



## Land acquisition acts in India: A critical analysis

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### Abstract

The Land Acquisition Act, 1894 is the primary prominent space act that appeared under the British guideline. This demonstration was tried to be supplanted by the Right to Fair Compensation and Transparency in Land Acquisition of Rehabilitation and Resettlement Act, 2013, which was proclaimed by the United Progressive Alliance government after broad meetings and a few rounds of exchange of first legitimate draft arranged in 2011. The following being the Right to Fair Compensation for Land Acquisition, Rehabilitation and Resettlement Bill, 2015 which is currently in the parliament looking for certain changes to the Land Acquisition of Rehabilitation and Resettlement act, 2013. This paper gives a brief analysis of the three land acquisition acts Land Acquisition Act, 1894, Land Acquisition of Rehabilitation and Resettlement Act, 2013, Land Acquisition, Rehabilitation and Resettlement Bill, 2015.

**Keywords:** land acquisition, rehabilitation and resettlement, critical analysis

### 1. Introduction

The land acquisition act 1894 was first initiated by British with the main aim of building infrastructure like railways roads bridges channels and many ways to transfer their weapons and needs for army two different places of the country. Among all this domain name was to extend their rule over the country and also to control the transfer of activities in the country and also to lead the role all over the country. In the present segment of the paper, we will examine the highlights of all these three famous space/land procurement demonstrations of India <sup>[1]</sup>. All the land which is belong to the rural owners was bind over the act. The position and the ownership and also the control of the buildings and the whole Network after the initiation of land acquisition was all in the hands of government <sup>[2]</sup>.

This land acquisition act 1894 was a good act which served more than a century in India. Accordingly it also had three macro processes and they are

- First identifying the ownership of the affected parties
- A fair chance for the stakeholders to signify their acquisition which is followed by deciding committee.
- Thirdly is affected all compensation is given.
- This conditions of land acquisition act 1894 was taken into consideration and it also says about a particular definition of persons interested it means that the owners of the land farm or non-farm land who are affected are intended to explain the acquisition of land and also they have the chance of deciding the compensation according to the present market value and based on the income arrived according to their experience <sup>[1]</sup>.
- Those recent years the scale acquisition of land who was made for companies under part 7 of 1894 act in which the land is for public purpose. The state government acquired big plants in rural areas which belong to the farmers and land owners basically and the government used it developing reasons. After the usage of land the Land was transferred to the private owners for construction of commercial buildings industries extra and 20 private owners sold these buildings to the public

at very expensive costs. The village land owners and farmers has taken a view of pollution of state government with these private parties and also there have been cases where land owners where guaranteed for employment for their generation but it did not happen because the farmers and landowners have been really cheating in the name of land acquisition act for public purpose without any skill. The main reason for this was the farmers and landowners did not get fair market price for their land due to low rated sale deeds and also due to the solution of State government and the private parties.

### 2. The main drawback and the disadvantage of land acquisition act 1894

- The main negative impact of Land acquisition act 1894 is urgency clause. The wrong use of section 17 <sup>[3]</sup> of the act by the state government was the main issue for the drawback. If a land owner is affected he can file objections under section 5A <sup>[4]</sup> of the act against the activities done and it is a basic right for the land owners and also according to the natural justice- Audi alteram partem. But they were numerous cases where the state government have acquired land buy the wrong use of section 17 (4) <sup>[5]</sup> which is urgency clause. Accordingly the state government made as if they cannot apply and it should take away their basic right of the land owners to file is objections. Hence state government misused power for the wrong use of the provisions of urgency. This was the main drawback and the disadvantage of land acquisition act due to the misuse of urgency clause by the state governments <sup>[2]</sup>.

One of the obstacles in the plan of Section 18 is that the Collector has no capacity to approve delay in moving a reference application, despite the way that the individual intrigued has been kept from moving it in time by virtue of true blue or unavoidable reasons. For a significant long time, there was a difference of legal feeling with regards to

the Collector's capacity to support delay <sup>[6]</sup>. Collector has no right to postpone the period time or do any of it as in case Officer on Special Duty (Land Acquisition) v. Shah Manilal Chandulal.

