



# A STUDY ON REHABILITATION AND RESETTLEMENT POLICY IMPLEMENTATION IN THE CONTEXT OF THE KOCHI METRO RAIL PROJECT

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**Abstract:** Land ownership in India has historical significance, with millions relying on land for livelihood. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) ensures participative and transparent land acquisition, providing better compensation and rehabilitation for affected landowners. Historically, property rights in India were enshrined as fundamental rights under Articles 19(1)(f) and 31 of the Constitution. However, the 44th Amendment in 1978 reclassified these rights as constitutional rights under Article 300A, permitting compulsory acquisition for public purposes. The Supreme Court of India has upheld fair compensation as essential, recognizing property rights as both constitutional and human rights. Key rulings, such as *Kesavananda Bharati v. State of Kerala*, have balanced public necessity with individual rights. This evolution highlights the importance of just compensation and rehabilitation in land acquisition.

**Index Terms** - Land Acquisition, Compensation, Rehabilitation, Property Rights, Transparency.

## CHAPTER I INTRODUCTION

*“The land is the only thing in the world worth working for, worth dying for because it's the only thing that lasts”*

Margaret Mitchell<sup>1</sup>

Land ownership is a poignant issue in India for historical reasons. Millions of people in India rest on the land and its resources for their subsistence. The compulsory acquisition has evolved through time to compensate the affected landowners better, to the extent of paying additional monetary compensation or solatium. According to the most recent improvements to the Indian legislature regarding compulsory land acquisition, the acquiring agency should pay the affected landowner an additional payment of two to four times the actual

<sup>1</sup> Mitchell Margaret, *Gone with the Wind* 38 (Macmillan, New York, 1936).

market worth of the land. This gesture ensures a participative, transparent land acquisition process with just and fair compensation for the Project-Affected Population (PAP). Moreover, the most crucial part is the introduction of the Rehabilitation and Resettlement scheme. That is through the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013), passed to ensure justice in land acquisition.

The government asserts that The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013), which was implemented to minimise displacement, provide adequate rehabilitation packages, and speed up the rehabilitation process implementation, will provide a panacea for all problems associated with land acquisition for public purposes. Construction of large development projects involves the acquisition of land and other immovable properties and necessitates the relocation of its inhabitants. Among other things, displacement affects the socio-economic and cultural life of those getting relocated. The displaced family thus sacrifices its sentiments and identity for the sake of other community members. Therefore, developing policies and implementing programmes to ensure smooth resettlement and rehabilitation with the least suffering and inconvenience following displacement is crucial.

## 1. BACKGROUND

The concept of property has its origins in the development of society and dates back to the beginnings of humanity. The concept of property rights for the land comes to light with Manu's Occupation Theory.<sup>2</sup> According to Arthashastra, the king was the sole proprietor of the land. In other scriptures, the land's tiller was essentially regarded as the property's true owner.<sup>3</sup> The right to private property ownership and possession has received significant attention from some eminent personalities, while others have viewed it as a social ill. Jurist Black Stone considered that the "government existed only for giving protection to private property". Similarly, James Madison said that the "personal right to acquire and enjoy the property is a social right which must be protected by the society". On the other hand, Proudhon regarded that "exclusive property as theft". Edmund Burke believed that private property perpetuated the society itself. Thus, opinions on the rights relating to private property have fluctuated over time between different countries and between individuals. However, all existing ideas of private property in our country fall between these two extreme viewpoints. Locke went a step further when he remarked that "the man united into common wealth and put themselves under government for the preservation of their property". He emphatically believes that the state comes into existence to safeguard the life, liberty, and property of the people. This Lockean philosophy seems

<sup>2</sup> Upindar Singh, *A history of ancient and early medieval India, from Stone Age to 12th century* 414 (Pearson Education India, New Delhi, 2008).

<sup>3</sup> Puja Mondal, *System of Land Tenure in Pre-Independent India*, Your Article Library, available at: <http://www.yourarticlelibrary.com/india-2/system-of-land-tenure-in-pre-independent-india/4821/> (last visited on August 6, 2022).

to hold up just as well in India. In India, the state's primary goal was to protect the subject's life, liberty, and property.<sup>4</sup>

## 1. 1. Right to Property under the Constitution of India

The demand for a guarantee of the fundamental property right can be traced back to the time of the Magna Carta, 1215.<sup>5</sup> After the Crown Proceedings Act of 1947 took effect in England, the Crown's entire immunity was abolished. Provisions of the Defence Act of 1842 established restrictions on the forced purchase of land and specified that those whose land was taken over would automatically be compensated.<sup>6</sup> The roots of Indians' demand for civil rights can be found far back in the nineteenth century because the Bengal Regulation I of 1824 permitted the state to compel the acquisition of private property. The demand for certain fundamental rights appeared for the first time in the Constitution of India Bill 1895. A series of resolutions adopted between 1917 and 1919 by the Indian National Congress repeated the demands for civil rights (including property rights).<sup>7</sup> The next major development was the inclusion of the seven fundamental rights<sup>8</sup> provisions in Mrs. Besant's "Commonwealth of India Bill" of 1925.<sup>9</sup> In 1928, a committee for the "Swaraj Constitution" for India<sup>10</sup> based on a "declaration of right" was set up as per directions of the Madras Congress resolution of 1927 under the chairmanship of Motilal Nehru. The report purported to secure the fundamental rights, including the property right, that had been denied.<sup>11</sup> The preamble to the Independence Day pledge that had been taken on 26th January 1930 affirmed the inalienable right of the Indian people, as of any other people, "to have freedoms and to enjoy the fruits of their toil and have the necessities of life, so that they may have full opportunity of growth".<sup>12</sup>

Thereafter, the Joint Parliamentary Committee<sup>13</sup> on constitutional reforms for India (1933-34) felt a need for some general provision to be inserted in the Constitution Act safeguarding private property against expropriation.<sup>14</sup> After independence, there were considerable discussions at constituent assemblies on property rights, and many eminent persons opposed the property right being included as a fundamental right and the compensation payable for the acquisition of property at the market rate. It was thought necessary that property rights should be considered sacrosanct, and hence they were included as Fundamental Rights and

<sup>4</sup> G. P. WILSON, "JURISPRUDENCE AND THE DISCUSSION OF OWNERSHIP" 10 *THE CAMBRIDGE LAW JOURNAL* 152 (1957) available at: <https://www.jstor.org/stable/4504463> (last visited on August 6, 2022).

<sup>5</sup> E.C.S. Wade & G. Godfrey Phillips, *Constitutional law* 5-6 (Longmans, Green & Co., London, 5th edn., 1995).

<sup>6</sup> *Id.* at 144.

<sup>7</sup> Granville Austin, *The Indian Constitutional Corner Stone of a Nation* 53 (Clarendon Press Publication, Oxford, 1966).

<sup>8</sup> The Commonwealth of India Bill 1925, India, available at: [https://www.constitutionofindia.net/historical\\_constitutions/the\\_commonwealth\\_of\\_india\\_bill\\_national\\_convention\\_india\\_1925\\_1st%20January%201925](https://www.constitutionofindia.net/historical_constitutions/the_commonwealth_of_india_bill_national_convention_india_1925_1st%20January%201925) (last visited on August 13, 2022).

<sup>9</sup> *Id.*, art. 7(a): No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered, confiscated, save in accordance with law and by duly constituted Courts of Law.

<sup>10</sup> The report is known as the Nehru Report.

<sup>11</sup> *Supra* note 20 at 55.

<sup>12</sup> Jawaharlal Nehru, *An Autobiography* 612 (Allied Publishers Private Ltd., New Delhi, 1962).

<sup>13</sup> Bahadur, Rao, "Report of Joint Committee on Indian Constitutional Reform (Session 1933-34)" (1937).

<sup>14</sup> *Supra* note 20 at 17.

embodied in Articles 19(1)(f)<sup>15</sup> and 31<sup>16</sup>. In this way, property rights had got maximum protection from being eroded, abridged, or abolished. Some members of the Sardar Patel Committee on Fundamental Rights expressed their unhappiness against the inclusion of the right to property as a fundamental right.<sup>17</sup>

The Indian version of eminent domain is incorporated in entry 42 List III, Seventh Schedule of the Constitution.<sup>18</sup> Two articles, namely Article 19(1)(f)<sup>19</sup> & (31), were included in Part III of the Constitution, which provided for the right to property as a fundamental right.<sup>20</sup> Since the commencement of the Constitution, the fundamental right conferred by Article 31 and Article 19(1)(f) has been modified six times<sup>21</sup> by the constitutional amendments. The 44<sup>th</sup> Constitution Amendment Act 1978 brought about significant changes in the Constitution, both Arts. 19(1)(f) and 31 were deleted from Part III by the Constitutional with effect from 30-06-1979. Thereby transforming the status of the Right to property from Fundamental Right to Constitutional Right incorporated in Article 300A; the immediate consequence was that the property right was no longer a fundamental right. Now the compulsory acquisition of land for a public purpose is implied in Article 300A (Persons not to be deprived of property save by authority of law).

The principle embedded in Article 31(2) derived from the doctrine of eminent domain, i.e., the sovereign power of the state to appropriate for public utility the land within the limits of its jurisdiction. The principle underlying appropriation of private property by the State rests upon two famous maxims, i.e., *salus populi est suprema lex* which means that the welfare of the people or the public, is the paramount law, another maxim *necessitas publico major est quam private*, which means, 'public necessity is greater than private. "The law imposed these principles on every subject that he prefers the urgent service of his prince to the country before the safety of his life".<sup>22</sup>

Justice Mr. K. Subba Rao, the then Chief Justice of India, expressed his view in one of his lectures delivered way back in 1969. It was published as an Article in Supreme Court Cases Reporter that a Socialist State needs reforms at regular intervals. He opined that the Indian Constitution had originally placed property rights in the truthful perspective. The Supreme Court of India explains why compensation shall be awarded to the owner in case of acquisition of his property in *State of Maharashtra v. Bhimashankar Sidramappa Chippa*<sup>23</sup> no authority in India could deny the compensation on the ground that the plot or property or land in concern was reserved for the public purpose in the development plan. There is no provision in the Act on condition

<sup>15</sup> The Constitution of India, art. 19(1)(f) every citizen guaranteed right to acquire, hold and dispose of property, subject to reasonable restrictions.

<sup>16</sup> *Id.*, art. 31 property right guaranteed to every person irrespective of citizenship and it provides that right against deprivation of property right unless it acquired by the state for public purpose. Article 31(1) provides that a person cannot be deprived of his property right merely by executive fiat but it can be deprived by legislative enactment. Article 31(2) guaranteed the compensation to the individual when his property acquired for public purpose.

<sup>17</sup> *Supra* note 5 at 361-362.

<sup>18</sup> "Acquisition or Requisition of Property".

<sup>19</sup> To acquire, hold or dispose of property (now deleted).

<sup>20</sup> G.S. Pande, *Constitutional Law of India* 597 (University Book House, Jaipur, 10th edn., 2007).

<sup>21</sup> The first, fourth, seventeenth, twenty fifth, forty second, forty fourth Amendment Act (1951, 1955, 1964, 1971, 1976, 1978 respectively).

<sup>22</sup> V.G.Ramachandra, *Law of Land Acquisition and Compensation* 1-2 (Eastern Book Company, Lucknow, 7th edn., 1960).

<sup>23</sup> AIR 2010 (NOC) 99 Bombay (India).

that property is vested in the municipality free of cost. It would be a breach of the constitutional duty of the State under Article 300-A. The Supreme Court continued to maintain that the term "compensation" meant receiving the full financial value of the land that had been taken from the owner or its market value at the time of the acquisition.<sup>24</sup>

By the 25<sup>th</sup> Amendment of 1971, therefore, the term 'compensation' in Cl. (2) of Art. 31 was substituted by the word amount. But, again, the majority of the Supreme Court reserved an area for judicial intervention, in the Full Bench case of *Kesavananda Bharati v. State of Kerala*,<sup>25</sup> by holding that the sum which was resolved by the Legislature could not be subjective or illusory but should be ascertained by a tenet which is pertinent to the acquisition of property. They held that if a law is held to be violative of fundamental rights if it is incorporated in the IX<sup>th</sup> shall be open to challenge on the ground that it destroys or damages the basic structure of the constitution. Thus, placing any Act in the IX<sup>th</sup> Schedule also by the constitutional amendment would not save the Act if it violates the basic features of the Constitution.

As a result of this, if any law of acquisition was made with the object of giving effect to any of the Directives, the reasonableness of such a law cannot be challenged under Art. 14 or 19, *Minerva Mills*<sup>26</sup> has, however, nullified this extension. In *Waman Rao v. Union of India*<sup>27</sup> constitutional bench noted that India being a typically agricultural society, there is a "strong linkage between the land and the personal status in the social system." The tip of land on which they till and live assumes them equal justice and dignity of their person by providing to them a near decent means of livelihood. In *P.T. Munichikkanna Reddy v. Revamma*<sup>28</sup>, the Supreme Court of India held that the right to property is not just a statutory right but is also a human right. In *Narmada Bachao Andolan v. State of M.P. & Anr*<sup>29</sup> decided on 11 May 2011 in connection with Civil Appeal No. 2082 of 2011, their Lordship of Hon'ble Supreme Court has observed that "This Court has consistently held that Article 300-A is not only a constitutional right but also a human right."<sup>30</sup>

## 1. 2. Significance of Development-Induced Displacement in Rehabilitation and Resettlement Policy

According to the Internal Displacement Monitoring Centre (IDMC), at least 616,140 have been internally displaced in India due to various conflicts as of April 2015.<sup>31</sup> Displacement, or the involuntarily forced relocation of people, has come to be acknowledged as among the most significant negative development project.<sup>32</sup> The Narmada Dam case exemplifies displacement without proper rehabilitation.<sup>33</sup> One of the most

<sup>24</sup> *R.C. Cooper v. Union of India*, AIR 1970 SC 564.

