

Expropriation as Injustice: Seeking for Transformative Pathways in Expropriation in Water Management of Turkey and India

For the consideration of subtheme of “Environmental Justice”, which may also be considered for the subtheme(s) of “Natural resources: management, use and conservation”, and “Distribution, inequality, and social justice, including the rural-urban divide”.

Deeming expropriation in environmental management as a particular expression of social justice awakens the necessity to analyse the procedural issues embedded in policy processes. Expropriation processes in environmental management encompass numerous injustices related to resettlement, rehabilitation and compensation. In this paper, we argue how expropriation issues can be associated with the concept of environmental justice. Although expropriation issues can be analysed within a broader environmental justice (EJ hereafter) understanding, exploring these issues through distributive and recognitional aspects of EJ in addition to capabilities approach (see Schlosberg, 2007), we discuss that procedural (participative) justice has the vital role in fabrication and maintenance of social and environmental inequalities observed in expropriation processes. In other words, although these different notions of EJ are intertwined to each other and acts as complementary to each other (see Holifield, Porter and Walker, 2009), our focus will be on the procedural issues bound to the expropriation process, which should be transformed to redress the socio-environmental consequences of this process. Accordingly, we use the theoretical framework of procedural EJ, supported through the expropriation cases of Turkey and India in their water management demonstrating how procedural inequalities are produced and cause injustices, which can be overcome by transforming the procedures pursued in the expropriation processes.

We explore procedural issues by focussing on the *expropriation* in environmental management since it is one of the major issues frequently discussed in EJ cases, especially in developing nations. Within the context of EJ, expropriation is important since it reflects all four-dimensions of the concept, although it can be mainly examined within the procedural dimension. That is, expropriation process mainly falls on the procedural dimension of EJ, as a result of which ownership and property rights are altered in which the ownership public and private lands and properties is transferred to another actor for the sake of the construction of industrial facilities or conservation sites, arousing access-related issues and legal debates regarding customary statuses of these lands and communities living on them. Although expropriation related issues are frequently cited in the EJ-related literature (see Martinez-Alier, 2002; Pena, 2003; McCarthy, 2005 for instances), it is a niche research area, deserving more integration to the EJ literature. Thus, our main objective in this paper is to link the expropriation issues to procedural EJ, because the expropriation processes reflects the nature of the decision-making processes, and they are deemed as one of the main causes of environmental injustices, when the relevant issues are closely examined through an EJ framework. Using a mixed methods approach, desktop and primary sources, this will be elaborated through a comparative analysis of water management cases from Turkey and India.

In the Turkish case, expropriation debate is a hot topic in implementation of water management projects and energy generation projects, for which the relevant legislation has been modified frequently in the recent years. Accordingly, the recent legislative changes enable expropriation of

state lands and private lands in the cases of the constructions concerning with “public benefit”, including the small-scale hydroelectricity power plants. In this process, the non-participatory nature and legislative scope of the process highlight the social inequalities, while the practice of the process also arouses environmental debates at different scales. On the other hand, expropriation, and the procedural rights associated with resettlement, rehabilitation and compensation, has also generated a great deal of controversy in India in recent years, with the inequities of the colonial era Land Acquisition Act, and subsequent (non-binding) policy initiatives. New legislation that applies to electricity generation projects among other public purposes, was passed recently, however, with a view to redressing these issues, specifically including provision for improving participation.

Our framework is built on social justice and EJ studies, in which it is implicitly and explicitly highlighted that procedural issues deserves attention in defining and explaining environmental (in)justices (Schlosberg, 2007). Numerous scholars from different disciplines such as social psychology (see Walker, Lind and Thibaut, 1979; Tyler and Smith, 1995), political philosophy (Young, 1990; Fraser, 1998; Honneth, 2004, while formulating justice as recognition), political science (Bohman and Rehg, 1997; Dryzek, 2000; Young, 2002, inferred from their works on deliberative democracy) underline that the nature of decision-making processes, whether they are participatory and democratic or not, is one of the main indicators of social justice. The fundamental findings argued in these works are also extended to the EJ studies. For example, while Bullard (1999) and other early EJ scholars define the concept of EJ, they concentrate on the issues of the necessity of public participation, equal protection of environmental law, and entitlements, representing the procedural dimensions of the concept. On the other hand, they highlight the importance of the procedural issues since they are key to ensure the ultimate fair distribution of environmental benefits and burdens (see Zimmerman, 1993). Thus, the procedural issues are too broad to be neglected, which led scholars to deem them as a separate dimension of EJ (Schlosberg, 2007). Among them, scholars like Lake (1996), Hunold and Young (1998), Ikeme (2003), Paavola and Adger (2006), and Walker (2012) explicitly elaborate how procedural issues matter in EJ cases both as a means and end in them by emphasising the role of the issues such as legal processes, administrative processes, transparency, access to information, accountability and public participation in attainment of EJ objectives, all of which present the nature of decision-making processes while also revealing the environmental (in)justices bound to (non)existence of them. These issues, thus, will be explored in the expropriation processes within the water management of Turkey and India.

Our argument concludes by prolonging the discussion of procedural dimensions of expropriation issues in Turkey and India, in particular for learning from these processes and addressing how these processes are also relevant to the other dimensions of EJ. We detect the holes of the legal frameworks and their reflections in the real-world contexts in these countries and highlight the necessity to transform the existing practices causing socio-environmental injustices. Through transformation of the legal frameworks and practices in expropriation process, we believe, not only the procedural justice may be attained, but it may also correct the distributional, recognitional and capabilities extensions of the injustices, led by existing expropriation processes.

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