



Review of Land Acquisitions in relation to Land Encroachment and Forest Degradation in Swat Valley, North of Pakistan

MUHAMMAD NAFEES

Department of Environmental Sciences, University of Peshawar.

WISAL SHAH

Department of Environmental Sciences, The University of Haripur.

Email: wisal.uoh@gmail.com

Abstract

This paper is a review of land acquisitions and land encroachment issues in Swat Valleys, north of Pakistan in the light of Forest Act 1927, Land acquisition act 1969 and Environmental Protection Act 1997. The objective of this review was to identify land acquisitions related issues in relation to land and resource ownership. In Swat valley there are two types of land owner ship i.e. individual property and communal land. In Pakistan, government departments are acquiring land under the amended land acquisition act 1969. According to which each piece of land is belonging to government of Pakistan and can be acquired any time anywhere when required. The piece of land, if belong to a person is compensated in cash. But there is no compensation for communal land. Some time a big piece of land is declared as state property. Due to this, people are not participating in the government initiated developmental activities such as road construction, reforestation and forest protection. This behavior has got negative impacts on forest resources and the forest in Swat Valley is under continuous stress and toward decline. Besides, some time the compensation to an individual is not acceptable because some time the individual want compensation in terms of land at another location. This option not exists in the amended land acquisition acts and need a careful review to facilitate land acquisition for developmental activities and make a developmental activity participatory.

Key Words: Land Acquisition Act, Land Encroachment, Forest Degradation, Compensation, Public Participation, Communal Land.

Introduction

Land acquisition is an integral part of economic development and a subject of debate worldwide (Li, et.al., 2013). Improper land acquisition can lead to social tension, some time it termed as injustice (Ding, 2007). Most of the researcher's focus is economic benefits, while some thinks that ecology and conservation should be given priority, especially in mountainous region (Messer, 2006). Most of the acquired land belonging to community and need to be acquire after proper consultation with the local community (Magome, & Murombedzi, 2003). In case of failure there are possibilities of conflicts observed (Banerjee, 2006). Similarly compulsory land acquisition was exercised in Ghana with negative impacts on socio economy of the local people (Larbi, et al. 2004).

Like other part of the world, land acquisition is also a controversial, especially in mountainous area of Khyber Pakhtunkhwa, Pakistan. One of the examples is Swat Valley. This valley is a combination of three districts, namely Malakand (upper Malakand), Lower Dir and Swat valleys collectively form River Swat Watershed. These three



districts consist on sky-high mountains presenting a scenic view and is a source of attraction for tourists. The valley extends over a total area of 6288 Km² (Swat 5337 Km², Lower Dir: 475 Km² and Malakand 476 Km¹ (Nafees, 2008).

Till 1969 Swat and Dir were separate states and were under controlled of Swat Wali (King of Swat) and Nawab of Dir (King of Dir) respectively, while Malakand was part of federally administered tribal area (FATA). After 1969 the administrative control was changes and both district, Swat and Dir appeared as separate districts while the status of Malakand Agency was changed as Provincially Administered Tribal Areas (PATA) (Lindholm, (1979). Before merger there was circulatory land tenure system. Under this system the mountain, grave yards, water bodies were communal property. While the agriculture land was of two types one was belonging to an individual while the irrigated land was under circulatory system. Ownership was not fixed for irrigated land, and the ownership was change after 10 years interval. In this way we can say that the irrigated land was also a kind of communal land (Nafees, et al, 2008).

In Pakistan land acquisition related legislations were started during British India (colonial period). First act was approved for forest protection in 1927 in the form of "Forest Act 1927" for reserved and protected forest. The focus area was mountains. Chapter 5 of the act is titled as "Protect forest", narrated as "any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-product of which the Government is entitled" (Forest Act, 1927, Government of Pakistan)". With the passage of time there were a lot amendments but the status of "protected forest" remained the same. Under this act Government of Pakistan is the potential owner of all mountainous areas.