<sup>25</sup> AIR 1973 SC 1461.

<sup>26</sup> *Minerva Mills v. Union of India* AIR 1980 SC 1789.

<sup>27</sup> AIR 1981 SC 271.

<sup>28</sup> (2007) 6 SCC 59.

<sup>29</sup> AIR 2000 SC 3751.

<sup>30</sup> *Lachhman Dass v Jagat Ram* (2007) 10 SCC 448 and *Amarjit Singh v State of Punjab* (2010) 10 SCC 43.

<sup>31</sup> Amaravadhi Raavalee, "Rehabilitation and Resettlement in India" 10 7(1) *International Journal of Multidisciplinary Educational Research* 1 (2021) available at: [http://s3-ap-southeast-1.amazonaws.com/ijmer/pdf/volume10/volume10-issue7\(1\)/1.pdf](http://s3-ap-southeast-1.amazonaws.com/ijmer/pdf/volume10/volume10-issue7(1)/1.pdf) (last visited on August 27, 2022).

<sup>32</sup> *Ibid.*

<sup>33</sup> Nandini Sundar, "The Dam and the Nation: Displacement and Resettlement in the Narmada Valley" 58 1 *The Journal of Asian Studies* 229-230 (1999) available at:

important decisions on development-induced displacement is in *Narmada Bachao Andolan v. State of M.P. & Anr.*,<sup>34</sup> A writ petition was filed before this Court by the Narmada Bachao Andolan (NBA), a non-governmental organisation that has been at the forefront of the protests against the construction of the Sardar Sarovar Dam, raising many issues, including the relief and rehabilitation of internally displaced people. The Supreme Court also spoke on issues of IDPs. The displacement of people living on the proposed project sites and the areas to be submerged is an important issue.

### 1. 3. National Rehabilitation and Resettlement Policy, 2007<sup>35</sup>

The National Rehabilitation and Resettlement Policy, 2007, came into force on 30th October 2007. The policy applies to all affected persons and families whose land, property, or livelihood are adversely affected by land acquisition or by involuntary displacement of a permanent nature due to any other reason.<sup>36</sup> It failed to address the key issues relating to rehabilitation and resettlement and increased conflicts in the forcible acquisition of lands.<sup>37</sup> The Ministry of Rural Development came out with the Draft National Land Acquisition, Resettlement and Rehabilitation Bill 2011, and it has some provisions which were a part of the NRRP 2007. The Bill was placed before the Lok Sabha on September 7, 2011, and received the assent of the President on September 26, 2013. It came into force on January 1, 2014, as the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013). The Act is a milestone in the arena of land acquisition laws. The Act closely follows the recommendations of the working group of the National Advisory Council (NAC 2011). The most noteworthy innovation in the Act is the introduction of resettlement and rehabilitation as right and not as policy and wedded within the acquisition process of the Act itself.<sup>38</sup>

## 2. LITERATURE REVIEW

- ✚ This draft Livelihood Restoration Plan (LRP) sets out measures supplemental to those provided by the government for KMRL to mitigate these impacts. It will be supplemented with the necessary resettlement planning details for Phase 1B as that process progresses.<sup>39</sup>
- ✚ Kochi Metro Rail Limited, A joint venture of the Government of India and Government of Kerala, Rehabilitation & Resettlement (R&R) Policy for Kochi Metro Rail Project, March 2015, AARVEE

[https://www.researchgate.net/publication/248653799\\_The\\_Dam\\_and\\_the\\_Nation\\_Displacement\\_and\\_Resettlement\\_in\\_the\\_Narmada\\_Valley](https://www.researchgate.net/publication/248653799_The_Dam_and_the_Nation_Displacement_and_Resettlement_in_the_Narmada_Valley) (last visited on August 27, 2022).

<sup>34</sup>(2000)10 SCC 664.

<sup>35</sup> *Supra* note 44 at 2.

<sup>36</sup>Ankur Mishra, *Rehabilitation and Resettlement of displaced person due to development*, Lawyers Club India, available at: <http://www.lawyersclubindia.com/articles/rehabilitation-and-resettlement-of-displaced-person-due-to-d-1471.asp> (last visited on September 5, 2022).

<sup>37</sup>*Ibid.*

<sup>38</sup>Balaji Naika B G, "Land Acquisition and Development Induced Displacement: India and International Legal Framework" *ILI Law Review* (2016).

<sup>39</sup> Kochi Metro Expansion Project Phase 1A: (Petta to SN Junction), *Draft Livelihood Restoration Plan* (Kochi Metro Rail Ltd, 54126-001, 2021).

Associates Architects Engineers & Consultants Private Limited in Joint Venture with ABNAKI Infrastructure Applications & Integrated Development Private Limited.

- ✚ Uttam Sahoo and Bipin Jojo, Examining Displacement, Resettlement and Rehabilitation Processes: The Case of Rengali Dam Displaced Communities in Odisha, India, *The International Journal of Community and Social Development*, Vol. 2, Issue 2, 2020.<sup>40</sup>
- ✚ Raghunathan K.R. (2014)<sup>41</sup> studied Land Acquisition Laws: Protection of Individual and Community Interests in the State of Kerala. The major objective of the study was to find the protection of property and conflict of interest between individuals and the community.
- ✚ Article of Prof. Kahkashan Y. Danyal on Land Acquisition in India-Past and Present.<sup>42</sup> This paper attempts to analyse Indian land acquisition law, including the benefits and drawbacks of the 1894 and 2013 Acts.
- ✚ Bushra Beegom R. K, Impoverishment risks and reality: The case of ICTT Project, Kerala. *The Eastern Anthropologist* 67: 1-2 (2104).<sup>43</sup> This study examines the impoverishment of ICTT Vallarpadam evictees in light of Cernea's Risk and Reconstruction framework, as well as the importance of developing a better resettlement and rehabilitation policy in the state.
- ✚ Ann George and Irudaya Rajan. S, Changing Cities and Changing Lives: Development Induced Displacement in Kochi, Kerala.<sup>44</sup> This paper examines the displacement experiences of six recent development projects whose land acquisition occurred after 2000.
- ✚ Based on a critical evaluation of the case law relating to land acquisitions, H.M Seervai, through his *Constitutional Law of India*,<sup>45</sup> initiates a discussion on the right to property in India, along with vehement criticism of the Constitutional amendment in this regard.
- ✚ R. Chakraborty, Orient Publishing Company, 6 Ed 2021.<sup>46</sup> Chakraborty's commentary on "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013".

<sup>40</sup> Uttam Sahoo, Bipin Jojo, "Examining Displacement, Resettlement and Rehabilitation Processes: The Case of Rengali Dam Displaced Communities in Odisha, India" *The International Journal of Community and Social Development* 2 (2020) available at: <https://doi.org/10.1177/2516602620908971> (last visited on September 5, 2022).

<sup>41</sup> Raghunathan K.R, *Land acquisition laws, protection of individual and community interest: A doctrinal study*, Shodhganga, available at: <http://hdl.handle.net/10603/28500> (last visited on September 5, 2022).


<sup>42</sup> Prof. Kahkashan Y. Danyal, "Land Acquisition in India-Past and Present" *Jamia Law Journal* (2016) available at: <http://docs.manupatra.in/newsline/articles/Upload/FF6D173D-E5C5-4954-A73A-9D77708DD9B6.pdf> (last visited on September 5, 2022).

<sup>43</sup> Bushra Beegom R. K, "Impoverishment risks and reality: The case of ICTT Project, Kerala" *The Eastern Anthropologist* 67 (2104) available at: [https://serialsjournals.com/abstract/68626\\_7.pdf](https://serialsjournals.com/abstract/68626_7.pdf) (last visited on September 8, 2022).

<sup>44</sup> Ann George and Irudaya Rajan. S, "Changing Cities and Changing Lives: Development Induced Displacement in Kochi, Kerala" *International journal on urban environments* 1 (2015) available at: <https://cpp.sljol.info/articles/10.4038/cpp.v1i1.5/> (last visited on September 10, 2022).

<sup>45</sup> H. M Seervai, *Constitutional Law of India* (Universal Book Traders, Delhi, 4th edn., 1999).

<sup>46</sup> R. Chakraborty, *Chakraborty's commentary on "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (Orient Publishing Company, New Delhi, 6 edn., 2021).

 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Author's K. Rathanga Pani Reddy, B. Vijaysen Reddy, Alt Publication, Edition; 2013.<sup>47</sup>

### 3. STATEMENT OF RESEARCH PROBLEM

This study analyses the RFCTLARR Act, 2013 and examines whether the Rehabilitation and Resettlement (R&R) policy of Kochi Metro Rail Ltd. (KMRL) is in tune with the welfare scheme for displaced people. While analysing the implementation of the R&R policy, the study also probes into the R&R entitlement given in RFCTLARR Act, 2013. This research aims to analyse the R&R policy package of KMRL, given in Phase 1A and Phase 1B in the Kochi Metropolitan Area, as against land acquisition under the RFCTLARR Act 2013

### 4. SIGNIFICANCE OF THE STUDY

The Indian government is putting a lot of emphasis on the need to improve the quality and reputation of the nation's public transportation system. All Indian cities are currently building their metro rail corridors, which are either in the first or second phases. This study put forward the RFCTLARR Act, 2013, and examines whether the R&R policy of KMRL is in tune with the welfare scheme for displaced people and analyses the R&R policy implementation in KMRP. As such, present work is more fruitful to the legislature and policymakers and is also useful to lawyers, academicians, law students, teachers, and judges.

### 5. SCOPE OF THE STUDY

In this non-doctrinal study, the researcher shall undertake to find out whether proper implementation of R&R policy according to RFCTLARR Act, 2013 was completed in KMRL, Phase 1A & 1B. Thus, to find out the results, the researcher conducts comparative analyses between R&R entitlement as incorporated in the RFCTLARR Act, 2013, and the R&R policy package of KMRL (Phase 1A & Phase 1B).

### 6. OBJECTIVES OF THE STUDY

The objectives of this research are:

1. To examine the Rehabilitation and Resettlement policy carried out by the KMRL under the RFCTLARR Act, 2013.
2. To analyse whether the Rehabilitation and Resettlement are in tune with the provisions prescribed by the RFCTLARR Act, 2013.
3. To find out the suitability of Rehabilitation and Resettlement in allocating land resources.

<sup>47</sup> K. Rathanga Pani Reddy, B. Vijaysen Reddy, *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (Alt Publication, Hyderabad, 2013).



4. To find out the suitability of Rehabilitation and Resettlement in allocating money compensation.
5. To analyse whether the welfare scheme was beneficial to evicted persons.

## 7. RESEARCH QUESTIONS

Based on the literature study, the following research questions are formulated.

1. Now the question arises whether KMRL, on account of land Acquisition, followed the R&R procedures applicable in the RFCTLARR Act, 2013, and did the KMRL efficiently implement the R&R policy as per RFCTLARR Act, 2013.
2. Do the RFCTLARR Act, 2013, provide effective benefits to the beneficiaries, and does it satisfy the need for a comprehensive R&R policy?
3. Whether the unused land (after the completion of the project) or the land acquired is given back to the owners by recovery amount of award with a reasonable amount of interest.
4. Whether R&R benefits (one-time financial aid) provided to the displaced individuals in KMRP (Phases 1A and 1B) are in tune with the welfare scheme.
5. Whether the R&R benefits (one-time financial aid) provided to the displaced individuals in KMRP (Phases 1A & 1B) is consistent with the natural justice principles (Just, fair and reasonable).
6. Did the affected and displaced persons in KMRP (Phase 1A & 1B) receive sufficient (In terms of reality) R&R benefits (one-time financial aid) as per the LARR Act, 2013?
7. Did the displaced persons in KMRP (Phase 1A & 1B) have any complaints regarding the R&R policy implementation?
8. Did the evicted persons belonging to the commercial occupation incur greater loss than evicted persons belonging to the residential occupation?
9. Did the displaced persons in KMRP (Phase 1A & 1B) receive R&R benefits (one-time financial aid) without any delay?
10. Did the displaced persons in KMRP (Phase 1A & 1B) successfully relocate with the one-time financial aid received for the benefits related to R&R?

11. Did the landowners feel satisfied with the R&R policy implementation?

## 8. HYPOTHESIS

For the purpose of research, these are the following hypothesis for the present study:

- ▣ The affected and displaced persons in KMRP (Phase 1A & 1B) were not satisfied with the R&R policy implementation, and they were not provided with sufficient R&R benefits (one-time financial aid) as per the LARR Act, 2013.
- ▣ Kochi Metro Rail Project, on account of land Acquisition, did not follow the R&R procedures applicable in the LARR Act, 2013, to formulate the R&R Entitlement Framework.
- ▣ The Kochi Metro Rail Project did not efficiently implement the LARR Act, 2013, Rehabilitation and Resettlement policy.
- ▣ The evicted persons belonging to the commercial occupation incurred greater losses than the evicted persons belonging to the residential occupation.

## 9. DESCRIPTION OF RESEARCH DESIGN AND PROCEDURE USED

In the present research, the researcher undertakes an empirical study which is conducted in the Kochi Metro city. The geographical area of the study includes Petta, S.N Junction, and Trippunithura, which is located in the Ernakulam district. The sample for the current study is taken from Petta, S.N Junction, and Trippunithura, where an acquisition affected a heterogeneous population (commercial and residential). The researcher has adopted a quantitative descriptive research design for the study.

