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Land Acquisition Act in India: Inadequacy of Compensation

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ABSTRACT

This research paper examines the historical development, constitutional issues, and socio-economic consequences of land acquisition legislation in India, particularly the insufficiency of compensation to affected landowners. It starts by examining the colonial roots of the Land Acquisition Act of 1894, which placed emphasis on the development of infrastructure for imperial ends, and traces its evolution through legislative changes and judicial examination after independence. The research points out the transformation of property rights from core rights under Article 19(1)(f) to constitutional rights under Article 300A after the 44th Constitutional Amendment, underlining the influence of this shift on the legal safeguards of landowners.

Important judicial precedents such as Kesavananda Bharti v. Union of India and Indian Handicrafts Emporium v. Union of India are analyzed to highlight the conflict between public purpose and private property rights. The paper is critical of the procedural deficiencies of the 1894 Act, especially the abuse of the "urgency clause" under Section 17, which enabled governments to override landowners' objections and accelerate acquisitions. It also touches on ethical issues related to compensation mechanisms, citing cases where landowners were undercompensated or denied their legal rights.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 is examined as a piece of legislation aimed at addressing these flaws, though problems remain in the achievement of transparency and fairness. By integrating historical examination with recent case studies, this paper promotes a balanced strategy for land acquisition—one that balances the needs of development with justice for displaced peoples. It ends by suggesting policy changes designed to promote fair compensation practices and protect constitutional values in India's changing socio-economic context.

Keywords: *Land acquisition, compensation, constitutional rights, public purpose, urgency clause.*

I. INTRODUCTION

In India, significant portions of land are utilized for agricultural purposes due to the predominant

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involvement of the populace in agricultural and agriculture-related endeavours. A significant portion of India's geographical expanse is dedicated to agricultural activities, followed by forests as the second largest land user. Non-agricultural land, encompassing urban settlements, industries, and infrastructure projects, constitutes a comparatively smaller proportion. However, there has been a significant surge in its allocation, particularly since the initiation of the New Economic Policy in 1991, which emphasized liberalization, globalization, and privatization. A significant proportion of privately owned property inside the nation is allocated to cultivate crops and engage in other agricultural endeavours, hence falling under the classification of agricultural land. Private landowners have the liberty to transfer their land to other individuals, but typically, a shift in the utilization of agricultural land for commercial, industrial, or any other purpose necessitates approval and consent from the revenue authorities. As a consequence of this situation, a significant portion of the land is currently inhabited, posing a challenge for the government in initiating and implementing developmental projects. In the context of public infrastructure development, such as the establishment of roads, highways, railway tracks, canals, and urban housing, it is customary for the government to get land by providing compensation by the stipulations outlined in land acquisition legislation. The process of land acquisition in India is commonly perceived as the procurement of land by either the Central Government or the separate State governments to implement diverse economic and infrastructure projects and initiatives. The government engages in the practice of expropriating land from private individuals and landowners without their agreement, to facilitate public welfare and developmental endeavours. Provisions are present within these land acquisition rules to facilitate the formation and initiation of privately owned industries. The evolution of land use and its practicality typically occurs gradually and progressively over time as a result of decisions made by landowners. However, significant transformations such as developmental projects necessitate the approval of the government, and compulsory land acquisition serves as the principal mechanism for implementing substantial changes on a large scale.

Land acquisition laws in India have been in existence since the colonial era, introduced by the British. Over time, these laws have undergone several modifications and alterations to align with the evolving needs and dynamics of society. The issue has emerged as a challenging concern for policymakers². Numerous disputes have emerged between landowners who assert that they have not received equitable and justifiable compensation. ³Due to the prevalence of

² Ghatak, Maitreesh, and Parikshit Ghosh. "The land acquisition bill: a critique and a proposal." *Economic and Political Weekly* 46.41 (2011): 65-72.

³ Chakravorty, Sanjoy. "The price of land: Acquisition, conflict and consequence." *Indian Journal of Agricultural Economics* 69.902-2016-68358 (2014): 488-493.

numerous controversies, disorder, and uncertainty surrounding the land acquisition legislation in the country during recent years, the Indian National Congress (INC), which was in power at the time under the United Progressive Alliance (UPA), was compelled to reassess the established land acquisition mechanism outlined in the Land Acquisition Act of 1894.

