture, urban, industrial, infrastructure and mining so as to minimise land use conflicts or negative environmental impacts.

9.11 Guidelines for the Development of the Urban Areas

In 1996, Government of India implemented guidelines for the development of the Urban Areas\(^45\), which consists of the following plans:

\(^{45}\) Urban Development Plans Formulation and Implementation (UDPFI) Guidelines; (Volume 1; Ministry of Urban Affairs and Employment, Government of India, 1996).
a. **Perspective Plan**: A long term (20-25 years) policy plan of special-economic development of the settlement.

b. **Development Plan**: Conceived within the framework of the approved Perspective Plan, it is a medium-term (generally five years co-terminus with the term of the local (authority) comprehensive plan of spatio-economic development of the urban centre.

c. **Annual Plan**: Conceived within the framework of Development Plan, it is a plan containing the physical and fiscal details of new and ongoing projects that the local authority intends to implement during the respective financial year.

d. **Plans of Projects/Schemes**: Conceived within the framework of approved Development Plan/Annual Plan, these are detailed working layouts for execution by a public or private agency.

Many people criticize the Land Acquisition Act, 1894 as draconian because in many of the acquisitions, especially big projects for economic development, the element of public purpose is absent. Declaration of SEZs is the best example for usurping land from property owners, with the help of the Land Acquisition Act, at what is claimed as, well below the market value of these properties\(^\text{46}\). It is argued that, even in the case of projects that are genuinely for public purposes, there is a considerable difference between the market value of the property and the value that the land acquisition officer pays the land owners. It is also argued that the relocation and rehabilitation of land owners displaced by the actions of the government, is not followed up adequately, and that this is not covered comprehensively in the framework of the Act.

In India, the Special Economic Zones Act, 2005 offers a highly attractive fiscal package to the developers besides land allotment. In *Sangunthala (Dead) through Lrs. v. Special Tehsildar (LA)*\(^\text{47}\), the apex court ruled that the purpose for which land is being acquired will be one of the most important factors in determining its market value.


\(^{47}\) AIR 2010 SC 984.
value as well as award of compensation. While enhancing the amount of compensation to the land owners, the court noted: “the purpose for which the acquisition is being made is an important factor”\(^{48}\). With this judgment, the apex court by implication has held that special economic zone land is acquired for a “commercial purpose” and therefore the market value of such land has to be determined accordingly; and that the land acquired for a public purpose may have a different market value.

Similarly, in *Bondu Ramaswamy v. Bangalore Development Authority*\(^{49}\), the apex court held that where the acquisition is for setting up industries or special economic zones for business houses, the Government should play not only the role of a land acquirer but also the role of the protector of the land losers.

\(^{48}\) Per. G.S Singhvi and Ashok Kumar Ganguly JJ.

\(^{49}\) (2010) 7 SCC 129.