The data collected is not from relocated households because all the displaced families in the KMRP negotiated with LA authorities and chose a fixed amount rather than availing relocated households for displaced in the resettlement package. The hypotheses are tested with empirical data collected from a *questionnaire survey* on a sample of displaced persons in Phase 1A & 1B, data collected by conducting an unstructured interview with displaced commercial entrepreneurs, and the data collected by interviewing with Rtd. Tehsildar (LA) in Ernakulam District. The sample was collected during March, July, August, September, and October of 2022.

## 10. SOURCES OF DATA

The study is made relying upon primary and secondary sources. The primary data is collected directly from displaced persons, displaced commercial entrepreneurs, Rtd. Tehsildar (LA) in Ernakulam District and the below-listed government offices. To collect original data for the research purpose, various sources of primary data, like the Questionnaire method and Interview method, were conducted. At the same time, secondary data

sources include Legislation, treaties, case laws, rules, policies, Amendment Acts, Parliamentary debates, Constituent Assembly Debates, Books, published articles, etc. Secondary data is also collected from the below-listed government offices:

|  |  |  |   |
|--|--|--|---|
| SPECIAL TAHSILDAR<br>(LA) No. 1, KOCHI METRO<br>RAIL PROJECT, CIVIL<br>STATION, KAKKANAD,<br>PIN: 682030 | SPECIAL TAHSILDAR<br>(LA) No. 2, KOCHI METRO<br>RAIL PROJECT, CIVIL<br>STATION, KAKKANAD,<br>PIN: 682030 | DEPUTY COLLECTOR<br>(LA) KOCHI METRO RAIL<br>PROJECT, CIVIL STATION,<br>KAKKANAD,<br>ERNAKULAM - 682 030 | KOCHI METRO RAIL<br>LIMITED, REVENUE<br>TOWER, ERNAKULAM,<br>PIN - 682 011. |
|--|--|--|---|

## 11. UNIVERSE AND SAMPLING PROCEDURES

The population size is 173 (Phase 1A=71 and Phase 1B=102), and the sample size is 70 (Phase 1A=27 and Phase 1B=43). A sample of 70 displaced persons who received R&R policy benefits (displaced persons who received a fixed amount in place of R&R benefits) from KMRP (Phase 1A & 1B) were selected for the study. The sample was stratified based on the occupational status of the displaced persons. The selected sample for the project purpose includes commercially and residentially displaced persons of the KMRP (Phase 1A & 1B) who received a one-time financial grant following the R&R policy package.

## 12. METHODS AND INSTRUMENTS OF DATA GATHERING

Google Forms were used to conduct a questionnaire survey to collect the data, and the gathered data is represented in Pie charts. An in-depth interview with four retired Tehsildar (LA) in the Ernakulam District was conducted to collect data for a general understanding of the practical hemisphere of Land Acquisition, R&R benefits in Kerala, and an unstructured Interview was also conducted with the commercially displaced persons under KMRP.

## 13. STATISTICAL TREATMENT

The data collected from the questionnaire survey is presented in Pie charts, and a synopsis of the collected data from the Interviews is presented in tabular forms.

## 14. LIMITATIONS OF THE STUDY

*There are some limitations to this study that should be taken note of.*

- This research limits the scope of the discussion associated with the R&R policy implementation in the KMRL to Phase 1A, consisting of extension from Petta to SN Junction and Phase 1B construction of the viaduct and metro station in SN junction to Trippunithura.
- *The sample size was relatively small (70) because the population size is 173 (the total number of people who received one-time monetary aid as R&R policy benefits), which may have affected the results. The*

data collected is not from relocated households because all the displaced families in the KMRP negotiated with LA authorities and chose a fixed amount rather than availing relocated households for displaced persons in the resettlement package.

- *This study gives a starting line for future research on the Rehabilitation and Resettlement Policy Implementation in KMRP. Future studies should aim to replicate these findings with a larger sample size. Additionally, longitudinal studies would be helpful to establish the overall efficiency of KMRP in implementing R&R policy. Finally, quantitative research could be used to explore the experiences of displaced persons who are struggling with the displacement process.*
- Limited consultations (on account of COVID conditions) were held with the displaced commercial entrepreneurs concerning any complaints there may have had in the entire procedure, and the meetings held with Rtd. Tehsildar (LA) in Ernakulam District to comprehend the procedure.

## 15. SCHEME OF THE STUDY

The entire study is planned into four chapters:

### I. CHAPTER: INTRODUCTION

In the Introductory Chapter, the background of the study traces the evolution of property rights has been traced out separately for different periods: Ancient, Medieval, British, and Post Constitutional. Chapter I outlines the thematic sketch of the study summarising the Literature Review, the research problem, the significance of the study, the objectives of the study, research questions, hypotheses, research methodology and sources of data, scope, and limitations of the study and scheme of study.

### II. CHAPTER: CONCEPTUAL FRAMEWORK

The Second Chapter is divided into two parts. The first Part deals with the theoretical description of the Land Acquisition Act 2013, and the second part of the chapter contains a concise description of the Rehabilitation and Resettlement Policy of the Kochi Metro Rail Project.

### III. CHAPTER: ANALYSIS AND INTERPRETATION

The Third Chapter presents the Analysis and Interpretation of the data, which has four parts:

- i. A questionnaire Survey was conducted to identify the level of satisfaction in displaced persons belonging to commercial and residential occupational status. [KMRP, Phase 1A and 1B].
- ii. Analysis using statistical tools (table, pie charts) to assess the satisfaction of displaced persons in R and R policy implementation.
- iii. The testing of hypotheses.
- iv. Synopsis of the Interview conducted for the research purpose.

#### IV. CHAPTER: FINDING, CONCLUSION, AND SUGGESTIONS

The fifth Chapter presents the major findings of the study and subsequent suggestions based on the findings. The last part is the conclusion of the study.

### CHAPTER II CONCEPTUAL FRAMEWORK

*"Our land is more valuable than your money. It will last forever. It will not even perish by the flames of fire.*

*As long as the sun shines and the waters flow, this land will be here to give life to men and animals.*

*Compulsory acquisition of land not only leads to loss of economic assets and livelihood but also disrupts communities, cultural identities, local markets for goods and labour, consequently placing the oustees in a spiral of impoverishment."<sup>48</sup>*

The power of the sovereign to take private property for public use (America Eminent Domain - an expression believed to have been first used by Grotius) and the consequent rights of the owner to compensation are well-established.<sup>49</sup> The land assembling for various public purposes in India following the British law, i.e., The 'Land Acquisition Act, 1894', the government or its agency is empowered to acquire land for any public purpose by paying compensation to the land owners. Several amendments were made to the Land Acquisition Act, 1894 even before and after independence, including the Land Acquisition Amendment Act in 1919<sup>50</sup>, 1921<sup>51</sup>, 1923<sup>52</sup>, 1933<sup>53</sup>, 1962<sup>54</sup>, Land Acquisition Amendment and Validation Act 1967,<sup>55</sup> and Land Acquisition Amendment 1984<sup>56</sup>, but the procedure of land acquisition remains the same. Amendment of Section 6 of the Land Acquisition Act, 1894 in Sixteenth Law Commission under the Chairmanship of Mr. Justice B. P. Jeevan Reddy (2000-2001) and Mr. Justice M. Jagannadha Rao (2002-2003).<sup>57</sup> The land Acquisition Act of 1894's primary flaw was that victims had no legal right to stop the acquisition. The government felt a need for a consolidated law that legitimately achieves both goals of land acquisition for public use and just and equitable rehabilitation and resettlement.

On September 7, 2011, the Lok Sabha introduced the Land Acquisition, Rehabilitation, and Resettlement Bill 2011. The Bill was finally passed by the Indian Parliament on September 5, 2013, with further amendments, under the name of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013'<sup>58</sup>. The Act received the assent of the President on September 26, 2013. As a result of the notification issued on December 19, 2013, the Act came into force on January 1, 2014.<sup>59</sup>

<sup>48</sup> Isapo Muxika or Blackfoot, 19th Century Chief of Siksika First Nation Tribe in Current Day, Canada. Cited from Sharon O'Brien, *American Indian Tribal Governments*, 70 (University of Oklahoma Press, Norman and London, 1993).

<sup>49</sup> Law Commission of India, "10th Report on the Law of Acquisition and Requisition of Land" (Ministry of Law and Justice, 1958), available at: [https://lawcommissionofindia.nic.in/main.htm#Tenth\\_Law\\_Commission](https://lawcommissionofindia.nic.in/main.htm#Tenth_Law_Commission) (last visited on August 6, 2022).

<sup>50</sup> The Land Acquisition Amendment Act 1919.

<sup>51</sup> The Land Acquisition Amendment Act 1921.

<sup>52</sup> The Land Acquisition Amendment Act 1923.

<sup>53</sup> The Land Acquisition Amendment Act 1933.

<sup>54</sup> The Land Acquisition Amendment Act 1962.

<sup>55</sup> The Land Acquisition Amendment and Validation Act 1967.

<sup>56</sup> The Land Acquisition Amendment 1984.

<sup>57</sup> *Supra* note 62.

<sup>58</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 (Act 30 of 2013), available at: <http://indiacode.nic.in/acts-in-pdf/302013.pdf> (last visited on September 5, 2022).

<sup>59</sup> *Ibid.*

This Act ensures consultation with institutions of local self-government and Gram Sabha established under the Constitution and adopts an informed, participative, humane, and transparent process for land acquisition for the development of necessary infrastructural facilities and industrialisation, urbanization with the least amount of disturbance to the land owners and other affected families.<sup>60</sup> Additionally, it makes sure that the overall result of compulsory acquisition is that the individuals affected become development partners, improving their post-acquisition social and economic status, as well as for matters connected with or incidental to that outcome.<sup>61</sup>

This Chapter is divided into two parts. The first Part deals with the theoretical description of the Land Acquisition Act 2013, and the second part of the chapter contains a concise description of the Rehabilitation and Resettlement Policy of the Kochi Metro Rail Project.

## I. SALIENT FEATURES OF RFCTLARR ACT 2013

- ❖ **Public Purpose:** The Act defined 'public purpose' as:
  - The provision of land for strategic purposes relating to the naval, military, air force, and armed forces of the Union or any work vital to national security or defence of India or State Policy.
  - For infrastructural projects like infrastructural projects under the Department of Economic Affairs, projects involving agricultural infrastructure, industrial corridors or mining activities, water harvesting and water conservation projects, government-aided educational and research institutions, projects for sports, healthcare, and tourism, etc.
  - The provision of land for PAFs;
  - The provision of land for the project to house different income groups
  - The provision of land for planned development
  - The provision of land for residential purposes to the poor or landless persons residing in areas affected by natural calamities or displaced or affected by the implementation of any government scheme.
  
- ❖ **Consent:** For land proposed to be acquired in any area for public purpose as part of a public-private partnership project (PPP project), the prior consent of 70% of the affected land owners had to be sought, and in the case of the private company, prior consent of 80% of the affected land owners had been sought. This includes consent to compensation which is meant to ensure that no forcible acquisition takes place.
  
- ❖ **Social Impact Assessment:** The Social Impact Assessment would assess the social and environmental impacts of the project, the nature and cost of addressing them, their impact on the project's overall costs and benefits, and also the R&R plan. Except for irrigation projects, all others would undergo a compulsory

<sup>60</sup> *Supra* note 55 at 1.

<sup>61</sup> G. Raghuram, Simi Sunny, *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Ordinance 2014: A Process Perspective* (2015) (Unpublished Research and Publication Department dissertation, Indian Institute of Management Ahmedabad), available at: <https://web.iima.ac.in/assets/snippets/workingpaperpdf/6929765432015-07-03.pdf> (last visited on September 5, 2022).

social impact assessment study. By Section 4<sup>62</sup> of the Act, before the issue of notification for acquisition, Social Impact Assessment (SIA) study has to be conducted. The initial process of land acquisition can be summarized as-

- ✓ Preliminary investigation determining the social impact and public purpose of the acquisition;
- ✓ Appraisal of SIA by an expert group;
- ✓ Examination of the appraisal by a committee constituted by the appropriate government.

The SIA report would be evaluated by an independent multi-disciplinary Expert Group consisting of a Chairman, who is a nominated member of the appropriate government, two non-official social scientists, two representatives of Panchayati Raj Institutions, two experts on rehabilitation, and a technical expert on the subject relating to the project.<sup>63</sup> This SIA report, along with the proposal for land acquisition submitted, shall be examined by the appropriate government.<sup>64</sup> The independent committee would undertake a comprehensive assessment of options, involving an examination of the benefits of each of the project options vis à vis the social and environmental costs and minimising displacement.

- ❖ **Self-Governance Institutions and Gram Sabha:** The Act recognized the role of self-governance institutions and Gram Sabha and provided for consultation with them at the time of preparing the SIA and at the time of issuing the preliminary notification for acquisition.
- ❖ **Compensation:** The Act provided compensation of four times the market price in rural areas and twice the market price in urban areas. This included a solatium of 100 percent of the compensation. Apart from this value of assets attached to the land would also be part of the compensation package.
- ❖ **Return of unutilized land:** In case land remains unutilized after acquisition for five years; the Act empowered states to return the land either to the owner or to the State Land Bank.
- ❖ **Share in appreciated land value:** When the land was sold to a third party for a higher price, 20% of the appreciated land value would be shared with the original land owners.
- ❖ **Rehabilitation and Resettlement:** The key features of the Rehabilitation and Resettlement package were:
  - ▶ PAFs were entitled to mandatory R&R packages in case of every acquisition and case of private purchase of over 100 acres in rural areas and 50 acres in urban areas.
  - ▶ The R&R scheme would be discussed in the Gram Sabha for rural areas and equivalent bodies in the case of urban areas.
  - ▶ Land for a house as per the Indira Awas Yojana in rural areas or a constructed house of at least 50 square meters plinth area in urban areas

<sup>62</sup> *Supra* note 71, s. 4.