(A) The constitutional validity of the Act:

The Constitution of India holds the status of being the highest legal authority, governing all individuals within the territorial boundaries of India, and prescribing the regulations and principles by which they are bound. The land acquisition process in India was predominantly regulated by the Land Acquisition Act of 1894, which was promulgated during the British colonial era. The aforementioned Act was in effect until 2013, at which point it was replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013⁴. The Act encountered numerous constitutional and legal hurdles before 2013. Following India's independence from British rule in 1947 and the subsequent ratification of the Constitution in 1950, several legal disputes arose about the land acquisition rules of the nation, leading to their examination and adjudication in a court of law.

a. Article 19(1)(f)

Article 19(1)(f) is a provision within a legal document. The property right held the status of a basic right under Article 19(1)(f) of the Constitution until the implementation of the 44th Amendment. Article 19(1)(f) ensures that every citizen possesses the entitlement to freely obtain, possess, and relinquish property without encountering any limitations or constraints. The fundamental property right was regarded as an inherent entitlement that should be universally granted to all individuals, irrespective of their racial, religious, gender, or caste affiliations. Furthermore, it was mandated that in the event of the government acquiring land for public use, appropriate compensation must be provided to individuals who have been adversely affected, to mitigate any potential losses they may have incurred. Despite being recognized as a fundamental right protected by the Constitution, the property right was subject to several limitations and restrictions. The Constitution included provisions in Article 19(5) that imposed limitations on the exercise of the right to property. By the authority bestowed upon the State through this provision, it possesses the ability to impose rational limitations on the entitlements afforded to all individuals under Article 19 of the Constitution. These restrictions may be enacted to advance the welfare of the broader populace or safeguard the rights of the Schedule Caste and Schedule Tribes. This was the prevailing scenario in India till the

⁴ Act No. 30 of 2013.

implementation of the forty-fourth amendment in 1978. The issue regarding the constitutional legality of the land acquisition legislation was brought into question in the legal case of *Kesavananda Bharti v. Union of India*⁵. This particular case established the fundamental structural concept of the Constitution. This particular legal case brought forward the question of whether the government's mandatory acquisition of land constitutes a breach of the property right, which was considered a fundamental constitutional right during that period. The aforementioned circumstance was resolved and addressed through the enactment of the forty-fourth amendment to the Constitution, which effectively revoked Article 19(1)(f) which formerly ensured the entitlement of property rights to all Indian citizens. The aforementioned change resulted in the exclusion of the right to property from the roster of essential rights that are codified in the Constitution. The elimination of Article 19(1)(f) by the enactment of this amendment act resulted in the removal of the constitutional provision that formerly safeguarded property rights. Currently, the prevailing circumstance entails the transformation of the right to property from a fundamental right to a constitutional one. In the legal matter concerning *Indian Handicrafts Emporium and other parties involved*. In the case of *Indian Handicrafts Emporium v. Union of India*⁶, the court determined that the fundamental right to acquire, hold, and dispose of property is no longer recognized under the Constitution of India. However, it remains a legal or constitutional right that cannot be infringed upon except through lawful means. The Supreme Court further established in the case of *Chairman, Indore Vikas Pradhikaran v. Pure Industrial Coke & Chemicals Ltd. & Ors.*⁷ that the property right is not only a constitutional right but also human and legal. In the current context, while the constitutional legitimacy of the Land Purchase Act is no longer a matter of contention, the process of land purchase continues to encounter several legal obstacles.

b. Article 31.

The specific provision under the Indian Constitution pertains to the obligatory acquisition of property. Article 31 of the Constitution has undergone multiple amendments and revisions since its inception until it was repealed through the forty-fourth amendment and subsequently substituted with Article 300A. It is important to note that this specific amendment was implemented with prospective effect and does not have retrospective implications. Consequently, any challenges to this amendment can only be raised under Articles 14, 19, and 31(2) of the Constitution.

⁵ 1973 (4) SCC 225.

⁶ (1960) 2 SCR 671.

⁷ 2007 (8) SCC 705.

Regarding the legal matter of *Dwarakdas v. Sholpaur Spinning and Weaving Co.*⁸ the court has stipulated the postulates about the acquisition of property under Article 31 of the Constitution as follows:

- i. “authorized by law [Article 31(1)]
- ii. Necessitated by a public purpose [Article 31(2)]
- iii. Subject to payment of compensation [Article 31(3)]”

According to Article 31(2), this specific clause mandates that the appropriate government can only acquire property if it is entirely utilized for a public purpose as stipulated by the Act. In situations where the acquired property is not being utilized for its intended purpose, it is incumbent upon the government to provide compensation to the landowners involved. The government is legally required to provide compensation to landowners in cases where there is a significant deprivation of property. The legitimacy and efficacy of the government's land acquisition process are currently subject to scrutiny and opposition. To address these concerns, it is imperative to invoke the provisions outlined in Article 31(2) in conjunction with Article 31(1). In the legal matter of *State of West Bengal v. Subodh Gopal Bose*⁹, the court observed that the duty to provide compensation arises solely in instances where the actions of the State lead to a significant deprivation of an individual's private property. The highest court determined that a mere violation of an individual's rights as outlined in Article 31 is insufficient grounds for challenging a land acquisition, emphasizing the requirement for substantial deprivation of property.

