

Embedding Land Risk Management in Corporate Governance: Lessons for and from India

RANJAN KUMAR GHOSH

Indian Institute of Management Ahmedabad, Gujarat-380015, India; ranjang@iima.ac.in

KIRAN THETE

Indian Institute of Management Ahmedabad, Gujarat-380015, India; kirant@iima.ac.in

PRANAB RANJAN CHOUDHURY

Center for Land Governance, India; prchoudhury70@gmail.com

This is work-in-progress. Kindly do not cite or quote without permission.

© *Indian Institute of Management Ahmedabad*

Abstract

Contemporary corporate governance in India largely views land as a government responsibility although it is a key financial and social risk. In this paper, with an objective to distil principles and lessons for Indian corporates, we provide an overview of emerging global instruments around land-responsible investment frameworks, tools and guidelines viz. FAO's VGGT, USAID's Responsible Investment Guidelines, Interlaken group's Guideline for Respecting Land and Forest Rights, Landesa's Responsible Investment on Property and Land, IAWG's guidance on responsible investment and the Social and Environmental Frameworks of World Bank and IFC. We also look at corporate initiatives around voluntary commitments and delve into cases involving delays and stalling of investments as a result of such risks. We contrast these cases with Indian good practices to underline need of land tenure diligence while arguing for embedding land risk management in the ESG-risk framework of Indian Corporate Governance.

Keywords: ESG, Land tenure, CSR, responsible investment, land conflicts, inclusive growth

1. Introduction

Corporate governance globally is evolving to embrace the needs of a broader set of stakeholders. Global investors are increasingly discussing social values; long-termism; and environment, social, and governance (ESG) changes. Institutional investors now go beyond financial performance to engage with issues like transparency and disclosure, diversity, climate change and ESG, driven largely by changing regulatory requirements around stewardship roles. The United Kingdom, proposes a revised stewardship code in January 2019, requiring fund managers to specifically consider ESG factors, including climate change, even while making investment decisions. Investors the world over are factoring in ESG-related risks. This has compelled the development of governance scorecards and other such focused measures of governance. These scorecards raise the bar for companies to demonstrate not just compliance with the law, but to go beyond the letter of the law. From Australia to Canada, legal frameworks in countries now mandate companies for non-financial disclosures, reporting sustainability including environmental and social sustainability risks and how they plan to manage and mitigate this risk. India's Companies Act, 2013 has raised the bar of corporate governance in India with new concepts like mandated corporate social responsibility as good governance strategy. Corporate governance in India, now not only demonstrates exemplary social and environmental responsibilities, but also instances of sustainability reporting and commitments. However, ESG standards haven't been talked about much in India, while they have become part and parcel of investment process and have proven necessary to improve governance.”

Land, on the other hand, is an important business-precursor along with labour and capital, while also being a critical development and socio-cultural crucible for communities at large for sustainable development. Engagements around land within the ESG framework and sustainability commitments, therefore, becomes increasingly imperative. However, the contemporary corporate governance in India, largely views land as a government responsibility while also recognizing it as a key financial and social risk often attributed to community and civil society. Investments around mining and power sectors, infrastructures, real estates and agri-business, based around and requiring land, are increasingly facing risks in the form of delays and stalled-investments. One of the major reasons behind this increasing stalling of investments, which has reached all time high of INR 13 trillion in June, 2019 (26% quarter for private sector projects), as per CMIE, has been delay in land acquisitions (INR 1 trillion; 9% of investment). It was reported in 2016 by RRI-TISS

that land-related conflicts in India affect about 3.2 million people and impact investments worth over Rs. 12 trillion (\$179 billion). Data journalism website Land Conflict Watch, shows that 9 million people are affected by 709 conflicts as on July 2019. Financial sector, esp banks owe a significant burden of their non-performing assets (NPAs) to land-based investments. The need for including land related risk management within corporate governance framework, is becoming increasingly imperative, more so to ensure inclusive and sustained growth.

Reserve Bank of India (RBI) in its 2018-19 annual report, highlights the need to address structural issues related to “land, labour and marketing” to tackle the broad-based downturn which is underway in most sectors. In response to the ongoing economic slowdown, Indian economists are arguing for land reforms while suggesting to address issues around availability and pricing. Global experiences indicate that companies expose themselves to substantial, and in some cases extreme risks, when they ignore the issue of land tenure. As land remains a finite resource and its availability, valuation and tenure often inappropriately interpreted and speculated, contestations and conflicts poise to expand temporally and spatially, fuelling such substantial and extreme investment-risks. Far from being an “externality”, land tenure can be a real threat. The financial risks posed are multiple, ranging from slippage in construction times and unexpected cash flow loss due to suspensions to expropriation of assets following the loss of insurance coverage. The escalation of risk can be extremely rapid and irreversible, while the impacts can range from substantial to catastrophic for the firm or investor. It is therefore more logical to explore how the land tenure due diligence and risk management can be embedded within corporate governance frameworks. This is rather more important in the present contexts, when business as usual and traditional approaches are increasingly becoming less effective.