<sup>63</sup> *Id.*, s. 7.

<sup>64</sup> *Supra* note 71, s. 8.

- ▶ Where jobs are created through the project, PAFs would be given the option of annuity or employment.
  - ▶ To support relocation, each PAF will get a subsistence allowance and a transport allowance, which will be higher for the SC/STs.
  - ▶ One-time resettlement allowance of Rs 50000 for each affected family
  - ▶ One-time grant to artisans, small traders, and the self-employed person or an affected family which owned a non-agricultural or commercial, industrial, or institution structure in the affected area.
  - ▶ Fishing rights in the reservoirs for the affected family
  - ▶ Along with employment opportunities, all affected families receive training and skill development.
  - ▶ Each resettlement area will be provided with several facilities, including roads within the area and an all-weather road link to the nearest pucca road, transport services, proper drainage, and sanitation facilities, assured sources of safe drinking water, electric connections, and public lighting, schools as per the provisions of the right to education Act, primary health center, basic irrigation facilities, and various other facilities.
  - ▶ Institutional mechanisms for R&R in the form of institutions of Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement, Rehabilitation and Resettlement Committee at the project level, the Land Acquisition, Rehabilitation & Resettlement Authority at the State level, and National Monitoring Committee at the Central level.
- ❖ **Interests of scheduled caste and scheduled tribes protected:** The Act had taken special care to protect the concerns of SCs/STs. In addition to the R&R package, SC/ST families would be entitled to the following additional benefits:
- ▶ Acquisition of land in Scheduled Areas would be made as a demonstrable last resort
  - ▶ The prior consent of the concerned Gram Sabha or the Panchayats or the autonomous District Councils at the appropriate level in Scheduled Areas under the Fifth Schedule to the Constitution, as the case may be, would be obtained in all cases of land acquisition in Scheduled Areas.
  - ▶ A Development Plan was to be prepared, laying down the details of the procedure for settling land rights
  - ▶ One-third of the compensation would be paid as part of the first installment of Resettlement in the same scheduled area
  - ▶ Free of cost land for community and social gatherings
  - ▶ Alienation of tribal lands to be void
  - ▶ Additional benefits if resettled outside scheduled areas
  - ▶ Higher land-for-land area for SCs/STs
  - ▶ An additional amount of 50,000 rupees for SC/ST displaced from Scheduled Areas
- ❖ **Provision for Food Security:** Chapter II of the Act specifically deals with ‘special provision to safeguard food security.’



❖ **Timeline:** The Act provided strict timelines within which the land acquisition, as well as the R&R process, had to be completed. This included a provision of six months for the SIA process and an overall limit of 35 months for the land acquisition process. Full payment of compensation would be made within three months. The components of the Rehabilitation and Resettlement Package in the Second and Third Schedules that relate to infrastructural entitlements would be provided within 18 months from the date of the award. It had also been provided that in the case of irrigation or hydro-power projects, R&R would be completed six months before submergence.

The most relevant innovation in the Act is the introduction of R&R as a right and not as a policy. The first step in the process of rehabilitation and resettlement begins with the appointment of an administrator who is primarily in charge of the formulation and execution of the rehabilitation and resettlement scheme subject to the supervision of two authorities: the Commissioner of rehabilitation and resettlement and the Project-level Committee on rehabilitation and resettlement with full powers like a Civil Court to overseas disputes. The responsibility of the administrator begins with the publication of a preliminary notification (under section 11 of the Act) by the collector. At this point, the administrator must survey<sup>65</sup> the extent of land that will be lost, connected livelihoods, as well as the government buildings, public utilities, and the infrastructure that will be affected. After this survey, the administrator must draw up a draft rehabilitation and resettlement scheme, which specifies the entitlements of each affected family, the government buildings, and the public infrastructure to be provided in the resettlement area. This draft is then put for a public hearing<sup>66</sup> in the Gram Sabha or Municipality. The administrator then sends the draft scheme to the collector<sup>67</sup> along with a record of the claims and objections raised in the public hearing. The collector then shares the draft for comments and approval with two bodies created under the Act; the first is the Resettlement and Rehabilitation Committee, and the second is the Commissioner for Resettlement and Rehabilitation.

The Government must constitute the Resettlement and Rehabilitation Committee under the chairmanship of the collector when the land to be acquired is more than 100 acres in a rural area and more than 50 acres in an urban area. The Committee is intended to serve as a forum for the participation of the affected people. It consists inter alia of one representative each of the women, Scheduled Castes and Scheduled Tribes, a voluntary organization, a member of parliament, a member of the legislative assembly, and the requiring body. After the Committee considers the draft scheme, it is referred to the Commissioner for resettlement and rehabilitation. This Commissioner is appointed under section 44 of the Act, and it supervises the draft of the scheme and is responsible for a post-implementation social audit. The approved R&R scheme must be made public as per Section 18. Section 19 deals declaration that the land is required for a public purpose and making the proviso mandatory for the concerned body to deposit the amount expeditiously, enabling the appropriate government to publish the declaration within 12 months of the declaration of preliminary notification.

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<sup>65</sup>*Supra* note 71, s. 16 (1).

<sup>66</sup>*Id.*, s. 16 (5).

<sup>67</sup>*Id.*, s. 16 (6).

The 2013 Act was amended in 2015<sup>68</sup>, and the safety regulations for five special categories—the defence industry, infrastructure development in rural areas, affordable housing programmes, industrial strips, and infrastructure projects—including Public Private Partnership (PPP) projects, where the government owns the land—were relaxed. The amendment allowed for exploitation after the Act had been in effect for a year because all significant land acquisition projects fell into one of these five categories. Five different project types are exempt from the social impact assessment and consent criteria, which is a significant change. Reduce the acquisition timeframe and soften the position on government official accountability.

## II. REHABILITATION AND RESETTLEMENT POLICY IN KMRP

This part contains a concise description of the Rehabilitation and Resettlement Policy of the Kochi Metro Rail Project. The main objective of the Kochi Metro Rail Ltd. (KMRL) Rehabilitation and Resettlement Policy is to appropriately identify, address and mitigate all adverse socioeconomic impacts accrued to the communities, families, or people due to the implementation of the Project.<sup>69</sup> The Rehabilitation and Resettlement (R&R) Policy being adopted by Kochi Metro Rail Limited has been developed generally following the requirements of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013.<sup>70</sup>

The goal of involuntary relocation is to prevent or minimise involuntary relocation.<sup>71</sup> Since the guidelines and principles of the international funding agencies (AFD, World Bank, Asian Development Bank (ADB), etc.) have been considered in the LAA Act 2013, hence the same has been taken as the guiding document for the preparation of the KMRL Rehabilitation and Resettlement Policy. Table 1 provides a summary of the LAA Act 2013 and World Bank Guidelines.<sup>72</sup>

For research purposes, data were collected from the following list below:

Special Tahsildar (LA) No. 1, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN-682030

Kochi Metro Rail Limited, Revenue Tower, Ernakulam, PIN- 682 011.

Special Tahsildar (LA) No. 2, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN-682030

Displaced commercial entrepreneurs (project affected).

Deputy Collector (LA) Kochi Metro Rail Project, Civil Station, Kakkanad, Ernakulam PIN- 682 030

Interview conducted with 4 Rtd. Tehsildar (LA) in Ernakulam District.

<sup>68</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 (No. 4 OF 2015).

<sup>69</sup> Kochi Metro Expansion Project Phase 1A: (Petta to SN Junction), *Draft Livelihood Restoration Plan* (Kochi Metro Rail Ltd, 54126-001, 2021).

<sup>70</sup> Kochi Metro Rail Limited, A joint venture of Government of India and Government of Kerala, *Rehabilitation & Resettlement (R&R) Policy for Kochi Metro Rail Project* (Associates Architects Engineers & Consultants Private Limited, Infrastructure Applications & Integrated Development Private Limited, 2015).

<sup>71</sup> *Supra* note 98 at 5.

<sup>72</sup> *Ibid.*

The assessment findings given below are based on the data collected from Special Tahsildar (LA) No.1<sup>73</sup> and 2<sup>74</sup>, Deputy Collector (LA)<sup>75</sup>, Kochi Metro Rail Limited office<sup>76</sup> through RTI and physical examination.

## 1. LAND ACQUISITION FOR KOCHI METRO PHASE 1A CONSISTING OF EXTENSION FROM PETTA TO SN JUNCTION

The Expert Committee analysed the acquisition proceeding of 0.9779 hectares of land in Nadma Village for the construction of the Vadakkekotta Metro Railway Station under the provisions of the RECTLAAR ACT, 2013. The expert committee concluded its analysis that the acquisition of land is for a pure public purpose, as stated in Sec.2 subsection 16(II) of the RECTLAAR ACT, 2013 and has immense utility to the future generation. The social impact Assessment study conducted by the agency appointed was also favourable to the project recommending the acquisition. The expert committee endorsed the study report. Based on the above recommendations, the expert committee submitted its report to the District Collector, Ernakulam, to proceed further in the matter.

Declaration under Sec.19 of the Act was approved by the District Collector, Ernakulam, that 0.9700 hectares of land in Nadma Village is to be acquired for Vadakkekotta Metro Station for Kochi Metro Rail Project and directed the special Tahsildar (LA) No. 1, Kochi Metro Rail Project Kakkanad, to take order for the acquisition of the land.

### a. Details of land for Resettlement scheme – Annexure I

The total land acquired for Vadakkekotta Metro Railway Station is 0.9700 hectares, comprised of various Survey numbers in Nadama Village in Kanayannur Taluk from 23 land owners. The classification of the above land is dry land. In connection with the acquisition of land, three offices are now being functioned.<sup>77</sup> In R&R Package, the total amount recommended is Rs.1,43,14,000/- by the District Collector, Ernakulam, in 8 categories; the Rehabilitation and resettlement package is approved by the commissioner of land revenue as per proceedings No. LRC4- 19657/2020 dated 29/07/2020, Summary of the Rehabilitation and Resettlement Package is given below:

<sup>73</sup> Special Tahsildar (LA) No. 1, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN- 682030

<sup>74</sup> Special Tahsildar (LA) No. 2, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN- 682030

<sup>75</sup> Deputy Collector (LA) Kochi Metro Rail Project, Civil Station, Kakkanad, Ernakulam PIN- 682030

<sup>76</sup> Kochi Metro Rail Limited, Revenue Tower, Ernakulam, PIN- 682011.

<sup>77</sup> Special Tahsildar (LA) No. 1, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN- 682030, Special Tahsildar (LA) No. 2, Kochi Metro Rail Project, Civil Station, Kakkanad, PIN- 682030, Deputy Collector (LA) Kochi Metro Rail Project, Civil Station, Kakkanad, Ernakulam PIN- 682 030

TABLE 3: SCHEDULE III (REHABILITATION AND RESETTLEMENT SCHEME OF PHASE 1A)

| SL. NO.      | NO. OF PERSONS | COMPENSATION AMOUNT | DESCRIPTION   | TOTAL              |
|--------------|----------------|---------------------|---|--------------------|
| 1            | 2              | 3,00,000            | Financial aid to displaced families for the construction of houses                        | 6,00,000           |
| 2            | 21             | 5,00,000            | One-time payment to the affected families who are not opting for jobs or monthly annuity. | 1,05,00,00         |
| 3            | 12             | 60,000              | Subsistence grant for displaced families.   | 7,20,000           |
| 4            | 2              | 50,000              | Transportation cost for displaced families.   | 1,00,000           |
| 5            | 13             | 50,000              | One-time grant.   | 6,50,000           |
| 6            | 12             | 50,000              | One-time Resettlement Allowance.  | 6,00,000           |
| 7            | 5              | 2,00,000            | One-time Assistance for shifting.   | 10,00,000          |
| 8            | 4              | 36,000              | Financial assistance to the employees of commercial establishments.                       | 1,44,000           |
| <b>TOTAL</b> |                |                     |   | <b>1,43,14,000</b> |

A total of 71 persons received an R&R package in the KMRP, Phase 1A, by negotiating with LA authorities to choose a fixed amount (total of Rs. 1,43,14,000 in Phase1A) rather than availing relocated households for displaced in resettlement package. A total of Rs.1 43, 14,000/- is recommended for 71 persons occupied in the land as lessees, workers, shop owners, renters, and displaced families. Considering the amount Rs.1 43, 14,000/- disbursed to 71 persons under eight categories appears to be inadequate and insufficient to meet the requirements. It cannot be considered fair compensation to implement RR Package.

The Land Revenue Commissioner, Thiruvanthapuram (TVM), verified the R& R Package list sent by the District Collector, Ernakulam, and approved the same after considering the law and procedure. The land Revenue Commissioner directed the District Collector to publish the details as per Sec.18 of the RECTLAAR ACT, 2013.

