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Eminent Domain in Nepal: A Critical Legal Analysis

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Abstract

Eminent domain, which is defined as a right bestowed on the government through the constitution to expropriate private property for the purpose of public benefit with appropriate compensation, is an illustration of how the need for growth and development in society and the rights of individual's clash. The following research examines the current state of eminent domain within Nepal by considering the inadequacy of the current law in addressing these opposing issues despite the existence of provisions under article 25 of the Constitution of Nepal (2015). With respect to the use of doctrinal legal research methodology, the sources considered for this analysis include constitutional provisions, the Land Acquisition Act of 2034 B.S. (1977), cases in the Supreme Court, and human rights laws. It has been established from the above analysis that although the constitution of Nepal is well-formulated, the legal structure in place is inadequate. Comparison shows that Nepal falls far short of par with regard to global criteria like the United Nations Basic Principles on Evictions and the World Bank's Resettlement Policy. Although the Supreme Court has issued encouraging statements on procedural justice and proportionality, the role of the judicial branch continues to be hampered by outdated laws, slow procedures, and poor enforcement mechanisms. It has been found that half-hearted steps will not help. Rather, a fundamental restructuring of the legal system is required. A new law on land acquisition that clearly establishes the definition of public purpose, ensures a participatory method of valuation, requires an environmental impact assessment, and provides full-scale rehabilitation can form the foundation of development under the power of eminent domain.

Keywords: eminent domain, expropriation, property rights, compensation, land acquisition

Introduction

Eminent domain is an inherent authority vested in the government. It gives the government the right to acquire the privately owned property such as land or structures for the public good, including building highways, schools, and hospitals. However, the government must pay reasonable compensation for the property, which can be estimated using its market value (Black, 2019). Eminent domain is a recurring conflict in societies, that is, the conflict between the interests of the community to develop itself and the rights of individuals to use their property freely. As one jurist puts it, this conflict is independent of the existing laws; it is an intrinsic matter of governance (Dhungel et al., 2017).

Eminent domain is not a straightforward administrative function. It is a heavy-handed use of state power which could drastically impact the life and livelihood of those concerned. As such, there should be careful regulation of the same through the establishment of laws which guarantee justice, equality, and procedures. Each country has evolved its system of regulating the use of eminent domain powers. In the US, the fifth amendment to the Constitution stipulates that no property shall be taken for public use unless just compensation has been made. This has spawned an enormous legal corpus on how public and just compensation are to be understood (Epstein, 2019).

Land is not merely an economic resource in Nepal; it has cultural significance and reflects personal pride, social position, and ancestral pride. The Constitution of Nepal, 2015, acknowledges the importance of land. Article 25 of the Constitution states that every Nepalese citizen has the right to acquire, hold, transfer, and administer any form of property. But the same article states that the state has the power to expropriate the property of individuals "except in the public interest" (Constitution of Nepal, 2015, Art. 25). The simple phrase above constitutes the basis of the eminent domain clause in the Nepalese Constitution. In essence, there is a clear trade-off between the rights of property owners and the state's power to override those rights in the case of public benefit.

In order for the act of eminent domain to be deemed legal, certain key factors have to be present. Firstly, the property in question should belong to private individuals. Secondly, the property should be seized through the action of the state or agencies that act on its behalf according to law. Thirdly, the taking should serve a public purpose. Finally, the state must give appropriate compensation to the owner of the property (Neupane, 2018). The issue that arises in most of the controversies concerning eminent domain pertains to what constitutes "public purpose". According to precedent, public purpose refers to taking of the land for purposes where the public would utilize the property, such as a government building or a park. In modern times, however, the term may cover broader projects aimed at creating job opportunities and boosting the economy, which opens up room for controversy. Just compensation is usually

determined based on market price but falls short as it does not address the loss of a family house or business.