We provide an overview of emerging global instruments around land-responsible investment frameworks, tools and guidelines viz. FAO’s VGGT, USAID’s Responsible Investment Guidelines, Interlaken group’s guideline for respecting land and forest rights, Landesa’s Responsible Investment on Property and Land, IAWG’s guidance on responsible investment and the social and environmental frameworks of World Bank and IFC and distil principles and lessons for Indian corporates. We also look at corporate initiatives around voluntary commitments viz. Pepsico, Nestle, Coke, Cargill and Unilever etc. and analyse their relevance. With an overview of investments impacted by land risks in India, we take a deep dive into some cases involving delays

and stalling of investments as a result of such risks and analyse the approaches adopted from the lenses of these global instruments and MNC commitments. We contrast these cases with a couple of Indian good practices to underline need of land tenure diligence while arguing for the imperative of embedding land risk management in the ESG-risk framework of Indian Corporate Governance.

2. Land acquisition framework in India

2.1. Evolution

Until recently, the Land Acquisition Act (LAA) 1894 (including amendments) was the general law for acquisition of land and amount of compensation for affected people (GoI 1894). The provisions of the LAA focus more on the acquisition process with little emphasis on the R&R of displaced farmers. This lack of attention to the R&R has led to many conflicts between the government and the citizens, especially farmers and environmentalists (Ministry of Rural Development 1996; Asif 1999; Iyer 2007; Desai 2011). The main points of contention are: improper compensation and rehabilitation of displaced people, acquisition of fertile land, and environmental problems involved in implementing development projects. As a result, projects like the Sardar Sarovar Dam in the state of Gujarat, the Omkareshwar Dam in Madhya Pradesh, the Hirakud Dam in Orissa, the Tata Nano Singur project in West Bengal, the Bangalore-Mysore Infrastructure Corridor project in Karnataka and many others have faced domestic resistance through protests and movements (Nayak 2010; Ray 2010). Subsequently, external funding agencies (like the World Bank) for some of these development projects threatened the government with withdrawing funding in absence of reforms in land acquisition and R&R process. In response to this threat, some states like Karnataka, Maharashtra, Rajasthan, and Madhya Pradesh began to frame their individual state level rehabilitation policies with the assistance of external funding agencies. This led to further criticism with the vociferous claim for a national law to adequately deal with the issues of rehabilitation of displaced people. Thereafter, several amendments in the LAA 1894 and project-specific institutional arrangements began to emerge gradually.

The LAA 1894 is an old British colonial Act which was enacted in 1894 in order to acquire privately owned land and to maintain law and order (Mathur 2006a). This act provided the government unilateral power to acquire land and other immovable assets whenever needed for public purpose. The clause 'public purpose' under the LAA 1894 is often criticized because of ambiguity of its definition and its misuse (Fernandes 1998; Mathur 2006a; Singh 2012). In return for loss of land and houses, people were entitled only to a modest monetary compensation as per

the Act. The power of the state to acquire land and other properties without or with minimum compensation was then restricted through the Constitution (seventeenth amendment) Act 1964 (GoI 1964; Das 2006). This amendment gave land owners the right to claim higher compensation. In addition, a provision was made to provide 15 per cent of total compensation as solatium. However, displaced people were generally neglected in implementation process of such projects, which further led to criticisms of the LAA 1894 by both national experts and international donor agencies.

Subsequently, the Government of India amended the LAA 1894 in 1967 and then in 1984 in order to fasten the acquisition process and provide comparable compensation amount to displaced people (GoI 1984; Das 2006). The changes made in 1984 were mainly in order to protect the affected people. Major changes included assignment of a time frame to complete the acquisition process (1-2 years depending on type of projects), enhancement of solatium from 15 per cent to 30 per cent of total compensation, payment of 12 per cent interest rate from the date of notification till the date of award, and clear definition of the clause 'public purpose' (Das 2006). In spite of these changes, the Act continued to attract criticism because of lack of proper enforcement mechanism and participation of affected people in the decision making process (Ministry of Rural Development 1996; Desai et al. 2007; Vyas and Mahalingam 2011). Hence, the Act suffered from delays in processing, evaluation of compensation, acquisition, weak bureaucracy, complexities and conflicts involved in the acquisition and compensation process (Asif 1999; Reddy and Reddy 2007; Dash 2009; Ranganathan 2010; Bose 2013; Sampat 2013). This was the only Act until recently to acquire individual and community-owned land and other immovable assets for public purpose development projects. Since compensation is not sufficient to buy comparable assets, Mathur (2006b) pointed out that income restoration programs are not included in the rehabilitation policy. Initially, solely the government used to decide on the compensation amount and affected people had no option but to accept it. This unilateral way of land acquisition and compensation distribution is generally criticized as being highly undemocratic. As a result, the government introduced a judicial arbitration system where farmers, when not satisfied with the amount compensated, are entitled to approach a court for a higher compensation claim. Both the central and the state governments subsequently proposed amendments to the LAA 1894 (Saxena 2006) such as 'Land for land' compensation for tribal people; landless farmers and other affected people should be given certain minimum amount of compensation; affected people should be informed about the