## 2. LAND ACQUISITION FOR KOCHI METRO PHASE 1 B FROM S.N JUNCTION TO THIRIPUNITHURA RAILWAY STATION

The acquisition of land for Kochi Metro phase I B from S.N. Junction to Trippunithura Railway Station viaduct was issued by the government as per GO (RT) 284/20/RD dated 22.01.2020. SIA study conducted by the agency was approved by the expert committee. The government accepted the reports and published them

on the website. Subsequently, II (1) Notice was notified as a preliminary proceeding. The Administrator appointed as per Sec.43(1) of the LAAR Act prepared the R & R package and published it as stipulated in the statute. A public hearing was conducted on 25/08/2021 regarding the R & R package seeking public opinion. No vehement protest was raised in the meeting except for requesting maximum compensation and a sufficient R & R package. Consequently, the District Collector, Ernakulam, prepared the R & R package as per the terms contained in GO(MS) 448/17/RD dated 29/12/2017 of the GoK. As per the R & R package, 26 persons were found eligible for the package and recommended to Land Revenue Commissioner, TVM. A total amount of Rs.1,94 02, 000/- was calculated for the same. On scrutiny of records, the Land Revenue Commissioner found that the District Collector, Ernakulam, has complied with all the conditions contained in Rule 21 of Land Acquisition and accepted the package affecting some minor changes.

In this regard, those who lost their dwelling house and were evicted from the premises are only eligible for the R & R package. Those who lost their dwelling house partially due to acquisition are not eligible for it. Families evicted from their dwelling premises means they lost their entire facilities once enjoyed and practised. They lose their work, good neighbours, residence, other facilities, and everything connected with the area. It is a sacrifice for a public purpose. In view of the above, the R & R package needs to be enlarged, and the amounts disbursed are to be enhanced. At present, the parameters fixed by the government are to be revised to decide the R & R package. The compensation paid to each category of loss is to be enhanced in terms of reality and facts.

### 2.1 Details of land for Resettlement scheme – Annexure II

The total land acquired for Metro Phase 1 B is Rs.2.3238 hectares in Nadama Village in Kanaynnur Taluk. The R & R package of Rs.1,94, 02,000/- is to be disbursed to 102 persons belonging to 7 categories (Phase 1B). The amount of Rs.1,94,02,000/- disbursed to 102 persons appears to be too low. It is to be enlarged in terms of reality. Schedule III, Details of approved packages of Rehabilitation and Resettlement as per LRC4-19657/2020 dated 29.9.2020 of the Land Revenue Commissioner TVM.

TABLE 4: SCHEDULE III (REHABILITATION AND RESETTLEMENT SCHEME OF PHASE 1B)

| SL. NO. | NO. OF PERSONS | COMPENSATION AMOUNT | DESCRIPTION   | TOTAL      |
|---------|----------------|---------------------|---|------------|
| 1       | 19             | 3,00,000            | Financial Assistance to evicted families  | 5,700,000  |
| 2       | 21             | 5,00,000            | One-time payment to the affected families who are not opting for jobs or monthly annuity. | 1,05,00,00 |
| 3       | 2              | 36,000              | Financial Assistance to labourers who lost labour   | 72,000     |
| 4       | 19             | 50,000              | Transportation cost for displaced families.   | 9,50,000   |

|              |    |        |   |                    |
|--------------|----|--------|---|--------------------|
| 5            | 3  | 30,000 | One-time Assistance of Families residing on a rental basis. | 90,000             |
| 6            | 19 | 50,000 | One-time Resettlement Allowance.                            | 9,50,000           |
| 7            | 19 | 60,000 | Livelihood Grant  | 1,140,000          |
| <b>TOTAL</b> |    |        |   | <b>1,94,02,000</b> |

A total of 102 persons received an R&R package in the KMRP, Phase 1B, by negotiating with LA authorities to choose a fixed amount (total of Rs. 1,94,02,000 in Phase1B) rather than availing relocated households for displaced in resettlement package. A total of Rs.1,94,02,000/- is recommended for 102 persons occupied in the land as lessees, workers, shop owners, renters, and displaced families. Considering the amount Rs.1,94,02,000/- disbursed to 102 persons under seven categories appears inadequate and insufficient to meet the requirements. It cannot be considered fair compensation to implement RR Package.

## 2.2 Total Number of Employees of Kochi Metro Rail Ltd, Kochi – Annexure – III

*TABLE 5: TOTAL NUMBER OF EMPLOYEES OF KOCHI METRO RAIL LTD, KOCHI*

| GRADEWISE EMPLOYEES LIST AS ON 28.04.2022 |     |
|---|-----|
| Total number of Executives                | 128 |
| Total Numbers of Non-Executives           | 368 |
| Total number of Employees                 | 496 |

## 2.3 Total Amount of Expenditure incurred till 31/03/2022 for Kochi Metro Rail Phase 1A & 1 B – Annexure – IV

*TABLE 6: TOTAL AMOUNT OF EXPENDITURE*

| PARTICULARS | AMOUNT IN CRORES |
|-------------|------------------|
| Phase IA    | Rs. 451.63       |
| Phase IB    | Rs. 189.70       |
| Total       | Rs. 641.33       |

## 2.4 The Fund Received till 31/03/2022 is in respect of Phase 1A and 1 B – Annexure – V

*TABLE 7: FUND RECEIVED(KMRP)*

| PARTICULARS | AMOUNT IN CRORES |
|-------------|------------------|
| Phase I A   | Rs. 424.11       |
| Phase I B   | Rs. 204.36       |
| Total       | Rs. 628.47       |

## Critical Analysis

Though fair compensation and R & R benefits are guaranteed in the LARR Act, 2013, it is not enough for the victims of land acquisition to restart their life because, in Kerala, the cost of purchasing a piece of land and constructing a residential building is too high.

- ▶ Speaking of reality, considering the amount Rs.1,94,02,000/- disbursed to 102 persons under seven categories (Phase 1B), and the amount Rs.1 43, 14,000/- disbursed to 71 persons under eight categories (Phase 1A) appears to be inadequate and insufficient to meet the requirements.
- ▶ The Resettlement and Rehabilitation (R&R) package provided for the project-affected persons/project-affected families complies with the policy approved by the Government of Kerala. The government of Kerala, which is in charge of developing and carrying out programmes for the resettlement and rehabilitation of project-affected persons/project-affected families in infrastructure development projects, could have provided a more effective in terms of augmenting the amount displaced in the R&R package, given to the project affected persons/ project affected families considering the fact situation and ground reality. In reality, the dispensed one-time financial aid cannot be considered fair compensation to implement the RR package, nonetheless its adherence to the LARR Act, 2013.

### CHAPTER III ANALYSIS AND INTERPRETATION

#### I. ABOUT THE PROJECT

A Joint venture between the Governments of India and Kerala, the public transport company Kochi Metro Rail Limited (KMRL) plans, operates, and builds the Mass Rapid Transit System in the city of Kochi. The National Urban Transport Policy of 2006 states that KMRL's goal is to implement a system that is dependable, secure, effective, and user-friendly. This system will help the city's economy grow and improve the quality of life for its residents. In the first Phase, KMRL is building a 25km-long elevated light metro system equipped with the third rail technology, a CBTC (Communication Based Train Control) signalling.<sup>78</sup>

#### II. PROFILE OF THE AREA

KMRL has already completed Phase I of the Project, i.e., from Aluva to Petta Station, covering a distance of 25.612 Km. Total project cost is Rs. 5181.79 crores (Govt of India is Rs.1002.23 crores, Govt. of Kerala is Rs. 2009.56 crores, JICA Loan is Rs. 2170 crores).<sup>79</sup>

KMRL is expanding the Project by 3.2 km length in two parts:

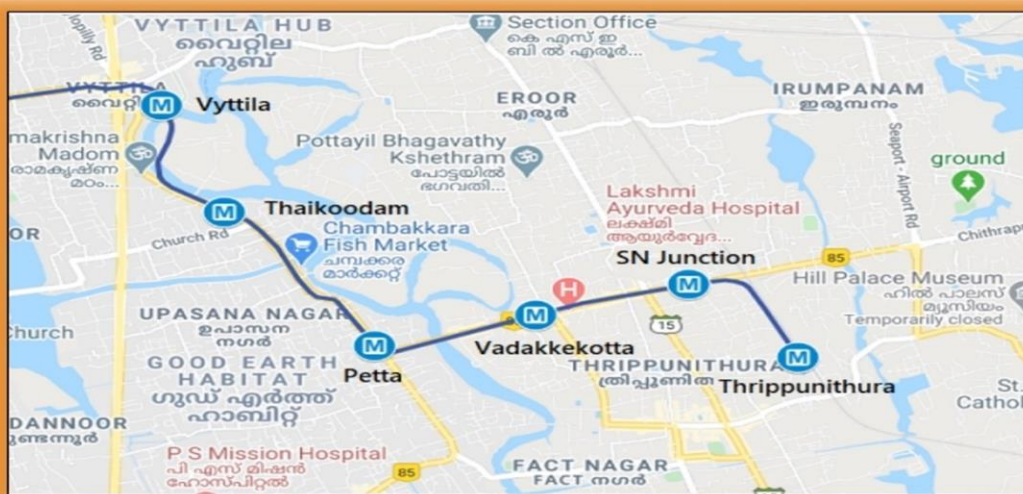
<sup>78</sup> The Kochi Metro Experience: A valuable contribution to the history of Indian metros, (Kochi Metro Rail Limited, 2017) available at: <https://kochimetro.org/> (last visited on September 11, 2022).

<sup>79</sup> *Supra* note 97 at 4.

- Phase 1A consists of an extension from Petta to SN Junction, which includes the development of Vadakkekotta and SN Junction stations; and
- Phase 1B consists of an extension from SN Junction to Tripunithura terminal station with the development of Tripunithura station.

This Project limits the scope of area in research to Phase 1A consisting of the extension from Petta to SN Junction, which includes the development of Vadakkekotta and SN Junction stations, and Phase 1B, consisting of the extension from SN Junction to Tripunithura terminal station with the development of Tripunithura station.<sup>80</sup>

**FIGURE 2: MAP OF PROPOSED LAND FOR ACQUISITION<sup>81</sup>**



According to official records, phase 1A, and 1B design, alignment and implementation have tried to avoid or minimize as far as possible the adverse social impacts on the persons, property, and natural and cultural resources. The state governments in India are in charge of planning and implementing programs for the resettlement and rehabilitation of families displaced by infrastructure development projects.<sup>82</sup>

### III. STUDY FINDINGS

The researcher adopted a quantitative descriptive research design for the study. The study is made relying upon primary and secondary sources. The hypotheses are tested with empirical data collected from the following:

- Questionnaire Survey: data was collected through a *questionnaire survey* from a sample of displaced persons in Phase 1A and Phase 1B (displaced persons who received a fixed amount in place of rehabilitation and resettlement benefits)

<sup>80</sup> *Ibid.*

<sup>81</sup> Route map of KMRP Phase 1A and 1B, available at: <https://themetrorailguy.com/2020/09/03/sree-giri-wins-kochi-metro-phase-1bs-proof-consultancy-bid/> (last visited on September 11, 2022).

<sup>82</sup> *Supra* note 97 at 5.

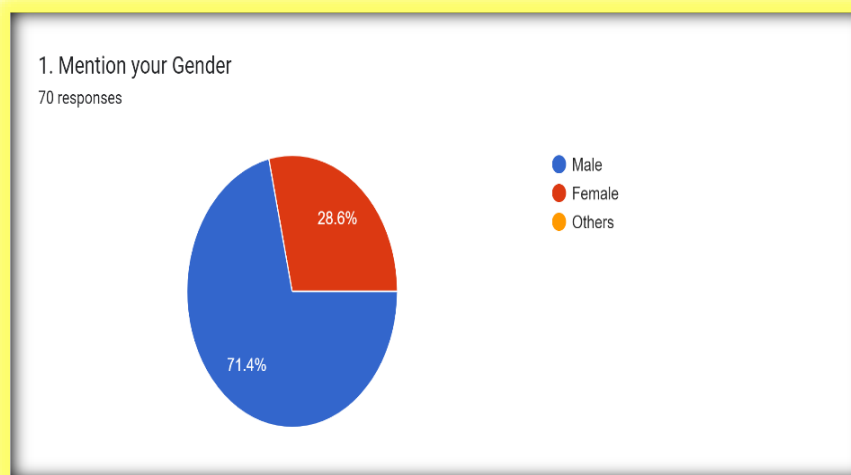


- Interview: data was collected by conducting an unstructured interview with displaced commercial entrepreneurs in Phase 1A and Phase 1B (No. of Interviewees= 9); data was collected by conducting an interview method with Rtd. Tesildar (LA) in Ernakulam District. The sample was collected during March, July, August, September, and October of 2022.

The assessment findings given below are based on the primary data collected from the displaced persons benefiting from the R&R benefits (one-time financial aid). The data collected is not from relocated households because all the displaced families in the KMRP negotiated with LA authorities and chose a one-time financial grant rather than availing relocated households for displaced in a resettlement package.

A total of 173 persons received an R&R package in the KMRP (Phase 1A and 1B) negotiated with LA authorities to choose a one-time financial grant (total of Rs. 1,43,14,000 in Phase1A and a total of Rs. 1,94,02,000 in Phase 1B) rather than availing relocated households for displaced residents in resettlement package. The hypotheses are tested with empirical data collected from a sample of affected families from Phase 1A and Phase 1B (No. of families who received R&R policy from KMRP= 173 (population), and the sample size= 70).<sup>83</sup> A sample of 70 displaced households who received R&R policy (families who received fixed amounts in place of rehabilitation and resettlement benefits) from KMRP Phases (1A & 1B) were selected for the study. The sample was stratified based on occupational status.