Following the implementation of the forty-fourth amendment, the property right ceased to be classified as a fundamental right and instead became a constitutional right protected under Article 300A. Consequently, it no longer holds a position within the foundational framework of the Constitution of India. It could be contended that the legislative authority of the Central Government does not extend to subjects about "land" due to its inclusion in the State List. However, it is worth noting that the subject of "acquisition of land" is situated in the Concurrent List, granting both the Central and State governments the capacity to enact legislation in this domain.

II. THE LAND ACQUISITION ACT OF 1894

The aforementioned legislation was promulgated following multiple amendments during the period of British rule, with a clear and specific purpose and aim in sight. The primary aim of

⁸ 1954 SCR 674.

⁹ 1954 SCR 587.

enacting this legislation was to facilitate the establishment of railway lines, highways, canals, bridges, and other means of transportation and communication. These infrastructural developments were intended to support the efficient movement of the military forces and the shipment of weaponry throughout the nation. The British undertook this endeavour to expand their dominion throughout the nation, resulting in the acquisition of significant tracts of rural property. After achieving independence, the control over this territory in India was exclusively retained by the Government for public utilization. Subsequently, the government initiated the allocation of rural land for the establishment of steel mills, defence-related facilities, and many other industrial ventures. Dams were constructed around the country, resulting in the submergence of numerous villages. Subsequently, the government opted to buy rural property predominantly utilized for agricultural purposes to facilitate urban development and housing.

The implementation of the New Economic Policies in 1991 led to the widespread adoption of privatization in the country. As a result, the private sector assumed duties that were previously handled by governmental agencies, in exchange for incentives provided by the government. Consequently, private sector firms ventured into several industries including urban development, housing, education, construction operations, and health infrastructure. The establishment of these firms necessitated the acquisition of property by the private sector. Section VII of the 1894 Act conferred authority upon private sector entities to buy land on a significant scale, provided that they intend to employ said land for a public objective. Numerous occurrences have been documented when diverse State administrations have procured substantial tracts of land at significantly reduced costs, asserting that such acquisitions were intended for developmental endeavours. Subsequently, the aforementioned entity was transferred to private sector firms to engage in construction-related endeavours. Even though landowners receive financial compensation from the government for their land, this remuneration does not yield any substantial monetary advantages for them.

(A) Criticism of the 1894 Act

The *urgency clause* is a provision that is included in legal documents, such as contracts or legislation, to emphasize the immediate and time-sensitive

The provision known as the "urgency clause" in the 1894 Act has faced significant criticism due to its frequent misuse. Numerous occurrences have arisen in which State governments have flagrantly abused the provision outlined in Section 17 of the Land Acquisition Act, of 1894. This section grants "Special powers in cases of urgency," stipulating that, upon the directive of the appropriate Government, the Collector may seize possession of any land required for a

public purpose, even in the absence of an award and after fifteen days following the publication of the notice specified in section 9, sub-section (1). The aforementioned provision stipulates that the land in question should then become the complete property of the Government, devoid of any burdens or limitations. The 1894 Act has been characterized as draconian due to the absence of the landowner's entitlement to pursue a legal order restraining the acquisition process. The landowner possesses the right to submit an objection by Section 56A of the Act, namely about the purported acquisition of land, which is considered a fundamental entitlement of the landowner. The State government's abuse of power through the utilization of the provision outlined in Section 17(4) of the 1894 Act. This section grants State governments the authority to enact provisions under Section 5A, which renders the right of landowners to register complaints inapplicable. The misuse of authority by the State under the urgency clause of the 1894 Act is an observable phenomenon. Over the past few decades, the legal procedure for land acquisition, as outlined in Section 4(1) in conjunction with Section 17(1) and 17(4), has been the subject of significant litigation. As per the ruling of the Supreme Court in the case of Radhey Shyam (D) through LRs & Ors¹⁰. In the case of the State of U.P & Ors, it has been argued that Section 5A serves as a statutory manifestation of the principle of audi alteram partem, and it is emphasized that the provision for urgency under Section 17(1) should only be applied in cases of genuine and significant urgency.