detailed R&R plan so as to bring more transparency; the principle of market value should be replaced with replacement value while deciding on the compensation amount; the solatium should be increased to 100 per cent of compensation as against current 30 per cent; consultation of affected people prior to acquisition through conducting village meetings (Gram Sabhas). Later on, some states like Karnataka, Maharashtra, Rajasthan and Madhya Pradesh also made their individual state level rehabilitation policies with the assistance of external funding agencies (Mathur 2006a). However, most of them either failed to enforce these changes or enforced them with hardly any commitment (Mathur 2006a; Saxena 2006).

The Government of India (GoI), Ministry of Rural Development (MRD), thus began a policy drafting process in the early 1990s. According to Cernea (2006), this has been long overdue mainly because of a lack of commitment and throwing the ball of legal responsibility on each other between states and central government. Subsequently, the GoI promulgated the National Policy on Resettlement and Rehabilitation (NPRR) for project-displaced families in 2004 (GoI 2004). The provisions of the NPRR were to place emphasis on a proper compensation method either in terms of land or in terms of money. Further, it focused on the R&R of affected farmers so as to ensure that their original standard of living remains. The provisions also include the minimization of displacement as far as possible, to ensure the protection of the rights of the weaker sections of the society (Saxena 2006). The GoI amended the NPRR in 2006 and the result was the National Rehabilitation Policy (NRP) 2006 (GoI 2006). The GoI again revised the NRP in 2007 and renamed it as National Rehabilitation and Resettlement Policy (NRRP) 2007 (GoI 2007b). The major amendments in the NRRP 2007 were:

- a. The compulsory undertaking of a Social Impact Assessment (SIA), an Environmental Impact Assessment (EIA) and a baseline survey by the project before the process of acquisition of land and implementation of the project
- b. Providing additional benefits beyond the monetary compensation to the affected people including landless laborers
- c. Providing a timeframe within which the project should provide compensation
- d. Rehabilitate affected people and utilize acquired land for the specified reason
- e. Minimize displacement to the maximum extent possible
- f. Consultation of affected people
- g. Creating job opportunities
- h. Gender Neutrality
- i. House for House
- j. Land for all agricultural families

k. Basic amenities at the new site.

Even after the NRRP 2007 and multiple amendments to the LAA 1894, there has been heightened public concern on land acquisition, especially for multi-cropped irrigated land. Several studies criticized the framework provided by the LAA 1894 due to the perversities inherent in its provisions (Fernandes 1998; Asif 1999; Das 2006; Saxena 2006; Pandey and Morris 2007; Ramaswamy 2009; Desai 2011; Bagchi 2012). These perversities include: lack of transparency in the acquisition process and non-participation of affected communities, improper rehabilitation packages, weak enforcement mechanism, lack of sanctioning for non-compliance, ignoring the preferences and rights of the land owners, unfair acquisition and valuation, and insufficiency and inadequacy of the monetary compensation. Due to this, the government of India took a very long time to develop suitable amendments to the LAA and R&R policy in balancing the need for land requirement for developments projects and protecting the interests of the affected people. By integrating the LAA 1894 and the NRP 2007, the GoI, very recently, drafted “the Land Acquisition, Rehabilitation and Resettlement (LARR) bill 2011” (GoI 2011c). The legislation aimed to address concerns of farmers and those whose livelihoods are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialization, infrastructure, and urbanization projects in a timely and transparent manner. The basic prescription of the bill is as follows:

“A bill to ensure a humane, participatory, informed consultative and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement thereof, and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status and for matters connected therewith or incidental thereto” (Standing Committee Report on LARR 2012).

The provisions of the bill include the preparation and appraisal of the SIA study by an expert group, the constitution of a committee to examine proposals for land acquisition and the SIA report, special provisions to safeguard food security, notification and acquisition of land, the R&R

award, apportionment of compensation and land for land compensation in case of irrigation projects especially to those belonging to scheduled castes and scheduled tribes¹.