Undeniably, the use of eminent domain for development purposes in Nepal cannot be denied. Eminent domain gives the ability to the state to construct the highways, dams, power grids, water systems, and other infrastructures which are essential to generate economic growth and uplift the standard of living. In addition, the exercise of eminent domain is important for urbanization, preservation of environment, and at times for land reformations. However, this powerful instrument of state may be used for improper purposes. The adverse consequences can be grave in nature. For example, people will be deprived not only economically but also socially from their homeland due to displacement. Moreover, the vulnerable section of society tends to be the worst victim of such acts. Lack of transparency in exercising eminent domain might also undermine faith in government agencies. In addition, the use of “public purpose” may serve the interest of private parties.

In today’s Nepal, however, these theoretical dilemmas have become highly practical realities. As Nepal has aggressively sought to spur rapid development through numerous land acquisitions, it has done so under a legal framework that is outdated, inefficient, and inadequately designed to protect individual rights. The consequence has been a terrain plagued by endless disputes, allegations of malfeasance, litigation, and increasing popular perceptions of development as neither equitable nor just. Such are the circumstances that have prompted this research inquiry. This study begins from the premise that while the doctrine of eminent domain may be an essential tool, its application within the Nepalese context requires critical re-evaluation and reform.

Statement of the Problems

The core problem addressed by this research lies in the inability of Nepal's eminent domain regime to appropriately balance the requirements of development and respect of private property rights. Even though the constitutional provisions regulating the power of the state to use the land for the benefit of society are rather detailed, the legal framework through which such powers can be exercised remains underdeveloped, ineffective and unfair, causing serious social tension and undermining the legitimacy of development activities.

In fact, it would be possible to identify several aspects contributing to the situation but the core reason behind everything lies in an old and inefficient law. The central legislative act regulating the process of expropriation of land and properties is the Land Acquisition Act of 2034 B.S. that was adopted back in 1977. The said act was developed for completely different circumstances and thus fails to consider the current realities adequately. In its turn, the law grants excessive discretion to officials, allows the application of rather arbitrary and

discriminatory methods of valuation of the properties taken over and almost totally ignores the problem of rehabilitation.

The issues persist in terms of the implementation of the laws. Even the basic rights that are guaranteed in the previous law are routinely overlooked. Payment compensation takes years to be provided, leaving the family with uncertainty. The process through which the value of a parcel of land is evaluated is not clearly defined, resulting in perceptions that the payment is unfair to all those who are involved. Coordination between various departments of the government is poor, leading to inefficiency.

The main issue in the present-day process is the absence of genuine participation of the concerned local population. Typically, decisions on land acquisition are made at the highest levels, with minimal engagement from those who stand to suffer from the consequences. People are not informed adequately, and their views are largely dismissed out of hand. Such a disregard of the voice of citizens fosters a sense of distrust and transforms developmental initiatives into confrontations instead of cooperative endeavours. The disadvantaged sections of society such as indigenous populations, small-scale farmers, and women are disproportionately affected by such problems. They generally do not have secure legal entitlements, adequate legal literacy, and have a higher dependence on their land for sustenance, thus making them more susceptible to impoverishment if deprived of their property.

While the intention of the justice system is noble, it does not operate without limitations. There have been several landmark decisions made by the Supreme Court of Nepal regarding justice and compensation in the process. Nonetheless, the fact that the judicial process takes too much time and is costly makes it unattainable for most people. Moreover, judges are under pressure from the outdated system of law, which forces them to make choices that are not necessarily in the best interest of the victims.

Last but not least, the problem of land acquisition in Nepal cannot be discussed separately from the country's political environment. The lack of an official definition of the notion of "public purpose" in the Nepalese law makes it possible to exploit the concept for purposes that will ultimately benefit certain private businesses rather than the general population. To thoroughly investigate this complex problem, this study is guided by the following key research questions.

- What is the law concerning eminent domain in Nepal?
- Is the existing law sufficient and equitable?
- How does the law in Nepal stack up against international conventions?
- How competent is the Supreme Court in safeguarding rights in this matter?