For mines a special act was approved in 1885 carrying title "the land acquisition (Mines) act 1885. This act was, as the tile indicates was for mining and quarrying activities only and was not applicable to other purposes such as road, building etc. For general purposes "The land acquisition act 1894" and amended act 1969 is unused (Government of Pakistan, 2009). These acts are working under the concept of "compulsory land acquisition" as practiced in United Kingdom and Ireland also (Home, 2009). In Pakistan, since 1969 no amendment has been carried out and various governmental organization using this act for land acquisition throughout the country (Government of Pakistan, 1969). To look after environmental problems and ecological system, environmental protection act 1997 was approved. What problems we have encounter so far and what types of amendments are required is still a big question mark, especially for mountainous regions.

Procedure of land acquisition in the light of Land Acquisition act

As per land acquisition act 1894 and amended land acquisition act 1969, land is acquired in the following six steps.

Notification: After Proper investigation and survey the concerned department will apply for land acquisition through revenue department. The identified land, after evaluating the justification is notified by sending notification directly to the owner or in the local newspaper in local languages. In notification name of government department, location and purpose are mentioned. After notification the owner is not allowed to make use of the land.

Objection: Any person (owner) has got any objection, is submitted in writing to the quarter concerned within 30 days time after notification. The objection(s) is/are evaluated and the concerned person is informed in writing.

¹ Total area of these three districts is 11232 Km² (Swat 8788 Km², Lower Dir 1683 Km² and Malakand 952 Km²). The area situated in River Swat Watershed is 9897 that include total of Swat, half of Malakand and 30% of Lower Dir.



Final declaration: After evaluation final declaration is made. Final declaration shall be issued within one year time period.

Award: The land is awarded to the concerned government department for the stated purpose within two years time period. Any delay at any step will lead to cancelation of the award and the whole process will be started again.

Compensation: As per section 30 of the act the owners can apply for compensation calculated on the base of market price. The concerned department will pay the money within one year time. In case of delay the concerned department will pay interest @ 15%.

Dispute and Judicial Interpretation: In case of controversy the owner has got the right to approach to the court and challenge the compensation in the court within six weeks time period. This is related to measurements of land, market based estimation or other.

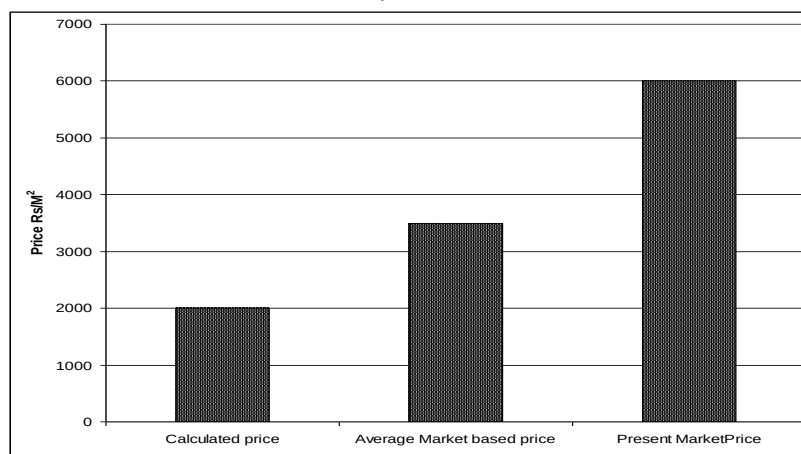
Environmental Act 1997

As per section 12 of Environmental Protection act 1997 it is mandatory to conduct Environmental Impact Assessment (EIA) or Initial Environmental Examination (IEE) for all sort of developmental activities. The EIA/IEE evaluates environmental and social aspects. The aim of EIA/IEE is to make a project environment friendly and sustainable. Environmental Protection Agency award no objection certificate (NOC), if the projects has got no environmental impacts or mitigation measures have been identified proper and there exist no conflict and controversy.