2.2.RFCTLARR, 2013

Recently, the bill has been renamed and enacted with slight modifications as “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement (RFCTLARR) Act 2013” (GoI 2014b). However, this act has undergone severe criticisms because many projects held up due to some of its clauses, especially taking consent from 70 to 80 percent of the farmers in the area for land acquisition (NDTV 2013a; 2013b, 2013c; Sud 2014; J.O'S. 2015). The new government came up with some revisions and additions, and renamed it as “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) (Amendment) Ordinance 2015 (GoI 2015b). The key differences between the RFCTLARR Act 2013 and the RFCTLARR (Amendment) Ordinance 2015 are: i) exemption of some projects from the application of provisions of Chapter II and Chapter III of the RFCTLARR Act 2013 is made in the RFCTLARR (Amendment) Ordinance 2015. These provisions are Social Impact Assessment, prior consent of at least 70-80 per cent of affected families in case private companies acquisition for public purpose, and no multi-cropped irrigated land to be acquired. The projects to be exempted from these provisions are projects vital to national security or defense of India, rural infrastructure including electrification, affordable housing, and housing for poor, industrial corridors set up by the appropriate Government and its undertakings, infrastructure projects including projects under public-private partnership. ii) compulsory provision of employment in either government or private companies to at least one person in each affected family. The other key differences between the LAA 1894, the RFCTLARR 2013, and the RFCTLARR (Amendment) Ordinance 2015 are shown in Table.

Table 1: Key features of old colonial and new acts of land acquisition and rehabilitation

<i>Features</i>	<i>Land Acquisition Act 1894</i>	<i>The Right to Fair Compensation and Transparency in</i>	<i>The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and</i>
-----------------	----------------------------------	---	---

¹ The Scheduled Castes (SCs) and Scheduled Tribes (STs) are official designations assigned to communities that are historically disadvantaged and backward in social, educational and economics aspects in India (GoI 2015a).

		<i>Land Acquisition, Rehabilitation, and Resettlement Act 2013</i>	<i>Resettlement (Amendment) Ordinance 2015</i>
Monetary compensation	As per the registered values of land	Two times the market value of land in Urban areas and Four times the market value in rural areas	Two times the market value of land in urban areas and four times the market value in rural areas
SIA	No	Compulsory	Compulsory*
EIA	No	Compulsory	Compulsory*
Job provision	No	5 % reservation in certain lower categories' jobs of government departments	Compulsory provision of job, either in private or government sectors.
Income generating skill development	No	Yes	Yes
Public purpose	Nomenclature was vague	Defined and certain type of public projects kept out of this Act	Most of the public projects included
Consent from land owners	No	70-80 % of land owners	70-80 % *
Share of benefits in urban development projects	No	No	20 percent
Private hospitals and educational institutions	No	Excluded	Included
Application of R&R provisions	Only public purpose	Public purpose & private companies	Public purpose and private companies
Solatum	15-30 %	100 %	100 % of total compensation
Land for Land (Only in irrigation projects)	No	Min. one acre in command area	Min. one acre in command area

Note: Excluded for certain public projects like defense, rural infrastructure including electrification, affordable housing, and housing for poor, etc.

Source: Author's compilation using Land Acquisition Act 1894, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act 2013, and The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement (Amendment) ordinance 2015.

The Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013, has enhanced the scale of compensation significantly to be received by landowners and further provided for their rehabilitation and resettlement (R&R) in the event of migration. The transparency of the land acquisition process has been increased considerably through the processes of social impact assessment and the prior consent of landowners. Safeguards have also been introduced against the large-scale purchase of agricultural land that might diminish food production and jeopardize food security. The changes implemented have undeniably resulted in a rebalancing between the rights of the individual and the authority of government. Most people are reconciled to the additional cost of rehabilitation and resettlement (R&R) and the increase in compensation as these are seen to be provisions justified from fairness and equity point of view.

However, there is an issue regarding the effect of the new methods of social impact assessment that would, in turn, have an impact on the building of infrastructure urbanization and on industrialization. To alleviate these concerns, the central government had introduced an Amendment Bill in 2015, seeking to make several changes in the land acquisition statute. The main modifications found were for addressing the concerns regarding social impact, prior consent, and restrictions on the usage of agricultural land for the five categories of projects, like those for rural infrastructure, national security or defence, affordable housing, social infrastructure, and industrial corridors. Acquisition of land for infrastructure projects which are covered by enactments in the Fourth Schedule has already been exempted from the new procedural complexities introduced by the Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013. Moreover, for the infrastructure projects not covered in the Fourth Schedule, as well as for affordable housing, industrial corridors and social causes, the proposed amendment bill will eliminate the potential for delays that could be caused by the application of procedures for prior consent, for agricultural land or for social impact assessment. However, all these three categories of projects will result in the increased cost of acquired land, as a result of which fewer such projects will be taken up.

2.3. Corporate Land Conflicts in India

Land use is a multi-faceted and multi-sectoral activity, which involves multiple stakeholders: governments and public agencies, financial actors, and local landholders as well as corporate and industrial stakeholders. The role of corporate actors in many cases has increased in the past decades

because of the progressive expansion of commercial-industrial relations in most of the sectors. This could also be noticed from large-scale land acquisitions by corporates especially in the industries of leisure and travel, essential resource sectors, and food and beverage. All these acquisitions have hugely affected the sustainability of land resources. Hence it becomes necessary for the corporates, both domestic and multinational ones, to share accountability and responsibility for sustainable land use activities. Multinational Corporations (MNCs) can both be ‘problem creators’ and ‘problem mitigators’ with regard to sustainable land use. On the one hand, there are allegation that some of these companies have been involved in changes in land use practices, massive land acquisitions, and degradation of soil, land and biodiversity, primarily through deforestation, and the over-exploitation of natural resources. But on the other hand, these multinational corporations can also contribute to mitigating land degradation, restoring land, conserving and sustainably using natural resources and ecosystem services as a part of their Corporate Social Responsibility (CSR). Thus corporate land use presents many cases of conflicts, some examples of which are as follows:

