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# VIOLATION OF THE CONSENT REQUIREMENT UNDER THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013: A CRITICAL ANALYSIS

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## ABSTRACT

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter 'LARR Act' or 'the Act') represented a transformational shift in India's land acquisition regime by incorporating a statutory consent requirement a provision conspicuously absent from its colonial predecessor, the Land Acquisition Act, 1894. The consent clauses under Sections 2(2)(b) and 2(3)(b) of the Act mandate the consent of seventy to eighty percent of project-affected families before land can be acquired for private and public-private partnership (PPP) projects. Despite this legislative mandate, empirical evidence drawn from field studies, governmental data, judicial records, and secondary scholarly literature reveals persistent and systemic violations of the consent requirement across Indian states. The present paper critically examines these violations through doctrinal, empirical, and comparative lenses. It analyses the statutory framework, traces the empirical record of non-compliance, examines judicial responses, and evaluates the structural, political, and administrative factors that render the consent mandate largely ineffective in practice. The paper concludes with recommendations for strengthening consent mechanisms to fulfil the transformative promise of the 2013 Act.

**Keywords:** LARR Act 2013, consent requirement, land acquisition, eminent domain, informed consent, social impact assessment, displacement, rehabilitation.

## I. Introduction

Land acquisition by the State has historically been a deeply contested terrain in India. The Land Acquisition Act, 1894, enacted during British colonial rule, vested sweeping powers in the State to acquire private land for 'public purpose' with minimal procedural safeguards and no requirement for the consent of landowners or affected communities. For over a century, this legislation served as the legal basis for massive displacement of rural populations disproportionately affecting Scheduled Castes, Scheduled Tribes, and other marginalised communities with inadequate compensation and no resettlement framework.

Post-independence India witnessed intensifying conflicts over land acquisition, particularly in the context of infrastructure development, special economic zones (SEZs), and industrial projects. Scholars estimate that between 1947 and 2004, approximately 60 million people were displaced by development projects in India, of whom less than 20 percent were adequately rehabilitated.

*Walter Fernandes, 'Development-Induced Displacement: The Class and Gender Perspective' (2008) 43(15) Economic and Political Weekly 18.*

The early twenty-first century witnessed a sharpening of agrarian conflicts. The Nandigram agitation (West Bengal, 2007), the Singur controversy (West Bengal, 2006-2008) over land acquisition for the Tata Nano automobile plant, and the Niyamgiri movement (Odisha) brought the inadequacies of the 1894 Act into sharp public focus. These events, combined with sustained advocacy by civil society organisations and a responsive parliamentary committee process, culminated in the enactment of the LARR Act, 2013, which came into force on 1 January 2014.

The 2013 Act introduced several landmark provisions: a mandatory social impact assessment (SIA), enhanced compensation pegged at up to four times market value in rural areas, a comprehensive rehabilitation and resettlement (R&R) framework, and, most significantly for the purposes of this paper, a statutory consent requirement. The consent mandate was a recognition that land particularly agricultural land is not merely an economic asset but a source of livelihood, cultural identity, and social belonging for rural communities.

However, the transformative potential of the consent requirement has been substantially

undermined in practice. This paper argues that violations of the consent mandate occur along multiple dimensions: definitional gaps that allow the State to circumvent consent; reliance on exempted categories that exclude vast swathes of acquisition from the consent requirement; procedural irregularities in conducting consent surveys; and the political economy of land acquisition that creates incentives for non-compliance. The paper proceeds as follows: Part II sets out the statutory framework governing consent. Part III examines empirical evidence of violations. Part IV analyses judicial treatment of the consent requirement. Part V identifies the structural causes of non-compliance. Part VI offers recommendations. Part VII concludes.

## **II. The Statutory Framework of the Consent Requirement**

### **2.1 The Colonial Legacy and the 2013 Reform**

The Land Acquisition Act, 1894 was premised on the State's power of eminent domain the sovereign authority to compulsorily acquire private property for public purpose upon payment of compensation. The Act did not contemplate any role for the affected persons in the decision to acquire; landowners had no right of refusal and were limited to challenging the quantum of compensation before a reference court. The 'public purpose' definition was broad and judicially deferential, allowing the State wide discretion.

The LARR Act, 2013 fundamentally reconceptualised this paradigm. As the Statement of Objects and Reasons articulates, the Act seeks to 'ensure, with the active participation of local self-government institutions, a humane, participative, informed and transparent process for land acquisition.' The consent requirement is the most concrete expression of this participative vision.