Forest Resources and Land Ownership After Merge

When Swat valley was merged with Pakistan this whole scenario was changed by the application forest act 1927. The forest cover in Swat Valley was declared as protected forest and forest department of Khyber Pakhtunkhwa took its control under forest act 1927 (Nafees, & Asghar, 2009). Chapter 5 of the act stated that "The Government may, by notification in the official Gazette, regulate or prohibit in any forest or waste-land". This has created owner related problems in Swat Valley. Forest department owned the forest and was free to go for any kind of construction. For this type of development forest official are not dependent on amended land acquisition act 1969.

Fig. 1: Compensation in comparison of Average Market based price and present m



Compensation

The plain area, especially rainfed land fall under individual ownership. In most cases the concerned department compensate the land owner according to the their own calculation. Sometime there is objection and the concerned department calculate the price on market price in the last five years. This calculation is irrespective of type of land. For example road construction need a long piece of land and may passed through commercial land and irrigated land and rain fed land. While the price is always uniform.

Besides, some land owner may have a small piece of land and want to construct house on that. After Encroachment and Forest degradation Preliminary survey conducted in the study area revealed that people in the area are encroaching mountainous area by converting it to housing or agriculture land (Fig. 1). Most of the forest had been disappeared from the mountains with a regular increase in farm forestry (Nafees and Zahidullah, 2009). As per estimate during 2007-8, about 35 to 65% forest cover had been removed in different regions of Swat valley. Forest cover has been decreased up to 5% in lower Swat region to 20% in upper Swat (Nafees, 2008). This trend of forest remover is toward increase.

Encroachment and forest cutting are interlinked. If there is tree on mountain, it belongs to forest department. The local people have given some rights to the use of forest such as timber for personal use, animal grazing, as well as a 60 to 80% share as royalty of the revenue generated from forest but the land owner is forest department (Nafees and Zahidullah, 2009).

On disappearance of tree forest department lose its ownership. In this way, nobody in the Swat Valley is interested in re-forestation and forest protection activities. Everyone trying to cut forest, and bring the land under his/her personal ownership (Fig. 2). Besides, this government ownership claim can further lead to forest destruction. During 1990-2000 a total of 10 forest fire events have been documented in Swat Valley. It was investigated that all fires were lit by individual. Only one person was trailed and was punished (Nafees and Asghar, 2009).

Fig. 2: Tara-Gat Mountain, Lower Swat: Most of the forest has been cleared for agriculture





Conflict

In 1982 Water and Power Development Authority (WAPDA)² acquire land for 13 poles by giving notification directly to the than owners. The land was under circulatory tenure system. As mentioned earlier, under this system the owner ship changed after every 10 years and can be terms as communal land. WAPDA office gave the compensation money directly to the then owners. This created dispute among the present and future owners. The new owner was asking for the compensated money or removal of the pole. Since 1982 the village of Allahadand is in dispute while the neighboring village Dheri the system of circulatory system is still in place (Nafees et al, 2009). The WAPDA was unaware of the system over there and directly consults and contact the than owner. The problem of power distribution line was solved but the whole village fall in controversy. The act is also silent on such issues. The distribution line disturbed the land tenure system and put the people in trouble. Under this system the ownership changed with the idea to get benefit from the irrigated and semi-irrigated area equally. Now the people who were allotted less fertile land in 1980 are still growing non fertile land and are under continuous stress. While the people who enjoying fertile most land. Besides, no one is allowed to use it for commercial purposes like hotel, houses etc.

In 2010, WAPDA selected a good piece of land in the irrigated region of the village Dheri (the neighboring village of Allahadand). As per land acquisition act the land was supposed to go to the WAPDA. But due to political intervention the site was changed and another site in village Nal-Thana was selected.

Conclusion

The present acts are not highlighting communal land, public consultation and participation. It is required to re-define the ownership and make necessary amendment in the Forest act and land acquisition act and acquire the land in mountains through community. In this way if the compensation money goes through the local community there are possibilities that the forest cover may be protected. Besides, compensation is in terms of cash only. It is therefore, recommended that to make necessary amendment in these various acts to make it compatible with each other or may develop a new act addressing the mountains, communal land and land tenure system. Also incorporate provision for compensation in terms land at another place.