Land Acquisition in Singur and Nandigram in West Bengal ‘TATA Nano Case’ (2007)

TATA Nano project was to be implemented in Singur and Nandigram district of West Bengal. But due to enormous protests from the locals comprising mostly of small farmers, accompanied by the opposition party during that time, the project was dismantled. The farmers were agitated because the arable land was being taken away from them for establishment of private industries. This would not help the poor rural farmers in any employment activities. The rage was also due to the inadequate compensation offered to them.

Gujarat Metro Rail

The metro rail project in Ahmedabad city of Gujarat have involved in land acquisition. It led to some amount of social unrest and public agitations as the landowners have not been compensated sufficiently. In some parts of Ahmedabad city, localites have accused the officials of not compensating them with the promised amount. Some of the small businessmen complained of irregular and slow work process of Metro, gas been disrupting their life and work, due to road blockage, and massive traffic jams.

Vedanta in Orissa

The Vedanta group involved itself in the land acquisition in Jagatnathpur, Lanchigad, Kalahandi district. The landowners are extremely poor tribal people, who make both ends meet by farming in those lands. It is said that claims made by the communities for residential and cultivated land in the region have been rejected by the administration. Tribal people who have been farming their land for generations have not been given ownership rights while mining companies have been given given thousands of hectares of land without any hindrance. Any kind of industrial development act should not be so unethical that the local communities suffer unemployment and food security. The government must take initiatives so that along with industrialization, the sentiments of poor people should also be considered.

HUL Kodaikanal Case

HUL's thermometer factory was relocated to Kodaikanal in India in the early 80s because it would not comply with US legislation. Kodaikanal is a hill station 2,200 metres high in the flourishing forests of the Western Ghats of Tamil Nadu, South India. The factory, placed in the middle of the city, produced nearly 10 million thermometers a year for export to the West. Thermometer product line was not core to Unilever but they were a source of export earnings and foreign exchange to which the Indian government attached high importance. The two major violations of the of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 were:

- a. Lack of monitoring of the purpose for which the land was acquired. During investigation it was found that the factory was wrongly registered as a "glass manufacturing unit" instead of thermometer manufacturing unit and allowed to come up in a residential area bordered by a watershed forest. The factory was operational since 1983 but nobody had any clue about its registration as a glass factory. Only after the mercury poisoning caused by this factory came into limelight, this loophole in the purpose of acquisition of the land was found.
- b. During its operations the company seems to have paid negligible attention to the workplace safety and rules of handling & disposal of hazardous material like mercury. As a result, more than a 1000 workers and their children were exposed to mercury. Several workers have died prematurely as have children born to workers. Also, this toxic mercury, dumped

around the factory and in forests, continues to contaminate soil and groundwater. The workers cannot afford private healthcare services, and have been fighting since 2001, asking HUL to clean up the toxic contamination, and also to compensate them for their medical expenses.

3. Corporate land governance: A review and lessons

One of the most important initiatives by the Government of India underlines the objective of making the country a 5 trillion USD economy along with total adherence to ESG. Usually, financial institutions are more concerned about the financial risk and rate of return, but now the incorporation of ESG metrics in the strategies has become equally important for achieving committed targets. Initiatives taken by some of the leading organizations such as RE100 and SBTi, adopting the ESG framework helps in identifying the ESG risk and also supports national targets of SDG. Increasing awareness of environmental protection, investment by prospective investors gets highly affected. The inclusion of ESG in the investment strategy in the company's portfolio which contains initiatives taken towards environmental protection can reduce the risk of loss of investors' interest. In India companies like the Bombay Stock Exchange, the National Stock Exchange, and some Exchange-traded funds initiative to increase investment in green technologies and launched several thematic indices to companies that meet the ESG norms.