Objective of the Study

The fundamental objective of this study, therefore, is to conduct a thorough and critical analysis of the laws and mechanisms under which eminent domain is operated in Nepal, in an attempt to highlight its inefficiencies and provide solutions for reforms. With the following research questions in mind, the detailed objectives are:

- To identify and examine the legal framework of eminent domain in Nepal.
- To review the sufficiency and justice of the existing laws and institutional structures.
- To examine the legal measures adopted by Nepal through international comparisons.
- To critically appraise the role of Supreme Court in protection of rights.

Review of Literature

The principle of eminent domain also finds roots in an internal philosophical contradiction. One school of thought advocates for minimal use of power by the state to take private property. According to Epstein (2019), compensation must be complete and absolute to preserve the liberties of individuals from state tyranny. On the other hand, there are theories that stress on social needs. For instance, Reynolds (2010) notes that the idea of state power over private lands for the betterment of people existed since ancient times. In this manner, eminent domain functions as a tool of social order and welfare.

In contemporary times, the price to be paid by people in the form of displacement takes precedence. Critics, including Ramanathan (2018), argue that, under eminent domain, the poor and marginalized people will always become victims of development. The same sentiment is reiterated in international soft law frameworks. Instruments such as United Nations Basic Principles and Guidelines on Development-based Evictions and Displacements (2007) and the Operational Policy on Involuntary Resettlement of the World Bank (World Bank, 2001) have been extensively analysed as providing the floor standards concerning consultation, adequate compensation, rehabilitation of livelihoods, and mechanisms for addressing grievances. Comparative analysis, such as Kelly (2019), examines how countries define the public use requirement, noting that an expansive interpretation would permit land acquisition from one private individual to give to another for development purposes, such as the landmark, case of *Kelo v. City of New London* (2005)

As far as Nepal is concerned, some important legal commentaries come from scholars such as Dhungel, Adhikari, and Bhandari, who provide an in-depth description of Article 25 of the Constitution in terms of its history and implications for property rights (Dhungel et al., 2017). The legal framework for property legislation in Nepal is presented in detail by Gunanidhi Neupane who also reveals the shortcomings of the current legislative approach related to issues raised under the Land Acquisition Act (Neupane, 2018). Moreover, Mukhia (2019) provides a theoretical analysis of various theories of property rights and their relevance to the Nepalese legal system.

More recently, some authors have been discussing not only the existing legal framework but also its implementation. Specifically, Kharel (2020) provides a comparative analysis and shows that problems related to defining the notion of public purpose, providing compensation promptly and efficiently, and holding officials accountable persist. Khan (2021) discusses the socioeconomic consequences of the discussed issues and demonstrates that improper compensation often forces people into a vicious cycle of poverty and leads to uneven development.

Literature does a fair job in addressing the constitutional provisions, major laws in Nepal, and its international environment. At the same time, it provides a solid critique of the consequences and failures related to human rights issues. The literature does not address the requirement of analysing the weaknesses inherent in the previous laws and connecting them directly to the obvious flaws in practice while critically comparing them with the set of international norms. Moreover, although Supreme Court decisions are quite common, judicial trends analysis as well as the effectiveness of such decisions in terms of achieving justice is rarely considered. This study intends to make a comprehensive analysis linking poor laws, failure of their implementation, international norms, and legal remedies.

Research Methods and Materials

The study adopts a doctrinal approach to law research, adopting an analytic research design that will enable a critical assessment of the eminent domain regime in Nepal. The analysis will adopt legal data synthesis from various sources including Nepal's Constitution (2015), statutes, cases, court decisions, and policies. Secondary data will also be drawn from scholarly writings, reports, and commentaries. Data collection for this study has been done through extensive library and online searches, after which data will be analyzed qualitatively to determine its coherence, impact, and conformity to human rights principles.

Results and Discussion

International Legal Framework and Comparative Perspectives

Although the right of eminent domain is a national prerogative, it is subject to international law and global best practices as well. These benchmarks give a clear yardstick to assess the local legal framework, such as the one developed in Nepal. One can consider the basic benchmark to be the Universal Declaration of Human Rights (UDHR), which specifies the right of everyone to own property and prohibits the arbitrary deprivation of one's property (United Nations, 1948). The UDHR is not a treaty and cannot serve as a legal basis for litigation; however, the document serves as a cornerstone for international human rights law.