References

- Banerjee, P. (2006). Land Acquisition and Peasant Resistance at Singur. *Economic and Political Weekly*, 4718-4720.
- Chan, N. (2003). Land Acquisition Compensation in China—Problems & Answers. *International Real Estate Review*, 6(1), 136-152.
- Ding, C. (2007). Policy and praxis of land acquisition in China. *Land use policy*, 24(1), 1-13.
- Government of Pakistan. 1969. The Land Acquisition (West Pakistan) Amendment Act, 1969. (W. P. ORD. XLIX OF 1969). Web Page: http://www.khyberpakhtunkhwa.gov.pk/Gov/files/v6_0041.htm, Accessed on 3 Dec, 2012.
- Government of Pakistan. 2010. Land Acquisition and Resettlement Pla: Multi-tranche Financial for Power Distribution Enhancement Program (Tranche 2). Prepared by Gujranwala Electric Power Company (GEPCO), Government of Pakistan for the Asian Development Bank (ADB). web page: http://www2.adb.org/Documents/Resettlement_Plans/PAK/38456/38456-03-pak-rp-01.pdf. Accessed on 3 Dec, 2012
- Hasan, L. (2001). Analysing institutional set-up of forest management in Pakistan. *Pakistan Institute of Development Economics (PIDE), Research Paper*, (182).
- Home, R. (2009). Land ownership in the United Kingdom: Trends, preferences and future challenges. *Land Use Policy*, 26, S103-S108.

² WAPDA is government department related to electricity generation and its distribution.



- Larbi, W. O., Antwi, A., & Olomolaiye, P. (2004). Compulsory land acquisition in Ghana—policy and praxis. *Land Use Policy*, 21(2), 115-127.
- Li, Y. R., Liu, Y. S., Long, H. L., & Wang, J. Y. (2013). Local responses to macro development policies and their effects on rural system in China's mountainous regions: the case of Shuanghe Village in Sichuan Province. *Journal of Mountain Science*, 10(4), 588-608.
- Lindholm, C. (1979). Contemporary politics in a tribal society: Swat District, NWFP, Pakistan. *Asian Survey*, 485-505.
- Magome, H., & Murombedzi, J. (2003). Sharing South African national parks: Community land and conservation in a democratic South Africa. *Decolonizing nature: Strategies for conservation in a post-colonial era*, 108-134.
- Messer, K. D. (2006). The conservation benefits of cost-effective land acquisition: a case study in Maryland. *Journal of Environmental Management*, 79(3), 305-315.
- Nafees M. and A. Asghar. 2009. Forest Fire Event in Swat Valley. *Journal of Pakistan Plant science*, University of Peshawar, 15(1): 31-37.
- Nafees M. and Z. Zahidullah(2009). Social Aspects of Reforestation on Communal Land: A Case Study of Tara-Gat Mountain, Lower Swat. *Pakistan Journal of Forestry* 59(1):20-29.
- Nafees M., Hizbullah K. and Rasul J.M. 2009. Circulatory Land Tenure and Its Social and Ecological Impacts: A Case Study of Alladand Dheri Village in Northern Pakistan. *Mountain research and development*, 9(1): 1-8.
- Nafees M., Zahidullah. 2009. Trend of Farm Forestry in Lower Swat Region NWFP, Pakistan. *Journal of Peshawar University Teacher Association*, 16(1):29-39.
- Nafees, M. 2008. Study of Soil conservation in River Swat Watershed. Ph.D Thesis, Department of Environmental Sciences, University of Peshawar, Khyber Pakhtunkhwa.
- Nafees, M., & Asghar, A. (2009). Forest fire events in Swat valley, Pakistan. *Pak J. Plant Sci*, 15(1), 31-37.
- Schickhoff, U. (1995). Himalayan forest-cover changes in historical perspective: a case study in the Kaghan Valley, northern Pakistan. *Mountain Research and Development*, 3-18.