

The poor bear the real cost of Pakistan's mega projects because of the Raj-era Land Acquisition Act

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In Pakistan, infrastructure projects echo familiar stories of the state's broken promises.

The impact of infrastructure development is often measured in economic terms, without taking into consideration the effect on the lives of ordinary citizens, who bear the brunt of development-related harms.

In Pakistan, infrastructure development projects, whether the Neelum Jhelum Hydro-Electric Project, Tarbela Dam construction, the Orange Line Metro Train project or the revival of the Karachi Circular Railway, to name a few, all echo familiar stories of the state's broken promises that have adversely impacted the poor.

Often, development projects result in forced displacement of the poor, a process that affects their everyday lives and further reduces their living standards.

In our country, such outcomes for the poor are common because there is hardly any formal framework in place that can mitigate the impacts of forced displacement.

Instead, resettlement plans involving land displacement for ambitious infrastructure projects are designed arbitrarily, on an ad hoc basis and with devastating results for the poor.

Colonialism's legal legacy

The de facto law enforced in Pakistan for land acquisition for infrastructure development is a colonial law: Land Acquisition Act, 1894.

The law entrusts the Pakistani state with the power of eminent domain to appropriate land for "any public purpose", upon provision of a "just" compensation.

However, the law does not provide for a resettlement and a rehabilitation plan.

This law has a particularly harsh impact on those who are non-titleholders of land because it does not recognise them as the intended beneficiaries of compensation due to forced displacement.

Instead, the colonial law restricts the definition of an "affected person" to only those who hold legal title to land.

In drawing a distinction between “titleholders” and “non-titleholders” and privileging the former, the colonial law, in addition to the uncompensated expropriation of land, exacts a cruel burden upon those whose livelihoods are tied to land access and not ownership.

For example, [studies](#) show that more than half of Karachi’s population lives in informal settlements where majority of the residents do not own legal title to the land.

Hence, in situations of land acquisition for infrastructural development, residents are not legally entitled to any compensation and must bear the burden of displacement.

Interestingly, the Land Acquisition Act, 1894 is also relevant in India where it has undergone several amendments over the years.

For instance, in 2007, India enforced a [National Rehabilitation and Resettlement Policy](#) (Ministry of Rural Development) that provides guidelines for the resettlement of people affected by forced displacement.

Then in 2013, the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act](#) was enforced in India, which not only strictly defines the term “public purpose”, but also recognises both titleholders and non-titleholders as intended beneficiaries of a resettlement plan.

In contrast, Pakistan has an ambiguous history concerning the amendment of the Act. Even though provinces have adopted the Act with slight amendments, these are limited to procedures and timelines.

Notably, the bigger issues of the definitions of “public purpose” and that of the ‘affected persons’ and lack of resettlement and rehabilitation plans for those affected, remain untouched.

Legal reforms in the shape of a [Resettlement Ordinance, 2001](#) followed by a [National Resettlement Policy, 2002](#) were drafted, and these fill the gaps in the Land Acquisition Act, 1894.

However, the ordinance and policy were never approved and implemented for reasons unknown. These remain unannounced 16 years down the line.

The ambitious development plans of the new government make the implementation of the policy an urgent need.

Exploitation entrenched

In the absence of the resettlement policy, the resettlement plans for infrastructure development projects in Pakistan are made on an ad hoc basis.

Due to the lack of pre-approved standards in the shape of legal frameworks to abide by, these ad hoc plans go unchallenged.

The historical instance of the construction of Tarbela Dam in 1976 reflects how lacunae in laws can be exploited to support authorities who get away with impunity.

The affectees of the Tarbela Dam construction complain that they have not been compensated to date, and that the towns constructed for resettlement purposes are without basic amenities.

Thus, it has been an immense challenge for them to reside in those “colonies”. The non-payment of compensation in this case has been challenged in court by invoking the Land Acquisition Act, 1894, but the resettlement issues go unnoticed.

A looming problem today concerns the compensation and resettlement of the affectees of the Karachi Circular Railway, a project that has seen numerous changes in investors and stakeholders.

