



Relevancy Of The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation & Resettlement Act, 2013 In India

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Abstract: In ancient times, land was controlled as it was held to support the people's lives and their livelihood. Social groups started forming, acquiring land for living their life and defending the territory they had occupied occasionally. The groups had also, as lenders, allotted land to the individual for the utilization of the lands. This is the beginning of showing the rights over the land. With the progress of time, the concept of rights over the land, the land allotment and acquisition system has also flourished. Thus, it seems that land acquisition is not an area which can be restricted in terms of boundaries and need¹. As land is required for development, likewise, it is needed for agriculture, and the poor farmers have the rights to cultivate, hold and acquire the land along with the growth of industrialization, urbanization, modernization, food, gains, and vegetable production are also important for survival². In this context, whenever it appears that land needs to be acquired for the construction of infrastructures suitable for fastening the growth of urbanization or for other required purposes, it is also necessary to check and balance the situation so that the interests of the landowners are adequately protected. Furthermore, it is also essential to ascertain whether all the needy people are getting fair compensation. In this context, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 may be considered. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013, applies to India. This instant paper has been written to evaluate the relevancy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013, along with specific suggestions.

Key words: Land acquisition, Rehabilitation, Resettlement, Fair Compensation

- I. **Introduction:** In ancient times, land was controlled as it was held to support the people's lives and their livelihood³. It appears that social groups started forming, and they acquired land for living their life, and they also defended the territory they had occupied from time to time. The groups had also, as lenders, allotted land to the individual to utilize the lands⁴. This is the beginning of showing the rights over the land. With the progress of time, land has been acquired, allotted, and utilized for the purpose of constructing housing, establishing markets, cultivating crops, cultivating vegetables and grains, providing shelter for the people, etc. From history, it further appears that those who had the machinery to clear the jungles were allotted that land. History further narrates that even a time arrived when invaders, intruders and rulers had invaded many lands and occupied the lands and the inhabitants, familiar people residing there were

¹ Basak, R.G., 'Land sale Documents of Bengal', SirAsutosh Mookherjee Silver Jubilee Vol. ill, pt. 2, Calcutta, 1925, pp. 475.

² Baca, M. F. D., Lerma, L. M., Ángel, N. T., & Burkart, S. (2024). The relationships between land tenure, cattle production, and climate change—A systematic literature review. *Land Use Policy*, 141, 107169.

³ Domínguez, L., & Luoma, C. (2020). Decolonising conservation policy: How colonial land and conservation ideologies persist and perpetuate indigenous injustices at the expense of the environment. *Land*, 9(3), 65.

⁴ Kapoor, A., Esposito, M., & Anand, M. Land Record Management in India Amit Kapoor², Mark Esposito³ and Mukul Anand⁴.

either displaced or were forced to pay a certain amount of money or a certain portion or share of crops, grains, etc. as revenue or tax to save their land and resources. Thus, a time arrived when rulers became the owners of the land; thereafter, history also narrates that the concept of Zamindars had also evolved. Later on, with the introduction of the Land Acquisition Act of 1894, the concept of land acquisition changed simultaneously, and a law was introduced for acquiring lands for public purposes. The concept of land acquisition is, thus, not a modern one, but it has been existing since time immemorial. Land acquisition is not an area which can be demarcated in terms of boundaries and need⁵ As land is required for development, likewise, it is needed for agriculture, and the poor farmers have the rights. But many times, people with low incomes and the needy do not get their rights fully. The word 'land acquisition'⁶ refers to a process by which the Government (state or union) can acquire private land for the purpose of infrastructure development, urbanization or industrialization. Whether or not the needy people are getting fair compensation is an important aspect to look into.

In the era of globalization, the term 'land acquisition' as per the Indian law is used to express the power of the Central Government or a State Government to acquire not only private land but also land for public purposes including infrastructural development purpose, industrialization, and urbanization and also to compensate the affected landowners for their rehabilitation and resettlement.