*QUESTION 1. Mention your gender.*

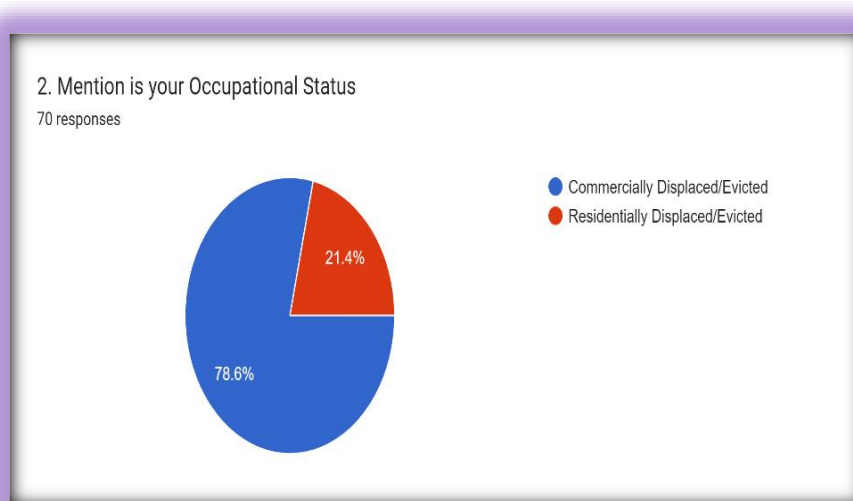


**FIGURE 3: GENDER GROUP**

**RESULT:** Among 70 respondents, seven responses belonged to the category of residentially displaced, and seven responses belonged to the category of commercially displaced. Out of the 70 respondents who participated in this study, 71.4% were males, while 28.6% were females.

*QUESTION 2. Mention your occupational status.*

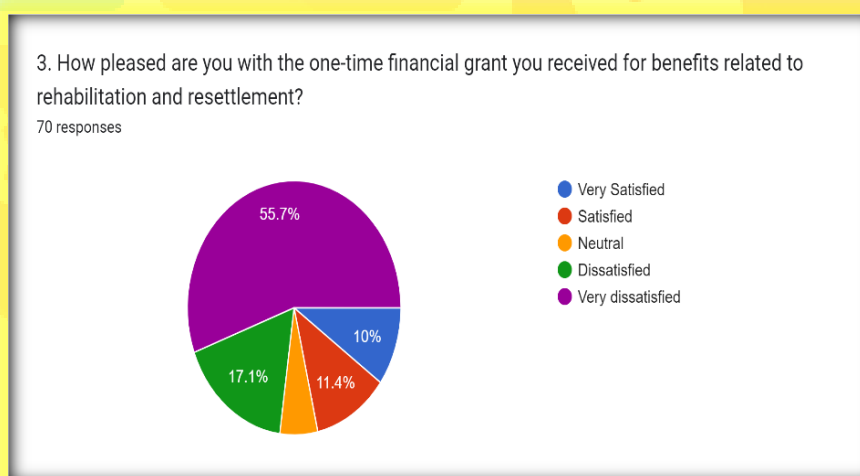
<sup>83</sup> The population size is 173 (Phase 1A=71 and Phase 1B=102), and the sample size is 70 from both Phases (Phase1A & 1B).



**FIGURE 4: OCCUPATIONAL GROUP**

**RESULT:** Among 70 respondents, seven responses belonged to the category of residentially displaced, and seven responses belonged to the category of commercially displaced. About 78.6% of the respondents were commercially displaced/evicted, and 21.4% were residentially displaced.

*QUESTION 3. How pleased are you with the one-time financial grant you received for benefits related to rehabilitation and resettlement?*

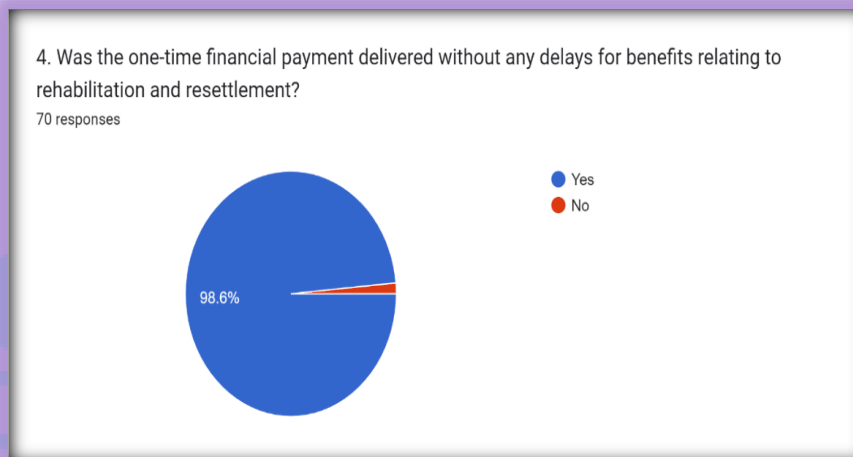


**FIGURE 5: SATISFACTION LEVEL WITH THE ONE-TIME FINANCIAL GRANT**

**RESULT:** Among 70 respondents, 7 responses mentioned high satisfaction with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits belonged to the category of both residentially displaced (6 responses) and commercially displaced (1 responses), 8 responses mentioned satisfaction with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits belonged to the category of both residentially displaced (6 responses) and commercially displaced (2 responses), 4 neutral responses with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits belonged to the category of both residentially displaced (1 responses) and commercially displaced (3 responses), 12 responses mentioned dissatisfaction with the one-time financial grant appropriated as Rehabilitation and Resettlement

benefits belonged to the category of both residentially displaced (2 responses) and commercially displaced (10 responses), 39 responses mentioned high dissatisfaction with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits belonged to the category of commercially displaced (39 responses). Among respondents, 10% are highly satisfied with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits, 11.4% are satisfied, 17.1% are dissatisfied, and 55.7% are highly dissatisfied with the one-time financial grant appropriated as Rehabilitation and Resettlement benefits.

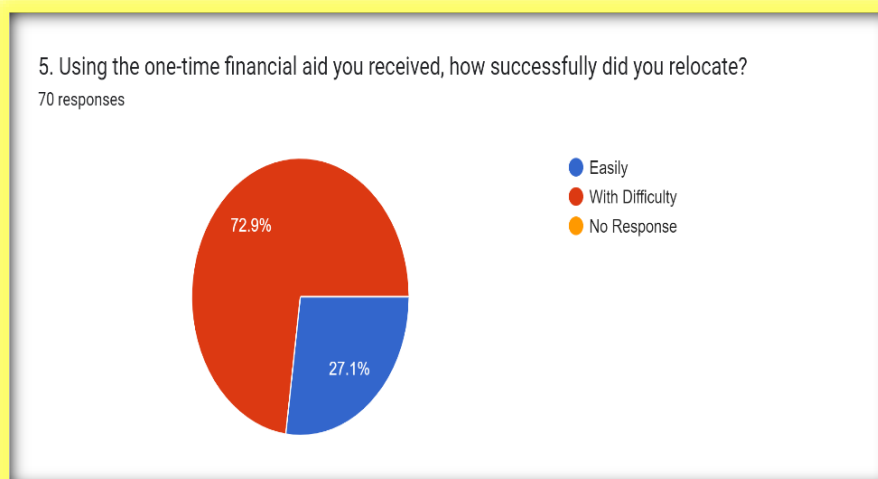
*QUESTION 4. Was the one-time financial payment delivered without any delays for benefits relating to rehabilitation and resettlement?*



**FIGURE 6: ONETIME FINANCIAL GRANT WITH OR WITHOUT DELAY**

**RESULT:** All the respondents received Rehabilitation and Resettlement one-time financial grants without delay. Among 70 respondents, one response mentioned delay, belonging to the category of commercially displaced; the other 69 responses did not mention delay, belonging to the category of residentially displaced. All the respondents received Rehabilitation and Resettlement one-time financial grants without delay.

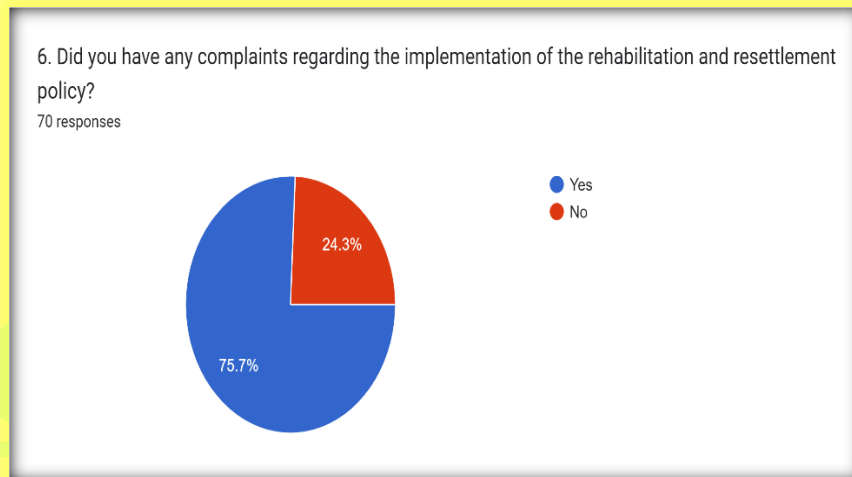
*QUESTION 5. Using the one-time financial aid you received, how successfully did you relocate?*



**FIGURE 7: RESETTLED STATUS**

**RESULT:** Among 70 respondents, 19 respondents resettled easily with the received one-time financial Aid, belonged to the category of both residentially displaced (13 responses) and commercially displaced (6 responses), 51 respondents resettled difficultly, belonged to the category of both residentially displaced (2 responses) and commercially displaced (49 responses). About 27.1% of the respondents resettled easily with the received one-time financial Aid, and 72.9% had difficulty.

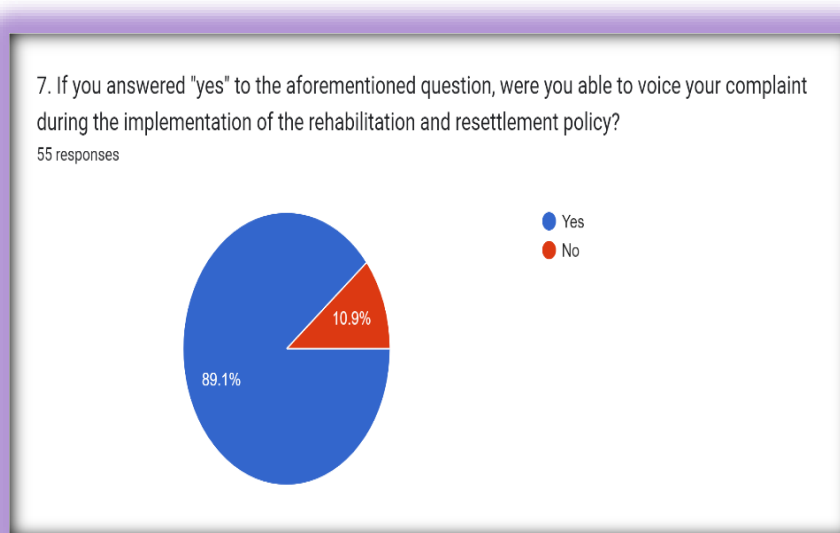
*QUESTION 6. Did you have any complaints regarding the implementation of the rehabilitation and resettlement policy?*



**FIGURE 8: GRIEVANCE STATUS**

**RESULT:** Among 70 respondents, 53 respondents had grievances during the course of Rehabilitation and Resettlement Policy, belonged to the category of both residentially displaced (3 responses) and commercially displaced (50 responses), 17 respondents did not have any grievance during the course of Rehabilitation and Resettlement Policy, belonged to the category of both residentially displaced (12 responses) and commercially displaced (5 responses). About 75.7% had grievances during the course of the Rehabilitation and Resettlement Policy, and 24.3% did not have any grievances during the course of the Rehabilitation and Resettlement Policy.

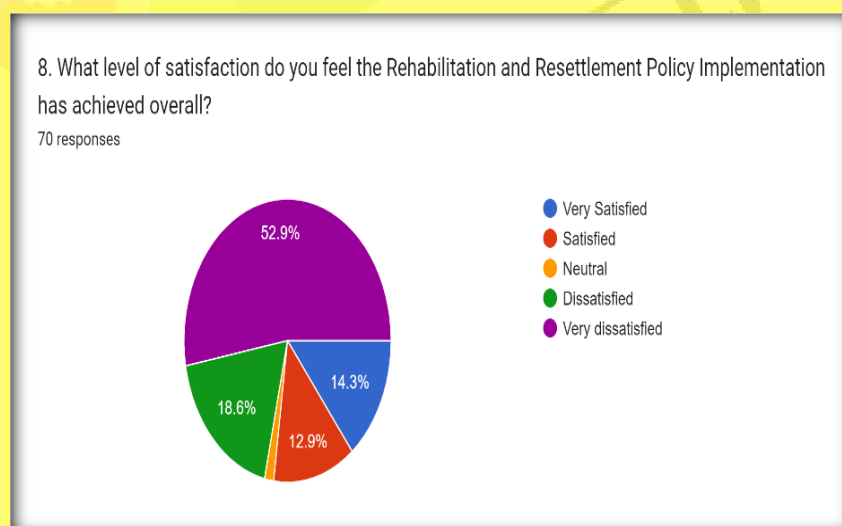
*QUESTION 7. If you answered "Yes" to the aforementioned question, were you able to voice your complaint during the implementation of the Rehabilitation and Resettlement Policy?*



**FIGURE 9: GRIEVANCE REDRESSAL STATUS**

**RESULT:** Among 70 respondents, 49 respondents having grievance was able to express those grievances during the course of Rehabilitation and Resettlement Policy Implementation, belonged to the category of both residentially displaced (2 responses) and commercially displaced (47 responses), four respondents were not able to express those grievances during the course of Rehabilitation and Resettlement Policy Implementation, belonged to the category of both residentially displaced (1 response) and commercially displaced (3 responses). About 89.1% having grievances were able to express those grievances during the course of Rehabilitation and Resettlement Policy Implementation, and 10.9% were not able to express those grievances during the course of Rehabilitation and Resettlement Policy Implementation.