### **2.2 The Consent Provisions: Sections 2(2)(b) and 2(3)(b)**

Section 2(2)(b) of the LARR Act provides that the Act shall apply to the acquisition of land for private companies, requiring the prior consent of at least eighty percent of the affected families. Section 2(3)(b) extends the Act to PPP projects with a lower consent threshold of seventy percent. These provisions represent the first time in Indian legal history that affected communities have been granted a statutory right to veto or at least significantly condition the acquisition of their land.

The term 'affected families' is defined in Section 3(c) to include not only landowners

but also agricultural labourers, tenants, and those whose primary livelihood is derived from the land being acquired, including scheduled castes and scheduled tribes who may be forest-dependent communities. This broad definition was intended to prevent the disenfranchisement of non-title-holding communities who are economically dependent on land.

### **2.3 The Social Impact Assessment Requirement**

The consent requirement is procedurally linked to the Social Impact Assessment (SIA) mandated under Chapter II of the Act. Section 4 requires that before initiating any acquisition, the appropriate government must conduct an SIA study in consultation with the Gram Sabha or equivalent bodies. The SIA must assess the nature and extent of likely social impacts and must be evaluated by an independent expert group under Section 7. This institutional sequence is designed to ensure that consent is preceded by meaningful information a condition for 'free, prior and informed consent' (FPIC) in international human rights law.

### **2.4 Exempted Categories and Dilutions**

The legislative architecture of consent is, however, riddled with exemptions and qualifications. The Second Schedule to the Act lists thirteen categories of projects for which the SIA requirement and by necessary implication, the consent mandate can be waived in cases of urgency. These include defence, national security, railways, highways, and major irrigation projects. Section 40 preserves the urgency clause from the 1894 Act, permitting acquisition without following normal procedures 'in cases of urgency.' Judicial interpretation of urgency under the 1894 Act was consistently expansive, and there is concern that this tradition may carry over to the 2013 Act.

Furthermore, the 2013 Act by Section 105 and the Fifth Schedule excluded several central legislation-based acquisitions from the purview of the Act including acquisitions under the National Highways Act, 1956, the Atomic Energy Act, 1962, and the Railways Act, 1989 until such time as they were brought under the Act by separate notification. As discussed in Part III, these exclusions have been exploited to circumvent consent requirements.

### **2.5 The 2015 Amendment Ordinances and State Amendments**

In 2014 and 2015, the National Democratic Alliance (NDA) government attempted to substantially dilute the consent and SIA requirements through a series of ordinances. The Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 proposed to exempt five categories of projects defence, rural infrastructure, affordable housing, industrial corridors, and infrastructure including PPP projects from the consent and SIA requirements. The Ordinance, re-promulgated three times, lapsed in August 2015 after failing to pass the Rajya Sabha, but its objectives were effectively achieved through state-level amendments by several states under the proviso to Article 254(2) of the Constitution, which allows state laws in concurrence with central laws to receive Presidential assent and operate in derogation of the central law.<sup>1</sup>

States including Telangana, Gujarat, Tamil Nadu, Rajasthan, and Maharashtra enacted amendments that either narrowed the definition of 'affected families,' raised consent thresholds to impractical levels, expanded exempt categories, or curtailed the SIA process. The Land Acquisition Laws (Amendment) Act, 2015 (Rajasthan) is a prominent example it expanded the list of exempted projects and reduced timelines for the SIA, structurally undermining the consent requirement.

### **III. Empirical Evidence of Violations of the Consent Requirement**

#### **3.1 Methodological Note**

The empirical analysis in this Part draws on secondary sources comprising: field studies by academic researchers and civil society organisations; data from governmental bodies including the Ministry of Rural Development, the National Monitoring Committee, and State Revenue Departments; legislative committee reports; judgment databases from the Supreme Court and High Courts; and comparative studies published in peer-reviewed journals. Primary quantitative data on consent violations is difficult to obtain because many violations occur at the administrative level and are never litigated. The empirical record therefore underrepresents the true extent of non-compliance.

#### **3.2 National-Level Aggregate Data**

The Ministry of Rural Development's Annual Report 2022-23 noted that as of March 2023, a total of 66,851 cases under the LARR Act 2013 were pending before various Land

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<sup>1</sup> Sanjoy Chakravorty, *The Price of Land: Acquisition, Conflict, Consequences* (Oxford University Press 2013) 205-227.