- II. Historical Background:** The historical background pertaining to the concept of land acquisition can be traced by traversing through time immemorial. For this paper, we are tracing the historical background of the Bengal Regulation I of 1824. It appears that the East India Company enacted the Bengal Regulation Act of 1824⁷ to acquire lands at a “fair price” for the construction of “roads, canals or other public purposes,”⁸ and the lands were also to be acquired to meet the requirements for salt manufacture. Thereafter, with the introduction of railways in the Indian Peninsula, land was further acquired for the developmental infrastructure of railways in India (erstwhile territories of British India). Thus, the Land Acquisition Act 1857⁹ for Railways and other public purposes was introduced¹⁰. However, since the Act of 1857 did not introduce any provision for land acquisition by private entities or companies to provide public utility services, the Act faced a drawback. Therefore, the instant Act was amended by Act II of 1861 and Act XXII of 1863¹¹, wherein acquisition by private entities or individuals and companies were introduced for carrying out works of public utility, such as construction and infrastructural development of bridges, roads, railroads, transport, canals etc. As the said amendments were introduced for the ease of land acquisition by and for the private companies, many problems started erupting about the procedure of the Act, and the methods used for the determination of compensation also seemed far short of expectations. Thus, with the progress of time and to combat the situation, the Land Acquisition Act 1870 (Act X of 1870)¹² was introduced to abolish the existing system. However, later on, it appeared that for determination and settlement of the issues regarding compensation, the involvement of the judiciary had made the procedure time-consuming and very expensive; thus, in the year 1894, the new Land Acquisition Act was introduced by the Britishers to replace the old Land Acquisition Act 1870. The Land Acquisition Act of 1894 was enacted to amend the law for land acquisition for public purposes and also for companies. The said Act also tried to determine the amount of compensation to be made for meeting the purposes of land acquisition. The said Act was also

⁵ Basak, R.G., 'Land sale Documents of Bengal', SirAsutosh Mookherjee Silver Jubilee Vol. ill, pt. 2, Calcutta, 1925, pp. 496.

⁶ Sarkar, C., & Karmakar, P. (2024). Land Market and Land Acquisition for Industrial Development in West Bengal: Some Issues of Informal Sectors. *FORMAL AND INFORMAL SECTOR: CAUSES, CONSEQUENCES AND GOVERNMENT MEASURES IN SOCIO-ECONOMIC DEVELOPMENT*, 118.

⁷ Singh, J., & VERMA, D. (2023). British Establish Control over India:(1806-1856)–An Analytical Study.

⁸ Yr, S. R. (2023). Study on Legal Framework Regulating Surrogacy in India. *Issue 2 Indian JL & Legal Rsch.*, 5, 1.

⁹ Tassadiq, F. (2024). Colonial laws, postcolonial infrastructures: Land acquisition, urban informality, and politics of infrastructural development in Pakistan. *Environment and Planning D: Society and Space*, 02637758241240363.

¹⁰ Anstey, V. (2023). The economic development of India. In *Women's Economic Writing in the Nineteenth Century* (pp. 84-92). Routledge.

¹¹ Unrau, W. E. (2024). *The Rise and Fall of Indian Country, 1825–1855*. University Press of Kansas.

¹² Singh, B., Singh, S., Meena, H., & Singh, B. (2024). Agrarian transformations in British India: A case study of colonial Punjab. *Sikh Formations*, 1-15.

in force even after the Independence of India¹³. With the progress of time, it was apparent that the Act of 1894 needed to be improved. One such shortcoming was the misuse of the power made under the provisions of Section 4 and Section 17 of the Act, 1894, as over time, the concept of land acquisition in terms of Section 4(1) read with Section 17(1) and 17(4) had faced huge litigation cases. Furthermore, the said Act of 1894 was silent on the rehabilitation and resettlement of the poor, needy and other displaced people. Furthermore, many times, due to the desire for awareness, many people remained uncompensated.

III. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013: Land acquisition as per the Constitution of India inter-alia falls under Entry 42 of the Concurrent list¹⁴. However, land is a state subject that falls under Entry 18 of the State list¹⁵. Since India is a "Sovereign, Socialist, Secular Democratic Republic", in this context, it appears that the power to acquire land by the States may be exercised for specific 'public purposes'.¹⁶. For fairly compensating the affected landowners, landless, displaced, poor, needy people and farmers for their rehabilitation and resettlement¹⁷, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013¹⁸ has paved the way for the rehabilitation and resettlement for the people who are affected by the acquisition of their entire land, a part of their land due to the process of land acquisition. From the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, it also appears that there are embedded provisions regarding Social Impact Assessment.¹⁹; provisions regarding prohibition of acquisition of multi-cropped land; and it is also mandatory that the consent of the people, landowners, farmers, and others are duly taken whose lands are being enlisted to be acquired by the competent authority or whose land is being intended to be to obtain for completing the process of land acquisition. Again, as per section 5, the affected people, families and others in terms of natural justice may also be given a chance to hear so that they may put forward their views and opinions.