*QUESTION 8. What level of satisfaction do you feel the Rehabilitation and Resettlement Policy implementation has achieved overall?*



**FIGURE 10: OVERALL SATISFACTIONAL LEVEL WITH R AND R POLICY IMPLEMENTATION.**

**RESULT:** Among 70 respondents, 10 responses mentioned high satisfaction with the overall Rehabilitation and Resettlement Policy Implementation, belonged to the category of both residentially displaced (8 responses) and commercially displaced (2 responses), 9 responses mentioned satisfaction with the overall Rehabilitation and Resettlement Policy Implementation, belonged to the category of both residentially displaced (5 responses) and commercially displaced (4 responses), 1 neutral response with the overall Rehabilitation and Resettlement Policy Implementation, belonged to the category of residentially displaced, 13 responses mentioned dissatisfaction with the overall Rehabilitation and Resettlement Policy Implementation, belonged to the category of both residentially displaced (1 responses) and commercially displaced (12 responses), 37 responses mentioned high dissatisfaction the overall Rehabilitation and Resettlement Policy Implementation belonged to the category of commercially displaced (37 responses).

Among respondents, 14.3% were highly satisfied with the overall Rehabilitation and Resettlement Policy Implementation, 12.9% were satisfied, 18.6% were dissatisfied, and 52.9% were highly dissatisfied with the overall Rehabilitation and Resettlement Policy Implementation.

The tested results on hypotheses, which were created based on research questions:

- ▶ On analysis, the affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of residentially displaced were satisfied with Rehabilitation and Resettlement one-time financial grant and the overall Rehabilitation and Resettlement Policy Implementation.
- ▶ Whereas the affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of commercially displaced were not satisfied with Rehabilitation and Resettlement one-time financial grant and the overall Rehabilitation and Resettlement Policy Implementation. *[Original hypothesis was partially correct]*
- ▶ In reality, the distributed Rehabilitation and Resettlement one-time financial grant is not sufficient to meet the requirements.
- ▶ The affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of both residentially displaced (3 respondents) and commercially displaced (50 respondents) had complaints regarding the Rehabilitation and Resettlement policy implementation, and they (about 89.1%) were able to express those grievances during the course of Rehabilitation and Resettlement Policy Implementation.
- ▶ All the respondents received Rehabilitation and Resettlement one-time financial grants without delay.
- ▶ The affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of residentially displaced resettled easily with the received one-time financial Aid. Whereas the affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of commercially displaced difficulty resettled with the received one-time financial Aid.

The house site holders got adequate R & R package when their house sites were acquired for the Project. In place of resettlement, the house site holders opted for a one-time settlement. They purchased alternative house sites according to their will and satisfaction. The ultimate aim of house site owners is to use the property for residential purposes, whereas the purposes of owners of shops/commercial buildings are different; their locational importance is vital and pivotal.

The assessment findings given below are based on the primary data collected by conducting an unstructured interview with displaced commercial entrepreneurs in Phase 1A and Phase 1B (No. of Interviewees=9).

TABLE 8: SYNOPSIS OF INTERVIEW WITH DISPLACED COMMERCIAL ENTREPRENEURS

| Synopsis of Interview conducted with displaced commercial entrepreneurs<br>{Petta to SN Junction}   |   |
|---|---|
| Name of the Institution   | The summary of data collected   |
| <p>1. Udappi Hotel, Vadakkekotta</p> <p><b>Before Acquisition:</b></p> <ul style="list-style-type: none"> <li>▪ Name of owner: Sreenath</li> <li>Age of Hotel: More than 75 years</li> <li>No. of Labours working in the hotel: 26</li> <li>Daily Customers: 500 Nos. (Average)</li> <li>Daily Parcel &amp; Home Delivery: 500 Nos.</li> <li>Daily Income: 1.50 lakhs to 2 lakhs</li> </ul> | <p>▶ Hotel Buildings and premises were acquired. Now, he has started a new hotel at Puthiyakavu, more than 10 km away from the previous Hotel. In a personal interview, he said that, at present, the number of daily customers has considerably reduced.</p> <p>According to him, <b>After Acquisition:</b><br/>           Daily customers: 200 Nos (Average)<br/>           Parcel and Home Delivery: 75 Nos.<br/>           Daily income: Rs.50,000/-</p> <p>▶ He informed me that he is not satisfied but rather highly disappointed with the volume of compensation disbursed to him, considering the huge loss incurred by him due to displacement.</p> |
| <p>2. Devassy, Thekkmeth, Pettah.</p> <ul style="list-style-type: none"> <li>▪ He lost 2 cents of land with a residential house.</li> </ul>   | <p>In a personal interview, he informed that he got an attractive R &amp; R package, including all allowances guaranteed in the Act.</p>  |
| <p>3. Janardhanan, an employee in a Medical Shop, Pettah.</p> <ul style="list-style-type: none"> <li>▪ Due to acquisition, the land area with the medical shop was acquired.</li> </ul>   | <p>The land owner got fair compensation and other amenities provided in the Act. The employee also got benefits for employment loss. He informed me that he is well satisfied with the overall benefits received according to the LARR Act, 2013.</p>   |
| <p>4. Gurumandapam</p> <ul style="list-style-type: none"> <li>▪ On enquiry with SNDP officials regarding the acquisition of the land at SN junction in which Gurumandapam situates.</li> </ul>  | <p>They expressed their dissatisfaction. However, revenue authorities provided adjacent land to construct a new Gurumandapam and disbursed sufficient assistance for the contraction as per the Act. The change in the original position in which the statue of Guru is a matter of religious concern to the community.</p>   |
| <p>5. Sankunny Nair's restaurant</p> <p><b>Post-acquisition</b></p> <ul style="list-style-type: none"> <li>▪ Daily collection is reduced to 50%.</li> <li>A portion of the restaurant building was acquired, causing</li> </ul>   | <p>The hotel owner informed that, despite compensation disbursed by Metro for acquisition, the permanent loss of parking area and hotel space is an irreparable loss to him. The hotel was not in function for more than six months due to the acquisition and partial removal of the building. According to him, a considerable loss of customers is now being experienced due to the lack of</p>  |

|  |   |
|--|---|
| <p>a lack of space for parking and a hotel area.<br/>The hotel owner is unsatisfied.</p>   | <p>parking area and adequate space inside the hotel due to the partial acquisition of the hotel building.</p>   |
| <p>6. Christian chappel (Kapela)</p>   | <p>On enquiry, the church authorities expressed that adequate compensation was received, and they have already constructed a new one as sufficient land is available even after the acquisition. According to them, since the acquisition is for a public purpose, they have a neutral feeling about the subject.</p>         |
| <p>{SN Junction to Tripunithura}</p>   |   |
| <p>7. Varma Hospital<br/>▪ On enquiry, about 2 cents of hospital land was acquired.</p>  | <p>Since the acquired area belonged to the parking area of the hospital, the hospital authorities expressed their dissatisfaction despite the accepted compensation. According to them, now they are experiencing many difficulties in providing parking facilities to the patients and relatives due to the acquisition.</p> |
| <p>8. Seema Auditorium<br/>▪ On enquiry, the total land with the auditorium building was acquired. The owner expressed satisfaction.</p> | <p>Since the Auditorium was in a locked position due to the Covid lockdown, the owner was in a financial crunch. Due to the acquisition, he received fair compensation and other financial aid.</p>   |
| <p>9. Milma Land, Tripunithura [Kerala Co-operative Milk Marketing Federation]<br/>A position of Milma land was acquired.</p>            | <p>Milma has a large area of land. Furthermore, a sizable portion of the land is not used for its daily functioning. They were not actively using the acquired portion of the land. They received adequate compensation, and as a result, the authorities took a neutral stance.</p>  |

The tested results on hypotheses, which were created based on research questions:

- ▶ On analysis, the Project affected persons in KMRP (Phase 1A and 1B) belonging to the commercial occupation incurred greater losses than Project affected persons in KMRP (Phase 1A and 1B) belonging to the residential occupation. *[Original hypothesis was correct]*
- ▶ LARR Act 2013 doesn't provide effective benefits to the beneficiaries, especially the Project affected commercial entrepreneurs.
- ▶ LARR Act 2013 doesn't satisfy the need for comprehensive resettlement and rehabilitation policy because of the inadequate R and R given to project-affected commercial entrepreneurs.
- ▶ Affected and displaced persons belonging to the commercial occupation in KMRP (Phase 1A and 1B) didn't receive sufficient (in terms of reality) R&R benefits (one-time financial aid) as per the LARR Act, 2013.



The assessment findings given below are based on the primary data collected by interviewing with the Rtd. Tehsildar (LA) in Ernakulam District also includes a set of questions containing YES /NO answers.

**TABLE 9: SYNOPSIS OF UNSTRUCTURED INTERVIEW WITH RTD. TESILDAR (LA) IN ERNAKULAM**

| NO. | Question put forward to the Interviewee  | A summarized version of the answer received   |
|-----|--|---|
| 1   | After the Project is finished, can the unused land be returned to the original owners by recovering the award amount plus a reasonable amount of interest? | As per the provisions of the Act 2013, land acquired in excess of a requirement either be returned to the original landowner from whom the land was acquired or included in the land data Bank monitored by the Land Revenue Department.  |
| 2   | How does the authority determine usufructs in the land during the land acquisition process?  | The value of usufructs, crops agricultural product is valued by agricultural department. The agricultural officer, Krishi Bhavan, in the locality is the competent officer for fixing the value. The value of trees depends on yield.   |
| 3   | Which law has significantly more difficulty in terms of practical application, the LA Act 1894 or 2013?  | The practical difficulty is lesser in the 1894 LA Act compared to LARR Act, 2013. Since the 2013 Act is people-centred, environment-oriented, and procedure-oriented, we experience delays on the implementation side. Official freedom is much more in the old Act than the new one. Instead of "compensation" in the old Act, 1894, fair compensation is paid in LARR Act, 2013. Transparency is a new term incorporated in the new Act. Over and above, Rehabilitation and Resettlement are novel ideas in the new Act. There is scope for a negotiation process under the chairmanship of the District Collector, Land Revenue Commissioner, concerning compensation. |
| 4   | Do comparatively fewer cases under the LARR Act 2013 than under the LA Act 1894 exist on the litigation side?  | Regarding the litigation side, the number of court cases is lesser under the new Act. Since landowners are getting adequate compensation, few cases are referred to a court of law. By this, Government need not spend an additional amount and interest on enhanced compensation.  |
| 5   | Do land acquisition proceedings under the LARR Act 2013 experience more delays than under the LA Act 1894?   | The main setback in the 1894 Act is the lack of transparency and official arbitrariness. Landowners have no communication with the officials regarding the modus-operandi of fixing compensation. Almost all the cases are referred to a court of law, pointing out inadequate compensation. Naturally, delays in acquisition have been experienced in the past years.  |

|  |   |
|--|---|
|  | Whereas, in the new Act, the delay is happening due to people's participation in acquisition proceedings. However, the above delay is beneficial to the general public suffering acquisition. More or less, the lion-share portion of interest of the landowners is resolved due to fair compensation and R & R packages. The adversity appears under the new Act due to whims and fancies of certain pressure groups; timely implementation of the Project is delayed in mega project cases. |
|--|---|

TABLE 10: SYNOPSIS OF STRUCTURED INTERVIEW WITH RTD. TESILDAR (LA) IN ERNAKULAM

| NO. | Questions  | Answers<br>[ YES/<br>NO/<br>PARTIAL] |
|-----|--|--------------------------------------|
| 1.  | Are locations with special cultural, religious, or environmental significance protected?                     | Yes.                                 |
| 2.  | Does land owned by underprivileged (poor) and vulnerable groups receive special protection?                  | Yes.                                 |
| 3.  | When a piece of land is no longer required for public use, must the government grant reacquisition rights?   | Partial                              |
| 4.  | Are customary tenure holders with formally recognized tenure rights entitled to compensation?                | Partial                              |
| 5.  | Are customary tenure holders without formally recognized tenure rights entitled to compensation?             | Partial                              |
| 6.  | Are users of undeveloped land (land used for grazing, hunting, and other purposes) entitled to compensation? | Partial                              |
| 7.  | Must the government calculate compensation in a gender-sensitive manner?                                     | Partial                              |
| 8.  | The improvements to the land must be reflected in the compensation.  | Yes                                  |
| 9.  | Are affected populations able to negotiate compensation amounts?   | Yes                                  |
| 10. | Do displaced people have a right to a relocation allowance under the law?                                    | Yes                                  |
| 11. | Must the "productive" land be provided as an alternative to those who have been displaced?                   | Partial                              |
| 12. | Does the Act give a possibility for the affected populations to challenge compensation in court or tribunal? | Yes.                                 |
| 13. | Do forced evictions need to be avoided or reduced by the government?   | Yes.                                 |
| 14. | During the resettlement process, must the government consult the displaced people?                           | Yes.                                 |

The tested results on hypotheses, which were created based on research questions:

- ▶ Even though a lion-share portion of interest of the landowners is resolved due to fair compensation and R & R packages in the LARR Act, 2013 yet the Act doesn't provide effective benefits to the beneficiaries to the point that restarting life in Kerala is difficult as the cost of purchasing a piece of land and constructing a residential building is too high.
- ▶ The LARR Act 2013 doesn't satisfy the need for comprehensive resettlement and rehabilitation policy because of the inadequate R and R given to project-affected commercial entrepreneurs.
- ▶ As per the provisions of the Act 2013, land acquired in excess of a requirement either be returned to the original landowner from whom the land was acquired or included in the land data Bank monitored by the Land Revenue Department.