**3. Land Acquisition, Rehabilitation and Resettlement act, 2013**

The right to fair compensation and transparency in land acquisition rehabilitation and resettlement act 2013 which is derived from land acquisition act 1894 is basically an act of Indian Parliament which leads to land acquisitions and the procedures and controls regarding compensation rehabilitation and resettlement of the affected landowners are farmers all over India. The main aim of this act is to view transparency in the process of acquisition of land which held up in the case of buildings developing projects for those who are affected and it also gives regulations as a part of India's main developing event and it also introduced public private partnership in land acquisitions. Basically the earth land acquisition act 1894 which was in existence for about nearly 120 years of British rule is replaced by land acquisition rehabilitation and resettlement act 2013. This land acquisition rehabilitation and resettlement bill 2000 11 was introduced in Lok Sabha and then it was passed on August 2013 by rajya Sabha. Initially the act came into force on 1st January 2014.

This land acquisition rehabilitation and resettlement act 2013 has brought out many changes in Indian land acquisition law. The most primary thing among that is it is providing an immense increased compensation for the owners who are affected and also recognised as landowners. Specifically to say the compensation was raised to 4 times the local market value of land in all rural areas and urban areas it was released twice than the local market value. The other compulsory thing this act brings out is that all the affected parties will be paid a rehabilitation and resettlement package in which includes compensation and replacement

cost for their projects. If the person is affected then it defines that the person's families and their source of lovely hood will be discussed and it also be included in the benefits according to the act <sup>[2]</sup>.

This rehabilitation and resettlement package for the affected farmers and landowners had variety of beneficiary activities like monthly stipend, job for one family member, transportation controls etc. as various settlements. There was a compulsory rule that the rehabilitation and resettlement package give a cash of 6.5 lakhs for every affected family and the benefits continues as housing land for land for irrigation and their own processes <sup>[2]</sup>.

There is no arrangement for rehabilitation and resettlement of people uprooted because of procurement of land. This creates a great deal of uneasiness among the general population <sup>[2]</sup>.

**4. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013**

This Act embraces a sympathetic, participative, educated and straightforward procedure for land obtaining for industrialization, improvement of fundamental infrastructural offices and urbanization with minimal aggravation to the proprietors of the land and other influenced families. It makes arrangement for an equitable and reasonable remuneration, recovery and resettlement for the influenced people. It further guarantees that the total result of obligatory procurement ought to be that the influenced people moved toward becoming accomplices being developed prompting an improvement in their post-securing social and monetary status and for issues associated thereto or accidental thereto. In a January 2015 Supreme Court judgment, the Court said that the substantive privileges of a person are controlled by the law in power on the date of the suit and not by the law in power on the date when the judgment is conveyed <sup>[7]</sup>.

<b>Laws on land acquisition</b>			
Dilutions in the 2013 Act have made it as regressive as the colonial-era law			
Provisions	Land Acquisition Act, 1894	RFCTLARR Act, 2013	Ordinance
Social impact assessment (SIA)	No provision	Mandatory for every project, except in emergency	Five categories* of projects exempted
Consent	No provision	Consent of 70% and 80% landowners for PPP and private projects respectively	Five categories* of projects exempted
Compensation and Resettlement & Rehabilitation (R&R)	Collector's discretion. No R&R	Compensation: Four times market value in rural areas, twice in urban areas.	No modification
Compensation and R&R provisions of 13 other laws which govern land acquisition	No provision	13 land acquisition Acts exempted; to be brought in consonance with RFCTLARR Act in a year	Compensation and R&R provisions of 13 Acts in consonance with the Act
Special provision to safeguard food security	No provision	State cannot acquire irrigated multi-cropped land beyond a limit	Five categories* of projects exempted
Urgency clause	Government can take any land needed for public purpose	Government can take land only for national security, natural calamities, or any other emergency with Parliament's approval	No modification

\* The five exempted projects: (i) defence, (ii) rural infrastructure, (iii) affordable housing, (iv) industrial corridors set up by the government/government undertakings, up to one km on either side of the road/railway of the corridor, and (v) infrastructure including public-private partnership projects where the government owns the land

Fig 1: <https://www.downtoearth.org.in/news/agriculture/-state-govts-acquire-land-by-subverting-rights-and-bending-the-law--62463>

**5. Drawbacks of 2013 ACT**

The 2013 Act accommodates Rehabilitation and Resettlement, an honorable advance without precedent for India's authoritative history, that a law ashore procurement

has been tied up with the need to do recovery and resettlement. In any case, if there should be an occurrence of land which is briefly procured, there is no such approach of restoration and resettlement.