More legally binding are various international covenants which Nepal signed and ratified. According to the ICCPR, all citizens have the right to due process of law and protection from any arbitrary interference, including with regard to property takings (United Nations, 1966). Similarly, ICESCR protects economic and social rights (including the right to housing and an adequate standard of living), which means that the state should help relocated citizens find alternative dwellings and employment, not only compensate for property losses (United Nations, 1966).

Apart from these broad agreements, there are more specific soft law principles. One example is the UN Basic Principles and Guidelines on Development-induced Evictions and Displacements (2007). In the document, it clearly states that eviction must be the last option. There is also a necessity to conduct a proper consultation process, ensure sufficient notification, provision of legal assistance, and the most important provide for adequate alternative housing, resettlement or access to productive land prior to any planned evictions or displacement. The aim now is not simply providing compensation but ensuring that people get a new start.

In the case of development projects that receive funding from international organizations, the policies of the organizations become an informal global benchmark. For example, the policy of the World Bank, known as OP 4.12 on Involuntary Resettlement, requires countries implementing such projects to develop a Resettlement Action Plan. This plan must aim at enhancing, or at least restoring, the welfare of the displaced individuals (World Bank, 2001). In another case, the Performance Standard 5 of the International Finance Corporation requires the avoidance of displacements wherever possible or compensation and resettlement programs in cases of inevitable displacements (IFC, 2012).

It is also useful to look into how other nations deal with eminent domain cases. In the case of the United States, court rulings have evolved the interpretation of public use from just being the government owning property to encompassing the elimination of slums (*Berman v. Parker, 1954*) and stimulating economic development (*Kelo v. City of New London, 2005*). The Kelo ruling was highly controversial, with most US states passing laws that made their regulations stricter, highlighting the issue with too wide an interpretation of the concept (Epstein, 2019). The Indian example provides a unique approach to the matter, with their Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013. This recent legislation necessitates Social Impact Assessments, obtains the approval of landowners for some projects, gives more than market value for compensation, and plans rehabilitation and resettlement schemes in detail (Chakraborty, 2019).

These examples from around the world demonstrate a consistent movement toward strict procedures, increased compensations, and comprehensive assistance to displaced persons, which is drastically different from the old-fashioned process practiced in Nepal.

National Legal Framework in Nepal

In Nepal, the law of eminent domain works within an integrated approach where it has the Constitution as the highest level of authority that has been followed up by relevant legislation and judicial decisions. In terms of the constitutional provisions, they have been set out in the Constitution of Nepal of 2015 particularly in Article 25 titled "Right to Property". Article 25 provides a limited and fundamental guarantee as it protects the citizen's right to acquire, own and manage his/her properties. However, it makes allowance for state intervention in the form of acquisition and imposing any conditions on the ownership of the property "except in the public interest". It implies that the "public interest" allows for the exercise of the power of eminent domain. Significantly, the provision applies only to property that has been acquired legally since the state has the power to acquire property obtained illegally without any public interest considerations. Besides, the state can impose property taxes and make laws for land reforms and planned development among others. Nevertheless, it should be noted that the Constitution, in fact, provides no definition for this crucial term, thus leaving it open to interpretation by parliament and the courts, which contributes significantly to the legal vagueness associated with the matter. According to this clause of the constitution, the right to property is not unconditional and depends on two main factors (Nayak, 2008).