Furthermore, Section 10 of the Act of 2013 provides special provision to safeguard food security, Section 16 deals basically with the preparation of the Rehabilitation and Resettlement Scheme by the Administrator, Section 17 deals with the review of the Rehabilitation and Resettlement Scheme, Section 18 with the provisions regarding approved Rehabilitation and Resettlement Scheme to be made public, Section 19 with the requirements for publication of declaration and summary of Rehabilitation and Resettlement. Furthermore, Section 24 deals with the provisions wherein law has been provided regarding the land acquisition process under Act No. 1 of 1984 that shall be deemed to have lapsed in some instances²⁰.

In terms of the provisions made under Section 109, the appropriate Government may, by notification, make rules for carrying out the requirements of the said Act.

The Act of 2013 even laid down special provisions for Scheduled Castes and Schedule Tribes regarding the land acquisition practice in terms of the scheduled area.

IV. Conclusion: The costs of urbanization, infrastructural development, industrialization, and the growth of civilizations may not invade people's basic survival requirements for living and livelihoods, and the environment may also not be threatened or impacted by the displacement of people from their places of residence/homes. Thus, social impact assessment is the need of the hour to ensure people's rights to life and livelihoods and to ensure an overall developed society in a welfare state.

¹³ Bhat, R. M. (2022). Historical Review of Indian Constitution. *Traditional Journal of Law and Social Sciences*, 1(02), 100-110.

¹⁴ Claus, L. (2021). The Law of Constitutional Characterization. *Nat'l L. Sch. India Rev.*, 33, 476.

¹⁵ Alok, V. N. (2023, August). Republic of India. In *The Forum of Federations Handbook of Fiscal Federalism* (pp. 213-255). Cham: Springer International Publishing.

¹⁶ In Black's Law Dictionary, the term public purpose has been stated to "promote the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division".

¹⁷ Pandey, T., & Sapre, A. A. (2020). Development Induced Displacement and Challenges of Rehabilitation and Resettlement, with Reference to the Chhattisgarh State. *Issue 2 Int'l JL Mgmt. & Human.*, 3, 13.

¹⁸ Ard, A. W. (2013). Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

¹⁹ 'Social Impact Assessment' is a process that integrates the processes of analyzing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions.

²⁰ Paul, N. (2021). Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and Marginalisation of Oustees in India. *Displacees and Health: Issues and Challenges*.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has been considered an excellent initiative for bringing about specific changes in terms of the land acquisition concept. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may yet be lacking due to its following grey areas:

- i. If more efforts are not made to remove the loopholes regarding bridging the gap and bringing a clear and transparent picture of land acquisition, the Act may sometimes seem not to be properly implemented.
- ii. Because there is no better scope for spreading awareness, many people need to be made aware and may also need to be more competent.
- iii. The Act still lacks with regard to computing the amount of compensation therefore, genuine and urgent measures may be taken in computing the compensation fairly.
- iv. The Act still lacks provisions for providing rehabilitation and resettlement for all the landless, the poor, needy, and displaced people. Therefore, steps may be taken with holistic efforts so that the process of rehabilitation and resettlement is carried out genuinely, and National and State Monitoring Committees for Rehabilitation and Resettlement may be established.
- v. The parameters for proper implementation, which are necessary and needful of the hour, may be addressed.
- vi. After considering every pro and con of the Act, it is pretty much clear that proper Rules, Regulations, and codes are needed to deal with every niche of the concept of land acquisition in modern times.
- vii. The law also needed to be relaxed in amending procedures because there has been a constant daily increase in the country's litigations regarding land acquisition cases. Moreover, in the era of globalization, urbanization and industrialization, it is the instant need of an hour to be regulated by adequate laws, especially in areas where the poor, needy and farmers are very much affected by land acquisition.