The topic of discussion pertains to the process of **rehabilitation and resettlement**.

The Land Purchase Act of 1894 does not have provisions for the rehabilitation and resettlement of landowners who have been displaced as a result of land purchase. This phenomenon often engenders a sense of dissatisfaction and animosity among the populace.

(B) The Issue of Inadequate Remuneration

In general, the rates of compensation provided for under the Land Acquisition Act of 1894 are significantly lower in comparison to the actual market rates. The remuneration offered by the government falls significantly short of the prevailing market rates. Due to the absence of a specific provision, the government compensates individuals at a rate far lower than prevailing market rates, based on its assumption of what constitutes the market rate. There is currently no provision in place to mitigate this behaviour, as the Act mandates the forceful seizure of land without the landowner's consent. The Act does not contain any provision to halt the land purchase process after it has been initiated by the government. Section 5A of the legislation offers a procedural avenue for landowners to exercise their right to be heard by submitting an

¹⁰ Radhey Shyam (D) through LRs & Ors. v. State of U.P & Ors. Civil Appeal No. 3261 of 2015.

objection to the Collector within a specified timeframe of 30 days following the publication of the government's notification. Subsequently, the collector proceeds to present a comprehensive report to the governing body, which is responsible for overseeing the matter. Based on the report provided by the collector, the government releases an official notification by Section 6 of the Act, wherein it declares its purpose of acquiring the land, specifically for a public cause.

(C) Forced Acquisition

Once the government has determined to procure a specific parcel of property, it possesses the authority to proceed with the acquisition unimpeded by any potential opposition. In this particular scenario, the landowner is being dispossessed of their land and is unable to pursue legal recourse through an injunction in a lower court to challenge the acquisition of said land. The landowner possesses the authority to object to the collector by Section 5A. This objection is subsequently forwarded to the relevant government entity, whose decision is ultimately conclusive and obligatory. According to the stipulations outlined in Section 6 of the legislation, the government possesses the authority to override the objections raised by landowners because the acquired land is being utilized for public purposes. The individual who has the land has the sole ability to contest the amount of compensation provided by the government for the aforementioned acquisition. As per the stipulations outlined in the legislation, the remuneration granted to the proprietor of the land is deemed conclusive, unless subject to alteration through a decision issued by a Civil Court. The *Ramji Veeri Patel & Ors*¹¹. The case was brought before the Supreme Court. The Revenue Divisional Officer asserted that the provisions outlined in the Act have recently been recognized by all parties involved as insufficient in safeguarding the interests of landowners and anyone with a vested interest in the land. The legislation does not provide provisions for the rehabilitation of individuals who have been displaced from their land, even though their means of subsistence are adversely impacted by such forceful purchase. Over an extended period, the bought land has remained dormant and devoid of any utilization. The current Act has grown antiquated and requires prompt replacement with a fair, reasonable, and rational enactment that aligns with the constitutional provisions, including Article 300A of the Constitution. The timely completion of the legislative process for a comprehensive land acquisition enactment is anticipated. Subsequently, the existing laws were reviewed and the Land Acquisition, Rehabilitation, and Resettlement (LARR) Act was adopted.

¹¹ 2011 (2) SCC 364.

a. **An Analysis of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013:**

This legislation establishes a systematic and inclusive process for acquiring property for industrialization, the development of essential infrastructure, and urbanization while minimizing disruption to landowners and affected families. The Act prioritizes altruism, participation, education, and transparency in this cycle. The initiative facilitates the establishment of a fair and just compensation, rehabilitation, and relocation plan for individuals adversely impacted by the situation. It additionally ensures that the overall outcome of compulsory acquisition should be structured in a manner that enables the affected individuals to actively participate in the development and promotion of improvements in their socio-economic status following the acquisition, as well as any related or associated issues.