This doctrine is additionally enshrined in subsidiary legislations. According to Section 25 of the National Civil Code, private property cannot be taken away unless there is a public purpose, and appropriate compensation has been provided, implying that the process should conform to due legal procedure. In this regard, The Fixed Assets Act (2013) gives a legal framework for this power, whereby the government at different levels—federal, provincial, and local—is granted the power to acquire immovable assets for public purposes (Sec. 3). While the law provides for procedural protection by mandating concerned authorities to notify relevant individuals within 35 days of realizing the need for acquisition without selling, altering, or renting the concerned property in question, it makes exceptions where it prohibits the government from acquiring property being used for family settlement or properties meant for public services like religious institutions, educational institutions, and hospitals (Achal Sampatti Adhigrahan Ain, 2013, Sec 3). In essence, these provisions establish one essential legal doctrine: whereas the rights of private property owners are protected, the state has sovereignty over them when necessary for public good, following the required legal procedures and providing appropriate compensation (Aggarwal, 2008).

Case Law Analysis: Judicial Interpretation and its Limits

Interpretation of laws related to eminent domain in Nepal has been effectively carried out by the Supreme Court of Nepal in many cases, where they have been forced to address the

excesses carried out by the state machinery. Analysis of relevant decisions taken by the courts will reveal how powerful and weak they could be.

In fact, one of the most notable achievements of the Supreme Court in Nepal has been trying to identify what a legitimate "public purpose" should include and also putting into practice the notion of proportionality in cases of acquiring lands from private citizens. Firstly, the Supreme Court of Nepal made it very clear that the concept of public interest is not a tool by which the government can justify its actions as taking any form of property without any restrictions. This is demonstrated by one case which dealt with arbitrary and uncontrolled road expansion in Kathmandu: *Advocate Dr. Ravi Sharma Aryal and Others vs the Cabinet Secretariat et al.* (2075 B.S.). In this case, the Court ordered the government to cease its expansion works. Secondly, the Court stated that for any acquisition to be legitimate, the reason behind it should not only be labelled as a public purpose but rather should be a real one. Moreover, the idea of proportionality was implemented and the Court said that any damage to a private citizen from acquisition works should be smaller than the benefits that would be obtained from the project.

Additionally, the Supreme Court has also played an instrumental role in safeguarding the principles of due process and just compensation in land acquisitions. In *Dhurba Bahadur Shrestha versus Kathmandu Metropolitan City* (2074 B.S.), the Supreme Court has maintained that no matter how good the cause pursued by the government is, such as ensuring smooth traffic movement, it has to strictly adhere to all the legal procedures that the law demands. This involves ensuring that appropriate notices are given to the parties concerned along with granting an authentic hearing before a final decision regarding taking away their properties is made. Regarding compensation, the Supreme Court has handled the cases associated with large infrastructure construction projects such as the Melamchi Water Supply Project. The Supreme Court has ensured that compensation for those whose lands will be acquired through such projects is made to them at the right time in a fair manner. In doing so, the Supreme Court has pointed out the fact that delaying compensation in itself constitutes injustice.

The Supreme Court has also had to decide in difficult cases, such as those where people construct buildings on lands they do not have any legal ownership of. For example, in the case of *Government of Nepal v. Shyamarraj Bhusal & et al.* (2072 B.S.), the Supreme Court was faced with the issue of whether a person who constructed a building on a public land by mistake is eligible for any sort of compensation in case the government revokes its possession. The Supreme Court held that such persons are not entitled to claim any kind of compensation since they have not enjoyed any legal possession of such lands. This decision by the Supreme Court certainly serves the noble purpose of ensuring protection of public property against acts that would essentially amount to theft by construction of private buildings. However, at the

same time, this judgment highlights some of the serious ramifications of the haphazard and inaccurate land records in Nepal.

However, the primary problem associated with the use of the judicial system in eminent domain claims may be the ever-existing gap between what is decided by the court and what really happens in the real world. A classic example of this is the case of *Bharat Prasad Gautam v. the Government of Nepal* where the authorities were ordered to compensate the landowners whose property was acquired during the construction of new roads. The Supreme Court decided that people who were affected had to receive proper compensation along with necessary rehabilitation assistance. According to the statements made by the then Mayor of capital city Balendra Shah who is currently the Prime Minister of Nepal, in various public speeches, the victims have yet to get their rightful dues many decades after the decision of the Court. Means it is clear that while the courts can decide whether something should be done or not, it has no instruments to enforce this decision and make the bureaucratic machine move.