In India, companies have weak corporate governance and sustainable reporting (ESG Investing Scenario in India, Yes Bank, 2019, AYE Finance Pvt, 2016, Jagannathan & Sammon, 2017, Shah, 2018). Improper land governance in countries can raise the risk of land tenure issues. Columbia Center on sustainable investment supports proper disclosure of policies (Stein & Street, 2016). In the objective of rural development, land tenure security and agricultural investment are very important and support the reduction of poverty and inequality. Many research established that strong land rights increase land investments which support land rights by educating the owner for effective use of available land, reducing inequality (women have fewer land rights than men) and encouraging agricultural investment (Bambio & Bouayad, 2018). In India, Mizoram has a majority of populations who practice shifting cultivation. New land-use policy in 2011 has abolished the traditional laws of the state and encourages shifting indigenous people towards settled farming. NLUP has supported many aspects as a sustainable certificate through RSPO, it protects the land-use system and equality in gender and supports households for their land tenures. Globally many

organizations are working on institutional governance and land tenure issues such as FRTEP, ILTF and FNDI (E. B. A. Zoomers & Otsuki, 2017) (Kotutwa, Lien, Robbins, & López-ho, 2018) (Bose, 2019). There can be some negative impact of land tenure from society point of view, such as land right to use for women, displacement of poor (Lawry et al., 2017). According to (Tanner, Scalise, & Mutema, 2015) to improve the economic and social impact of the investment, land acquisition related decisions should be taken with the prior consent of the locals. Many public donors support the country's government in genuine land tenure rights such as Voluntary guidelines of FAO on good governance, fisheries, and forests (VGGT) and the Principles for responsible investments in agriculture and food systems (RAI). Free prior and informed consent supports the rights of indigenous people, applying these globally and especially in the mining companies. Till the decision-making process of the industry does not adapt to the importance of FPIC, it will keep the indigenous people at risk (Kemp & Owen, 2017). The tribal people of India especially of northeast states have a complex land protection mechanism, which means that they do not have property rights of lands they have been farming for years. These rural poor farmers should not be exploited, and adequate compensation should be given to them, in return for acquiring their lands.

The tribal people of India especially of northeast states are often exploited and the land is acquired from them without their prior consent. In Shillong, raising land monetization is a very common practice, by creating pressure on the tribal to convert communal land into private land. Due to acute poverty, illiteracy among the rural people, it is difficult for them to implement their property rights. Increased monetization of land and economy causes debates between land and development approach (Soreide & Gloppen, 2019) (Lahiri-dutt, 2017). Land acquisition is considered as a serious threat to the local people of the country. For example, in Ethiopia, Gumuz people were misled regarding their land acquisition and also not supported by their local authorities. Local authorities of Gumuz transferred the cultivable land to domestic and foreign investors without considering the sustainability and livelihood of the local people. This ongoing practice of acquiring land also involved the simple and direct grabbing of traditional land resources (Concerns & Moreda, 2013) (Moreda, 2015). Key elements of a foreign land acquisition code of conduct include negotiation openness, respect of existing land rights, including common and customary property rights, benefit-sharing, healthy climate and be in alignment with national trade policies (Braun & Meinzen-dick, 2009). Large scale land acquisition (LSLA) majorly negatively affects the rural population and sustainable development goals. This paper analyses how the land acquisition would

negatively impact sustainable development goals. Rapid migration of rural people to urban areas decreases the per capita land area (Angelo, Odorico, & Rulli, 2017) (A. Zoomers, Noorloos, Otsuki, Steel, & Westen, 2017). (Wolford, Jr, Hall, Scoones, & White, 2013) suggested that the government should focus on global land unethical land acquisition problems by unbundling the state into four components, territory, sovereignty, authority and subjects. Though we know that private investors play the most important role in land deal politics, there should be a clear understanding of the effects of power on land acquisition issues.

The Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) is an emerging global instrument with reference to land tenure (reference). VGGT specifically focuses on ensuring ethical relationship of private firms with local communities relating to land acquisition and land use. These tools are meant for management of legal, social and environmental issues along with human rights commitment. A company should allocate adequate resources and meticulously work for diligent investment decisions. The company has to also build up a risk management system to ensure prevention of negative impacts on human rights along with legitimacy of land tenure rights. VGGT aims for a grass root level, by provision of the rule book in local languages and also by conducting training program for the same. They also engage in regular monitoring for public presentation, along with conducting periodical audits. The collaboration of Food and Agricultural organization (FAO) with VGGT aims to create a change towards strengthening indigenous community's capacity towards protecting their tenure rights. The sole purpose of these guidelines is to deliver guidance to develop the governance of tenure of land, fisheries and forest with the aim of achieving food security globally. The Responsible Investment in Property and Land (RIPL) – reference - rulebook guides its members and stakeholders concerning, responsible and ethical decisions related to agricultural land investments. This has been supported by Department for International Development (DFID), UK. This branch looks into the environmental and social rights of the communities, with adequate efforts towards the prevention of communal violence. These efforts and policies would in the long run get channelized into responsible investments and act as a source of practical guidance. This guidance would consequently have a deep and phenomenal impact on social and economic life of communities.