The 4,653 households affected by this project, majority of whom claim to have lived in those houses for more than 45 years, have already fallen prey to the loopholes of the legal system, starting with the ambiguity in the definition of an “affected person” and outright disregard of non-titleholders who reside alongside the tracks of the Karachi Circular Railway.

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The chief minister of Sindh, Syed Murad Ali Shah, has [expressed](#) that non-titleholders will be compensated on “humanitarian grounds”.

However, compensation on humanitarian grounds may very well be a meagre compensation that cannot be challenged under the law by way of right.

In [2011](#), a resettlement action plan for the Karachi Circular Railway was developed by the Karachi Urban Transport Corporation in accordance with the Japan International Cooperation Agency environmental guidelines that acknowledge non-titleholders as project affected persons.

The plan had also identified Juma Goth as the resettlement site and determined compensation for the affectees. However, this plan was abandoned as the project changed hands.

The resettlement and compensation remain disputed to date and to be determined according to the new stakeholders.

What is the biggest drawback of ad hoc resettlement policies in a legal vacuum? It gives the stakeholders unlimited power to decide the resettlement plan for the affectees, without being legally bound to consult and involve the community.

Hence, this process leaves the affectees vulnerable and subject to exploitation as they are unable to rely on the law to resist or challenge top-down development plans.

Similar issues of lack of transparency and community consultation surfaced during the Chashma Right Bank Irrigation Project, located off the Chashma Barrage in Punjab and whose final stage was [completed in 2010](#) as well.

Moreover, the recent [collusion of the Sindh government with Bahria Town Karachi](#) to circumvent the Colonisation of Government Lands Act, 1912 in the land acquisition process and the ensuing displacements of ordinary citizens, is yet another example of outright exploitation given there are no binding laws or policies in place through which those who are affected can resist.

Laws swept under the carpet

The Resettlement Ordinance, 2001 and a National Resettlement Policy, 2002, already drafted by the Pakistan Environmental Protection Agency, close most if not all the gaps in the Land Acquisition Act, 1894.

Most importantly, these legal instruments are cognisant of the on-ground realities of land ownership in Pakistan because they acknowledge non-titleholders within the ambit of the definition of an 'affected person'.

Consequently, the policy provides compensation, resettlement and rehabilitation plans for non-title holders as well, in the event of forced displacement.

The compensation determined under the Land Acquisition Act, 1894 is based on the value of land, which essentially is only the price of the land paid after inordinate delays without accounting for the increase in land value over time.

It also does not account for the change in social, cultural, economic, political and environmental landscapes of the affected persons.

However, the National Resettlement Policy, 2002 recompenses affected persons for these additional factors.

The policy prohibits commencement of any work until the affectees have received full compensation, which is conducive to the affectees and protects them from eviction, inadequate compensation, delayed payments and dislocation, consequences that are evident from past infrastructure development projects.

The policy recommends that a grievance redress committee be set up to address the grievances and concerns of those affected and calls for the establishment of a monitoring and evaluation committee to ensure authorities comply with the resettlement plan for the affected persons - to provide rightfully their constitutionally protected interests.

Sadly, in the absence of a well-charted, inclusive and enabling resettlement policy, there will be continued long-term hardship, impoverishment for the poor and even environmental damage due to forced displacement for infrastructural development.

It is ludicrous that the resettlement policy consequential for Pakistan's progress has been drafted for 16 years, but previous governments have not found a way of approving and implementing.

The government has had the opportunity to implement it, but it is not a priority for them. Any new infrastructure development projects - for instance the construction of dams or the upgrading of railway networks - that the state undertakes in the absence of a clear-cut resettlement policy, will directly affect the lives of ordinary citizens, who will continue to bear the costs of development.

Under the new government's mantra of Naya Pakistan, we hope that the welfare of ordinary citizens is a goal that will remain centre stage.

Without proper resettlement and rehabilitation policies, even the provision of five million houses will

not uplift the living standards of the poor, as it is said that development in a country does not come from concrete alone.

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