The other problem is that the very judges who have to adjudicate on the matter of eminent domain are hamstrung by the antiquated and inadequate laws that guide them while passing judgment in such cases. While the judges may demand due process and throw out the government's decision if it violates any existing legal requirement, there is nothing the judge can do about introducing a more adequate compensation formula where it does not exist in the statute. Likewise, it will be impossible for the court to direct the government to carry out a social impact study before acquiring any land unless there is such a provision in the current law. In essence, the role of the judiciary in Nepal's legal structure is basically a reactive one, whereby the judge addresses the problem presented to them within the confines of the law.

All in all, the general trend demonstrated by the Supreme Court of Nepal has been favourable, displaying its increasing commitment towards enforcing the principle of law, justice, and constitutional values in issues related to land acquisition. It has always resisted any attempts of overreach on the part of the government in the course of such activities. At the same time, these court cases have shown the inherent flaw of the current legal approach, as without the presence of an adequate and up-to-date legislation that would be able to cope with the modern challenges connected with the twenty-first century development, judges are left with no choice but to attempt solving novel problems using outdated and inefficient legislation. Moreover, their meticulously crafted decisions may be ignored for several years or even decades by the slow and disoriented administrative bureaucracy that either fails or refuses to execute the court verdicts properly. The Supreme Court of Nepal has developed a number of principles that need to be applied in future land acquisition processes; however, only a new and updated law can bring changes in practice.

Situational Analysis: The Practice of Eminent Domain in Contemporary Nepal

A case study on the practical application of eminent domain in present day Nepal reveals a significant disconnect between the promise of law and the actual experiences of regular citizens. This situation arises from a constant struggle between the urge to develop and poorly developed institutions that create social unrest and human misery.

Land acquisition has a number of flaws that are reflected in the following stages. Firstly, project activities start before any form of compensation is made. Consequently, the pressure on owners who have already lost their possessions while negotiating an acceptable price is immense. Secondly, determining the market value of land poses another serious problem due to the considerable discrepancy between current prices and official government rates that lag behind several years. Finally, the system does not offer any form of rehabilitation. Landowners are awarded a sum of money, usually not enough to purchase the equivalent of their lost property in other locations. They are responsible for relocating their families, finding new sources of income, and providing children with schooling opportunities.

The most vulnerable individuals tend to be the most affected. People who do not have legal documents of ownership for the land, such as tenants and squatters, are left empty-handed. Additionally, women are discriminated against in the acquisition process since their names are often omitted from the land title, which means that only the men in the family will receive the monetary value of the land upon its acquisition.

Case Studies: From Theory to Hardship

The Melamchi Water Supply Project, which was meant to supply water to Kathmandu, has been a technical triumph but a social failure. The farmers in Sindhupalchok and Helambu have lost their land, with damage to their water sources and agricultural land. It took several years to compensate them, and their total loss was not adequately compensated. There was no strategy adopted to help them seek other livelihood options. This example clearly highlights the difference between development projects and social justice.

The Upper Karnali Hydropower Project has been involved in acquiring vast amounts of privately owned land, agricultural land, and communal forest lands. The local communities raised their voices against this project because the compensation provided was well below market value, and no thorough social and cultural impact study was conducted. The indigenous populations have been forcibly relocated without obtaining their free, prior, and informed consent.

While there is no doubt that the intention behind the expansion of roads in Kathmandu was the common good by way of easing traffic congestions, there has been chaos in implementing the plan. There have been demolitions of houses and business places without giving much notice. Compensation for those whose properties have been affected was irregular; for some, it was delayed while others did not receive any since they lived on public land.

There was an idea of constructing the international airport at Nijgadh in Bara. The plan was criticized by environmentalists and legal scholars for destroying large amounts of nature to make room for the project without considering the environmental and social costs that might result from such a venture.