Corporate institutions are now taking a deep dive into investment policies by proper corporate governance inclusion. In the World Banks 2003 Land Policy Report (World Bank 2003), important

information regarding official land policy thinking was introduced. In September 2010 World Bank report highlighted important issues like 'Land Grabbing'. Land Grabbing refers to land acquisitions and dispossession of land from the land owners who are mostly small and marginal farmers (reference). The purchase of land by multinational and transnational companies should not be negatively impacting food security, employment and environmental sustainability. Acquisitions which take place forcefully without proper consent of the landowners, may lead to political and social unrest. One of the major MNCs PepsiCo has committed in doing business in an ethical way, realizing to maintain sustainable economic and environmental standards. PepsiCO has involved itself in acquisition of land in a very fair and ethical way and at the same time maintaining legal connotations (reference). PepsiCo follows IFC performance standards and UN FAO guidelines. It also procures its raw materials only from places where there are adequate land rights protection. It practices standard forestry stewardship. As agriculture is an integral part of PepsiCo's supply chain, the company makes sure that their supply chain is linked to health and sustainability of the world's forests. Maintaining a proper code of conduct, sustainable agricultural initiative, environmental health, standard packaging policy and land use policy makes MNCs like PepsiCo an internationally recognized ethical company who in the process of doing business, secures ownership rights to fisheries forest and land, with the motive of poverty and hunger eradication, and creating sustainable development and protection of environment in the long run. Other MNCs like Nestle, Coke, Cargill and Unilever also follow the footsteps of PepsiCo, in involving itself in ethical business practice, keeping the environmental standards in mind.

4. Conclusion: Toward a framework for sustainable land investments

A range of international (public) frameworks have emerged in the past years to guide the private sector concerning sustainable land use. A number of these frameworks specifically address large-scale land acquisitions and leases ("land grabbing"), which accelerated after the food price crisis in 2008. The UN Guiding Principles on Business and Human Rights (2011), is organized into three sections: states' obligation to secure human rights; corporate duty to regard human rights; and access to cure. Every one of these parts contains "basic standards" and "operational standards", and every one of these concise standards is clarified by its discourse. At its center, the second mainstay of the Guiding Principles (on corporate duty), stipulates that business ventures should regard human rights. The obligation to regard human rights necessitates that business endeavors abstain from causing or adding to unfavorable human rights impacts through their exercises (i.e.,

activities and exclusions); that they address such effects when they happen; and that they look to forestall or alleviate unfriendly human rights impacts that are straightforwardly connected to their tasks, items or administrations by their business connections, regardless of whether they have not added to those effects. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) were adopted by the UN Committee on World Food Security (CFS) in May 2012 after a multi-annual policy process which also involved non-state actors (civil society, the private sector) in a meaningful manner. The Guidelines were initiated at the FAO's International Conference on Agrarian Reform and Rural Development (ICARD) in 2006 and also built on the FAO's Voluntary Guidelines on the Right to Food. The Guidelines on Tenure are non-binding and voluntary. These are the guiding principles of responsible tenure governance, outline rights, rules and responsibilities related to land tenure. They specifically address the legal allocation and recognition of land tenure rights, responsibilities and duties, transfers and other changes to tenure rights and responsibilities, the administration of tenure in the context of natural disasters, climate change, and other conflicts. The World Bank's "Environmental and Social Framework" (regularly alluded to as "Safeguard Policies") plans to 'keep away from, limit or moderate the antagonistic natural and social dangers and effects' of tasks the Bank bolsters through venture financing. The Bank's present system has been under survey since 2012, and in mid-2015, the third period of counsel has been declared on a second draft of the new structure. The Principles for Responsible Investment in Agriculture and Food Systems (in short: RAI Principles) are voluntary, non-restricting standards and obligations. The Principles address various on-screen characters: governments, speculators, financing foundations and givers, ranchers (counting smallholders), laborers, worldwide and universal society associations and so on. They identify with open and private speculations of both remote and local, of the enormous, medium, and little speculators along with the entire store network, from nourishment creation, using handling to showcasing and retail. The RAI Principles stipulate that 'capable' speculation should respect tenure of land, fisheries, forests & access to water.

Our preliminary discussions above point to the importance of establishing clear objectives of land acquisition and the conduct of risk assessment. All the key stakeholders including vulnerable groups within the affected community must be identified along with the changes that can occur in the livelihood activities. This will help identifying the alternatives that will avoid or minimize adverse impacts related to land acquisition. By identifying key social and land-acquisition issues

at an early design stage, investment risks can be minimized. Also, the lessons from similar land acquisition and resettlement programs can be used to reduce risks associated with the project. On a broader scale, Indian corporates should adopt social and environmental responsibilities with many pioneers demonstrating sustainability commitments. Strategic investments on land tenure due to diligence should be explored within frameworks to ensure substantive risk reduction while also strengthening the corporate obligations. There should be increased participation from both public and private players to address issues related to land acquisition and policies. From the government point of view, there is a need to create a knowledge database drawing from experienced land professionals from academia, civil society, and land administration, including increased digitalization of land records.