The State governments have questioned the Chapter III of the 2013 Act managing obtaining of agrarian land that since 'exchange and distance of rural land' goes under the domain of the State List, Entry 18, it is just the State Legislatures who reserve a privilege to enact on this issue.

The 2013 Act exempts the use of the arrangements of the Act to specific institutions managing land procurement like the Railways Act, 1989, The Electricity Act, 2003, The National Highways Act, 1956 (all the 13 establishments indicated under the Fourth Schedule).

## 6. The Land Acquisition, Rehabilitation and Resettlement Bill, 2015

The Land Acquisition, Rehabilitation and Resettlement Bill, 2015 is still under the way toward turning into a law and it tries to make a few alterations to the prior demonstration of 2013. It has been passed by the Lok Sabha however yet dialog of its contentions is going in Rajya Sabha to get passed. It has same lines as that of 2013 Act yet with some real changes. The alterations are as underneath<sup>1</sup>. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 exempted 13 laws, (for example, the National Highways Act, 1956 and the Railways Act, 1989) from its domain. In any case, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2015 necessitated that the pay, restoration, and resettlement arrangements of these 13 laws be gotten consonance with the Land Acquisition, Rehabilitation and Resettlement Bill, 2015, inside a time of its order, through a warning. The Ordinance additionally brings the pay, restoration, and resettlement arrangements of these 13 laws in consonance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 barred the obtaining of land for private medical clinics and private instructive establishments from its domain. The new Ordinance expels this limitation. While the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was appropriate for the obtaining of land for privately owned businesses, the new Ordinance changes this to securing for 'private substances'. A private element is characterized any element other than government element, and could incorporate an ownership, association, organization, partnership, non-benefit association, or other element under some other law. It in this manner extended the extent of 'reason' from carefully 'open organization' to indulgent 'open like private body'. The impulse of the present government to roll out such improvement lies in its drive to impel financial development through extensive scale modern and urban advancement. Nonetheless, taking such legitimate easy routes may just damage the populace and may wind up hindering in the long term<sup>[1]</sup>.

## 7. Conclusion

The essential decision about the Land Acquisition Acts in India and its change is that the Government was on expectation to absorb information by including partners, expanding pay and making R&R required. Yet, this learning is getting decreased with difficult getaway courses looked for in new bill of 2015. The change from 1894 to 2013 to

2015 is ending up improving the achievement of extensive improvement ventures. It is as of now comprehended that land obtaining turns into an obstruction in the event that it isn't taken care of cautiously and legitimately in this manner influencing venture achievement (Nallathiga 2009). Despite the fact that changes to prominent space act are required according to the need of great importance, they have to strike a harmony among 'gainers' and 'failures'; likewise, what is progressively critical is that the execution of the Acts at ground level from the soul with which they have been readied. An ever increasing number of corrections will make the bill to arrive no place because of political restrictions and this political clash may likewise influence the undertaking achievement.

## References

1. Prof R. Nallathiga Prof A. Abhyankar A, Gurnani A, Goyal M Umredkar, Comparative analysis of land acquisition acts in India: A CASE-BASED APPROACH, 3 IJLMS, 2018.
2. Prof. Kahkashan Y. Danyal, Land Acquisition in India-Past and Present, JIJ. 2016; 2:1-10.
3. Section 17 reads Special powers in cases of urgency. Clause (1) In cases of urgency, whenever the [appropriate Government] so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), [take possession of any land needed for a public purpose]. Such land shall thereupon [vest absolutely in the [Government]], free from all encumbrances.
4. Section 5A reads Hearing of objections. Clause (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, [within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.
5. Section 17(4) reads- In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the provisions of section 5A shall not apply where the appropriate Government so directs to where possession of the land has been taken with the consent of the person interested
6. Dharam Dass v. State of HP. LACC, 1989, 449.
7. Karnail Kaur and Ors Vs State of Punjab and Ors, Civil Appeal no. 7424 of, 2013.