It can be said that there is a new development which has come forth owing to the initiatives undertaken by the Kathmandu Metropolitan City. There have been aggressive measures taken by the government in reclaiming the encroached lands belonging to the state. By utilizing the state's powers in reclaiming such lands and transforming them into public spaces, the government has been able to show how the concept of eminent domain should actually be used. While on the other hand, the mayor has been quite vociferous about the problems being faced by people such as those who live in Tinkune because their dues from the central government are still outstanding even today.

Challenges in the Present Context

There exist numerous interrelated issues that arise from the application of the doctrine of eminent domain in contemporary Nepal. First, the act of providing compensation itself remains very unfair as the process through which landowners receive money ignores the actual value of the property to the inhabitants, such as its emotional value and importance for the community. Second, there exists inefficiency in the bureaucracy, as the process of valuation and payment is rather delayed due to administrative inefficiency. Third, the local communities themselves are unable to express their opinions in any public forum as the consultations are ignored by policymakers. Fourth, there is no need for conducting social or environmental impact studies as the legal framework does not make the process mandatory. Fifth, politics can also play a role in the process of acquiring land. There can be instances where acquisition is done to serve business or political purposes instead of fulfilling actual requirements. Sixth, the issue of inadequate documentation is another problem in the system. The fact that there is extensive encroachment of properties and inaccurate information about ownership makes it hard to ascertain the rightful owner. Lastly, the courts move at an exceedingly slow pace when it comes to dealing with cases involving land acquisition.

Findings

The eminent domain system of Nepal has a perfect constitutional backing (Article 25), but its application is highly hindered owing to the archaic central legislation, the Land Acquisition Act of 2034 BS. In addition to the constitution, there are several other legislative statutes. Nevertheless, all these have led to a complicated legislative environment. While the constitution provides for public purpose and adequate compensation, the old law fails to adopt them in the practical aspect.

The current legal provision is very weak. Firstly, there are no provisions about the valuation process, which is participatory and transparent. Likewise, there are no provisions about rehabilitation and livelihood reconstruction of the affected community. Moreover, there are no social and environmental safeguards, and there are no provisions about accountability mechanisms either. The absence of provisions can be observed from their application.

Partial adherence exists between the laws of Nepal and the international norms. The constitutional document bears similarities with the general framework of the international statements like the Universal Declaration of Human Rights, but the measures adopted for the implementation deviate greatly from the clear-cut guidelines set by the United Nations Basic Principles on Evictions and the World Bank Resettlement Policy. The shortcomings are the lack of mandatory impact assessment, the inability to provide alternative housing or livelihoods, and inadequate legal protection of the rights of indigenous peoples and other disadvantaged communities during the relocation process.

The contribution made by the judiciary has been important, but it has also been largely positive. As seen in the Supreme Court's decisions, there has been an emphasis on due process, just compensation, and proportionality in order to provide a check on the actions of the executive branch. However, this has not come without difficulties, which include structural challenges. One of the main problems is that there is a large number of cases, leading to unnecessary delays. There is also the need for them to interpret old laws, making it hard for them to implement modern policies.

Conclusion

Expropriation is vital for the development of Nepal, enabling roads, dams, and other infrastructures to be built. However, it can only maintain its legitimacy through transparency, justice, and adherence to the constitutionally guaranteed property rights. However, given the inefficient administration, the current practice, which is based on the outdated law from 1977, cannot help but fail in this regard. Inevitably, disagreements, mistrust, and grievances emerge. However, the issue itself is more of a moral one than a legal one. Given that the government is allowed to seize property, it should ensure that the lives of the people affected are protected.

Complete reform is essential. Nepal needs a modern law related to land acquisition that defines the parameters under which the idea of public interest should be defined. There should be clear processes regarding the estimation of compensation, social and environmental impact assessments, and rehabilitation. Capacity building needs to be done with regard to better coordination and computerization of the registry system as well as grievance handling. Eminent domain can never become an impediment to development but rather the backbone for it. Complete reform will create trust among the masses, promote democracy, and ensure development for the Nepalese citizens.

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