References

- Asif, M. (1999). Land Acquisition Act: Need for an Alternative Paradigm. *Economic and Political Weekly* 34, 1564-6.
- Bambio, Y., & Bouayad, S., 2018. Land tenure security and investment: Does strength of land right really matter in rural Burkina Faso? *World Development*, 111, 130–147.
- Bose, P., 2019. Oil palm plantations vs. shifting cultivation for indigenous peoples: Analyzing Mizoram's New Land Use Policy. *Land Use Policy*, 81, pp.115-123.
- Cordes, K.Y., 2016. Submission to the SEC on Addressing Land Tenure Risks Through Regulation SK.
- Dell'Angelo, J., D'Odorico, P. and Rulli, M.C., 2017. Threats to sustainable development posed by land and water grabbing. *Current Opinion in Environmental Sustainability*, 26, pp.120-128.
- Desai, M. (2011). Land Acquisition Law and the Proposed Changes. *Economic and Political Weekly* 46, 95-100.
- Deanna, K.E.M.P. and John, R.O., 2017. Corporate readiness and the human rights risks of applying FPIC in the global mining industry. *Business and Human Rights Journal*, 2(1), pp.163-169.
- Fernandes, W. (1998). Land Acquisition (Amendment) Bill, 1998-Rights of Project-Affected People Ignored. *Economic and Political Weekly* 33, 2703-6
- Iyer, R.R. (2007). Towards a Just Displacement and Rehabilitation Policy. *Economic and Political Weekly* 42, 3103-7.

- Jagannathan, R., Ravikumar, A. and Sammon, M., 2018. Environmental, social, and governance criteria: Why investors should care. *Journal of Investment Management*, 16(1), pp.18-31.
- Johnson, M.K., Lien, A.M., Sherman, N.R. and López-Hoffman, L., 2018. Barriers to PES programs in Indigenous communities: A lesson in land tenure insecurity from the Hopi Indian reservation. *Ecosystem Services*, 32, pp.62-69.
- Lahiri-Dutt, K., 2017. Resources and the politics of sovereignty: The moral and immoral economies of coal mining in India. *South Asia: Journal of South Asian Studies*, 40(4), pp.792-809.
- Lawry, S., Samii, C., Hall, R., Leopold, A., Hornby, D. and Mtero, F., 2017. The impact of land property rights interventions on investment and agricultural productivity in developing countries: a systematic review. *Journal of Development Effectiveness*, 9(1), pp.61-81.
- Li, T.M., 2014. What is land? Assembling a resource for global investment. *Transactions of the Institute of British Geographers*, 39(4), pp.589-602.
- Moreda, T., 2015. Listening to their silence? The political reaction of affected communities to large-scale land acquisitions: insights from Ethiopia. *Journal of Peasant Studies*, 42(3-4), pp.517-539.
- Mathur, H.M. (2006a). Introduction and Overview, in: Mathur, H.M. (Ed.), *Managing Resttlement in India: Approaches, Issues, Experiences*. Oxford University Press, New Delhi, India, pp. 1-18
- Narula, K., 2012. 'Sustainable Investing' via the FDI route for sustainable development. *Procedia-Social and Behavioral Sciences*, 37, pp.15-30.
- Navlani Soreide, K. and Gloppen, S., 2019, April. Tribal Representation and Local Land Governance in the Khasi Hills of Meghalaya, India. In *Forum for Development Studies* (pp. 1-25). Routledge.
- Nayak, A.K. (2010). Big Dams and Protests in India: A Study of Hirakud Dam. *Economic and Political Weekly* 45, 69-73.
- Ray, S.C. (2010). *From Detroit to Singur: On the Question of Land Acquisition for Private Development*, May 2010 ed. University of Connecticut.
- Shah, M.S., 2018. A Study of Essence of Socially Responsible Investment and Environmental, Social and Governance (ESG)-linked Investment Market in India.
- Singh, R. (2012). Inefficiency and Abuse of Compulsory Land Acquisition. *Economic and Political Weekly* 47, 46-53
- Tanner, C., Scalise, E., & Mutema, M. (2015). *Public Overseas Investments: Ensuring Respect for and Protecting Legitimate Land Tenure Rights* (August).

- Vyas, A., Mahalingam, A. (2011). Comparative Evaluation of Land Acquisition and Compensation Processes across the World. *Economic and Political Weekly* 46, 94-102.
- Von Braun, J. and Suseela, R., 2017. *Land grabbing" by foreign investors in developing countries: risks and opportunities*. International Food Policy Research Institute Washington, DC. Concerns, P. L., & Moreda, T. (n.d.). LDPI Working Paper.
- Wolford, W., Borras Jr, S.M., Hall, R., Scoones, I. and White, B., 2013. Governing global land deals: The role of the state in the rush for land. *Development and Change*, 44(2), pp.189-210.
- Zoomers, A., Van Noorloos, F., Otsuki, K., Steel, G. and Van Westen, G., 2017. The rush for land in an urbanizing world: From land grabbing toward developing safe, resilient, and sustainable cities and landscapes. *World Development*, 92, pp.242-252.
- Zoomers, E.A. and Otsuki, K., 2017. Addressing the impacts of large-scale land investments: Re-engaging with livelihood research. *Geoforum*, 83, pp.164-171.