According to Section 2 of the Act, the provisions of the LARR Act, 2013 can be extended to encompass various categories of land acquisition. This particular section of the Act delineates the categorization of land acquisition into three distinct classifications:

In this study, we aim to investigate the effects of a new drug on patients with the acquisition of land by the government for its utilization and for the benefit of the general public is deemed suitable. The government procures land for public-private partnership (PPP) initiatives or private enterprises to serve the public interest.

b. **Acquisitions conducted by private enterprises via private discussions:**

According to Section 2(1) of the Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013, the Collector is authorized to assume ownership of the land alone after ensuring complete payment of the compensation amount, which includes the right for rehabilitation and resettlement to the eligible individuals. ¹²By the provisions outlined in the 2013 Act, the quantum of Compensation must be sufficiently justifiable to validate the compulsory acquisition of land. According to the provisions of the 1894 Act, it was required that payment be provided at the prevailing market value and price. In any event, as previously analyzed, the magnitude and rationale behind determining market prices and worth served as the fundamental catalyst for several disputes and acts of deceit against landowners, ultimately leading to extensive litigation. The court, in the case of *Ram Jiyawan v. State of Uttar Pradesh*¹³, determined that the seizure of land without sufficient compensation constitutes a breach of Article 14 of the Constitution. Section 30 of the Land Acquisition, Rehabilitation and

¹² SecLon 28 of the LARR, 2013 Act.

¹³ AIR 1944 A11 38.

Resettlement (LARR) Act of 2013 demonstrates a compassionate and empathetic approach towards the welfare of affected individuals by establishing provisions for compensation or solatium. The compensation provided to landowners serves as reparation for any psychological distress that may have been incurred as a result of the land acquisition procedure. The determination of the solatium amount to be awarded is outlined in the First Schedule of the Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013. This additional payment is intended to be remunerated to the landowners, in addition to the compensation that is already obligated to be paid for the acquisition of the land. The Collector has the authority to provide a solatium equivalent to 100% of the assessed worth of the land. The notion of solatium is not novel, since it was originally established within the framework of the 1894 Act, namely under Section 23(2). However, this provision imposed a limitation on the maximum amount of solatium that could be granted, which was set at 30% of the compensation value provided by the government for the acquired land. According to Section 26 of the Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013, the Collector is mandated to provide compensation by Section 30(3) of the Act. This compensation includes an additional amount equivalent to 12% per annum of the market value of the land, in addition to the market value itself. The payment is to be made starting from the day of the publication of the Notification concerning the Social Impact Assessment Report until the day the Collector assumes ownership of the land.

III. CONCLUSION

The land acquisition regulations inherited by India from the British colonial era were undeniably heavily biased against the welfare of landowners and individuals dependent on these properties for their livelihoods. The Land Acquisition, Rehabilitation, and Resettlement (LARR) Act of 2013 has significantly increased the amount of compensation to be received by landowners from the government, while also providing provisions for their rehabilitation and resettlement in the event of removal or relocation. The LARR Act of 2013 has led to a notable enhancement and amplification of the clarity and openness in the process of land procurement and acquisition, particularly through the implementation of social impact assessments. Previously, the consent of land proprietors, owners, and other affected individuals was sought, but currently, they are not allowed to express their opinions on the matter. They receive more compensation and also have a vested interest in the decision to pursue property acquisition. Measures have also been implemented to counteract the extensive acquisition of vast tracts of rural land, which has the potential to diminish crop output and food production, thus jeopardizing food security. The aforementioned progressions have undeniably resulted in a recalibration of the government's

role as the custodian of public welfare and the rights of individual property owners.

IV. BIBLIOGRAPHY

(A) Primary Sources

- Lobo, Lancy, and Shashikant Kumar. *Land acquisition, displacement and resettlement in Gujarat: 1947-2004*. Sage Publications India, 2009.
- Ramesh, Jairam, and Muhammad Ali Khan. *Legislating for Equity: The Making of the 2013 Land Acquisition Law*. Oxford University Press, 2015.

(B) Web Sources

- BANDYOPADHYAY, JAYANTA, and TAPAS ROY. "Political Challenge of an Intensifying Conflict over Land." *Economic and Political Weekly*, vol. 47, no. 7, 2012, www.jstor.org/stable/41419791.
- LEVIEN, MICHAEL. "Rationalising Dispossession: The Land Acquisition and Resettlement Bills." *Economic and Political Weekly*, vol. 46, no. 11, 2011. JSTOR, www.jstor.org/stable/41151973.
- SARKAR, SWAGATO. "The Impossibility of Just Land Acquisition." *Economic and Political Weekly*, vol. 46, no. 41, 2011. JSTOR, www.jstor.org/stable/23047182.
- Jenkins, Rob. "Land, Rights and Reform in India." *Pacific Affairs*, vol. 86, no. 3, 2013. JSTOR, www.jstor.org/stable/43590717.
- Narain, Vishal. "Growing city, shrinking hinterland: land acquisition, transition and conflict in peri-urban Gurgaon, India." *Environment and Urbanization* 21.2 (2009).
- Morris, Sebastian, and Ajay Pandey. "Towards reform of land acquisition framework in India." *Economic and Political Weekly* (2007).