The comparison between the R&R policy provided by KMRL with R&R entitlements incorporated in the LAAR Act, 2013. The test on hypotheses, which was created based on research questions, gave the following results:

- ❖ The R&R package provided for the Project affected persons/Project affected families is in compliance with the LARR Act, 2013, on account of land Acquisition in KMRP. Nevertheless, the fair compensation and R & R benefits are guaranteed in the LARR Act, 2013 it is not enough for the Project affected persons/project-affected families to restart their life because, in Kerala, the cost of purchasing a piece of land and constructing a residential building is too high. *[Original hypothesis was null.]*
- ❖ The R&R benefits (one-time financial aid) given to the displaced people in KMRP (Phases 1A and 1B) are consistent with the welfare scheme by taking into account the fact that the displaced people who received one-time financial R&R benefits under this Policy were finalized through negotiation, consultation with the District Authorities. Besides the fact that the dispensed one-time financial aid could have been augmented for the public good. *[Original hypothesis was partially correct]*
- ❖ The Kochi Metro rail project, on account of land Acquisition, reasonably followed the R&R procedures applicable in the LARR Act, 2013 and provided fair R&R benefits (one-time financial aid) to the displaced individuals in KMRP (Phases 1A and 1B) as per the LARR Act, 2013. Thus, it can be concluded that the KMRP was successful in dispensing R&R benefits (one-time financial aid) which is consistent with the natural justice principles (just, fair and reasonable). Regardless of the fact that the displaced one-time financial aid could have been augmented to meet the requirements in daily life. *[Original hypothesis was partially correct]*
- ❖ The affected and displaced persons in KMRP (Phase 1A and 1B) did receive sufficient R&R benefits (one-time financial aid) as per the LARR Act, 2013. But, when speaking of reality, considering the total amount displaced in each Phase (1A and 1B) appears to be inadequate and insufficient to meet the requirements. It

cannot be considered fair compensation to implement the RR Package to restart life in Kerala is difficult as the cost of purchasing a piece of land and constructing a residential building is too high. *[Original hypothesis was partially correct]*

- ❖ Thus, it can be said that the KMRP has efficiently implemented the Rehabilitation and Resettlement policy as per LARR Act, 2013, excluding the fact that one-time financial aid, even as per the LARR Act, 2013, could not meet adequate and sufficient requirements in reality. *[Original hypothesis was partially correct]*

#### **CHAPTER IV FINDINGS, CONCLUSIONS, AND SUGGESTIONS**

This section deals with the conclusion, comparing the results of the present study with an already published work, then it mentions various recommendations based on the results.

Kerala is a relatively smaller state when compared to other states. Additionally, there is a very high population density. habitation rates are very high, even in rural areas. In addition, several other laws severely limit how the land can be used for the project that is being proposed. For instance, the Kerala Land Reforms Act, 1963, which limits the maximum use of 15 acres of land by a single family, the Kerala Conservation of Paddy Land and Wet Land Act, 2008, Coastal Regulation Zone (CRZ), environmental laws, and so forth. Naturally, the acquisition of land for developmental activities is either restricted or limited in the area. The land covered under Gadgil and Kasthurirangan is also not constructible. The majority of the land is covered with residential apartments/flats, homes, commercial centres/buildings, and other crucial developmental and essential projects being worked on by the public and private sectors. The scarcity of vacant land usable without any restriction for developmental purposes is too low. So, land acquisition in Kerala always invited protests from the general public and affected parties. Against this backdrop, the central government replaced the Land Acquisition Act of 1894 by introducing the RECTLAAR ACT of 2013 and providing various other benefits to land owners affected by Land Acquisition. The New Act undoubtedly benefits both landowners and those whose land is being acquired for public use.

Additionally, for other reasons, the government was unable to implement the R & R benefits that were promised by the Act, 2013 which are:

- ▶ Lack of suitable land/ scarcity to rehouse/relocate the evicted parties of land acquisition is one of the main causes.
- ▶ Kerala has excessively high labour, material, and other costs associated with new construction.
- ▶ Regular unskilled workers and traditional labourers like fishermen face greater difficulties as a result of relocation due to labour shortages.

Although fair compensation is guaranteed by the new Act, in practise, the compensation falls short of what the evictees need to meet the requirements in reality. The government and bureaucracy are also too slow in the implementation phase, which causes the beneficiaries to suffer and are put into pain and penury. There are cases where R & R work is not carried out because the government fails to provide adequate rehabilitation and resettlement. A prime example of the failure is the acquisition of land in the Ernakulam district the Mulampally land acquisition for ICTT Project.

## **I. THE CONCLUSION ON HYPOTHESIS, DERIVED FROM RESEARCH METHODOLOGY AND DATA ANALYSIS:**

- ▣ The affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of residentially displaced were satisfied with Rehabilitation and Resettlement one-time, financial grant, and the overall Rehabilitation and Resettlement Policy Implementation. Whereas, the affected and displaced persons in KMRP (Phase 1A and 1B) belonging to the category of commercially displaced were not satisfied with Rehabilitation and Resettlement one-time financial grant and the overall Rehabilitation and Resettlement Policy Implementation. The major reason for dissatisfaction among commercially displaced is due to irreparable loss of business place, loss of brand name, and loss of customers.
- ▣ The Resettlement and Rehabilitation (R&R) package provided for the project-affected persons/project-affected families complies with the policy approved by the Government of Kerala. The government of Kerala, which is in charge of developing and carrying out programmes for the resettlement and rehabilitation of project-affected persons/project-affected families in infrastructure development projects, could have provided a more effective in terms of augmenting the amount displaced in the R&R package given to the project affected persons/ project affected families considering the fact situation and ground reality. Speaking of reality, the dispensed one-time financial aid cannot be considered fair compensation to implement the RR package nonetheless its adherence to the LARR Act, 2013.
- ▣ The project-affected persons in KMRP (Phase 1A and 1B) belonging to the commercial occupation incurred greater losses than project-affected persons in KMRP (Phase 1A and 1B) belonging to the residential occupation. LARR Act, 2013 doesn't provide effective benefits to the project-affected commercial entrepreneurs as they suffered irreparable loss of business place, loss of brand name, and loss of customers. Nevertheless, fair compensation and R & R benefits guaranteed in the LARR Act, 2013 were provided to them. Affected and displaced persons belonging to the commercial occupation in KMRP (Phase 1A and 1B) didn't receive sufficient (in terms of reality) R&R benefits (one-time financial aid) as per the LARR Act, 2013. Thus, the LARR Act, 2013 doesn't satisfy the need for comprehensive resettlement and rehabilitation policy because of the inadequate R & R given to project-affected commercial entrepreneurs.

☐ The R&R package provided for the project-affected persons/project-affected families is in compliance with the LARR Act, 2013 on account of land Acquisition in KMRP. Nevertheless, the fair compensation and R & R benefits guaranteed in the LARR Act, 2013 is not enough for the project-affected persons/project-affected families to restart their life because, in Kerala, the cost of purchasing a piece of land and constructing a residential building is too high.

☐ Thus, it can be said that the KMRP has efficiently implemented the Rehabilitation and Resettlement policy as per LARR Act, 2013 excluding the fact that one-time financial aid even as per the LARR Act, 2013 could not meet adequate and sufficient requirements in reality

## II. COMPARISON BETWEEN MULAMPILLY LAND ACQUISITION FOR INTERNATIONAL TRANSHIPMENT CONTAINER PROJECT AND KERALA METRO RAIL PROJECT

✚ It is worth noting that Mulampilly in Kadamakudy Village was the pioneer example in Kerala for land acquisition for the ICTT Project at Vallarpadam under the provisions of the LARR Act, 2013. The land acquisition officials met with vehement protest and agitation from the land owners. Ultimately, the landowners were removed from their property and compensated fairly. A Plethora of litigations had been filed in Kerala's high court by landowners opposing the acquisition and inadequate financial assistance for R&R packages.

✚ Subsequently, the court ordered them to comply with the provisions of the LARR Act strictly. Though alternate land for residence was provided to evictees, they refused to accept it as the land was found to be unsuitable for residential purposes. The main reason for rejecting the allotted plot was that it was a converted wetland. 90% of problems have been resolved through elite sector intervention, but 10% still need to be addressed due to widespread dissatisfaction and agitation against eviction proceedings, which were exacerbated by official harassment and physical force used by the police.

✚ As regards, the Kerala Metro Rail project, land acquisition was implemented smoothly. The officials learned lessons from the bitter experiences faced at the Mulampilly land acquisition. R & R policy was formulated in a reasonable manner reducing maximum complaints. Instead of alternate land space, a reasonable amount for purchasing land with a house was disbursed to the evictees. The valuation process was made by way of mutual negotiation. Hence, there was no physical protest or agitation from the side of the landowners. Almost all the residential plot holders are satisfied with the R&R package except a few.

✚ It is evident that the implementation of the provisions of the new Act provides significant relief/solace to victims in general. Shop owners and commercial site owners felt dissatisfied due to eviction from their business place. However, they have received fair compensation and other possible assistance from the court in the Metro acquisition as a few numbers were seeking more compensation.

That was also later withdrawn as a result of mutual negotiation at the District Level Purchase Committee (DLPC), which was headed by the Collector. Indeed, as a result of the metro acquisition, shop owners operating medical shops, hotels, restaurants, provisional stores, textile shops, and so on expressed dissatisfaction because their livelihood was permanently obstructed. The goodwill they made with the effort of decades could not be regained shortly in a new place. This is the paramount reason for their discontent.

### III. CONCLUSION

- ❖ In nutshell, in the acquisition of land by invoking the provisions of the LARR Act, 2013, Mulampilly land acquisition created much unrest in the society. The main lapse was the ineffective R&R package and its implementation. Eviction of families from their homestead was done in a hurry without taking them into confidence. Several organizations and prominent personalities protested against officials' inhumane actions. The Kerala High Court issued a directive to implement the R&R package more effectively and within a time frame, but the authorities failed to complete the task flawlessly, despite the court's order.
- ❖ On verification of Metro acquisition, KMRL drafted, developed, and implemented the Rehabilitation & Resettlement policy promptly. Furthermore, the acquisition occurred between the two sides of an existing road. As a result, shops and commercial establishments were displaced. Dwelling houses and house plots were acquired comparatively lesser than the shop buildings.
- ❖ Therefore, the Resettlement of Shifted families was not a difficult task. Besides, the families shifted and did not insist on alternative house plots. Instead, they opted for one-time financial assistance for funding their own houses. A speedy disposition of compensation, R&R package, and so on contributes to a smooth acquisition process. As a result, no agitation or physical protest emerged from the part of the affected parties.
- ❖ Shop owners and commercial groups were at a disadvantage. They lost their long-standing goodwill, customers, loyal employees, and commercial assets, and future economic loss will be a significant setback until they find a suitable commercial space. However, when comparing the Mulampilly land acquisition and the KMRP land acquisition, land owners suffer far less in the KMRP acquisition, and the Metro project implemented the R&R policy efficiently.

### IV. SUGGESTIONS

- ▶ The Social impact assessment study should be made more effective and fruitful.
- ▶ Paddy land, wetland, marshy land, ecologically fragile land, etc. need to be avoided as far as possible in land acquisition.
- ▶ The implementation of the R&R package is to be made on a war-footing basis.
- ▶ The amount disbursed in connection with the R&R package needs to be enhanced.

- ▶ Maximum effort and study should be conducted to avoid the residential area while formulating project alignment.
- ▶ Since land is scarce in the state of Kerala, the project shall require only a small amount of land to be acquired.
- ▶ A suitable land with all infrastructural facilities for resettlement purposes is to be found simultaneously with the acquisition of residential land.
- ▶ The resettlement of evicted families is to be implemented speedily and successfully.
- ▶ The quantification of the amount to displaced families is to be enhanced to meet their requirements. Land rates and labour charges are extremely high in Kerala, so the amount fixed in various R&R packages is to be doubled.
- ▶ The Requisition Authorities should be bestowed with special attention while adopting R & R policy considering the facts situation and ground reality in Kerala, which shall enable fair and reasonable amenities and financial support to the displaced families due to acquisition.
- ▶ The displaced commercial establishments, which lost long-standing goodwill, customers, loyal employees, and commercial assets, should be taken into account when providing financial assistance to provide better financial support.
- ▶ The three-year working period stipulated before acquisition for employees working in shops/commercial establishments, etc. in order to receive financial assistance shall be deleted from the package and the LARR Act.

The Land Acquisition Act of 1894 was inadequate in protecting landowners' interests, neglecting rehabilitation, resettlement, and social impact analysis. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013 increased compensation, required social impact assessments, and required landholder consent. This balanced the interests of landowners and the government, ensuring fair compensation and transparency in land acquisition procedures. Kochi Metro Rail Limited's Rehabilitation and Resettlement Policy adheres to the Right to Fair Compensation & Transparency in Land Acquisition Act, 2013 by ensuring transparency in land acquisition, minimal disruption to landowners and affected families, and giving them a voice in decision-making. The policy also provides just and fair compensation to disturbed families whose land has been acquired, as per the Act.

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