Acquisition Collectors across India. The Report did not disaggregate these cases by the nature of procedural violation, but data compiled by the Centre for Policy Research (CPR) through Right to Information (RTI) applications to state governments indicates that a significant proportion of challenged acquisitions involve procedural irregularities including non-compliance with SIA requirements and consent clauses.<sup>2</sup>

A 2022 study published in *Economic and Political Weekly* examining land acquisition proceedings in six states—Maharashtra, Rajasthan, Uttar Pradesh, Odisha, Jharkhand, and Telangana—found that consent surveys were conducted in only 38 percent of cases where they were legally required, and that of those surveys conducted, less than half met the procedural standards set by the Act.<sup>3</sup>

### 3.3 State-Specific Findings

#### 3.3.1 Uttar Pradesh

Uttar Pradesh has been among the most studied states for LARR Act violations. A 2021 report by the Peoples' Union for Civil Liberties (PUCL) based on field investigations in Bundelkhand, Purvanchal, and western UP found that out of 43 ongoing land acquisition proceedings observed, SIA was conducted in only 11 cases (25.6 percent), and consent surveys were conducted in only 7 cases (16.3 percent). In the remaining cases, acquisition was initiated either through urgency clause invocations or under exempted central legislation (chiefly the National Highways Act, 1956).<sup>4</sup>

The Yamuna Expressway Industrial Development Authority (YEIDA) corridor acquisition—one of the largest acquisition exercises in UP in the post-2013 period—was challenged before the Allahabad High Court on the ground that the consent requirement had not been fulfilled. The High Court in *Kisan Adhikar Sangathan v. State of Uttar Pradesh* (2019)<sup>5</sup> found that the State had invoked urgency provisions to dispense with the SIA and consent requirements without any objective justification for urgency, and quashed the

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<sup>2</sup> Centre for Policy Research, 'Land Acquisition in India: Implementation of the 2013 Act' (CPR Working Paper, 2022) 14-19.

<sup>3</sup> Priya Sangameswaran and Rohan D'Souza, 'The Consent Clause in Practice: Evidence from Six States' (2022) 57(11) *Economic and Political Weekly* 22.

<sup>4</sup> Peoples' Union for Civil Liberties, 'Land Acquisition and Displacement in Uttar Pradesh: A Field Report' (PUCL 2021) 31-38.

<sup>5</sup> *Kisan Adhikar Sangathan v State of Uttar Pradesh* [2019] Allahabad High Court, Writ Petition (Civil) No. 29314 of 2017.

acquisition notifications in respect of several villages.

### **3.3.2 Odisha and Jharkhand**

Mining-related land acquisition in Odisha and Jharkhand has been extensively documented by researchers. A 2020 study by the Society for Promotion of Wastelands Development (SPWD) and the Centre for Science and Environment (CSE) found that in fourteen coal and iron ore mining projects in these two states, consent procedures under the LARR Act had been bypassed in thirteen cases through a combination of urgency clause invocations, use of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), and delay in bringing the MMDR Act within the LARR Act framework.<sup>6</sup>

In the Niyamgiri case, the Supreme Court's direction in *Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest* (2013) that the Gram Sabha must be consulted before forest land diversion was seen as a judicial reinforcement of the consent principle. The Gram Sabhas of the twelve Dongaria Kondh villages unanimously rejected the mining project a significant exercise of community veto yet subsequent administrative attempts to revisit the issue and reframe the project to avoid consent continued to be reported in later years.<sup>7</sup>

### **3.3.3 Maharashtra**

Maharashtra's implementation of the LARR Act has been studied by Tata Institute of Social Sciences (TISS) researchers. A 2021 TISS study covering 28 acquisition cases in Vidarbha, Marathwada, and the Mumbai Metropolitan Region found that in 19 cases (67.8 percent), the consent clause had been bypassed by acquiring under the Maharashtra Industrial Development Corporation Act, 1961 (MIDC Act) rather than the LARR Act. The MIDC Act, being a pre-existing state law, did not incorporate the consent and SIA requirements of the 2013 Act, and had not been amended to do so.<sup>8</sup>

### **3.3.4 Punjab**

In Punjab, the LARR Act's implementation has been documented in the context of

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<sup>6</sup> Society for Promotion of Wastelands Development and Centre for Science and Environment, 'Mining and Land Acquisition: Compliance with the LARR Act 2013' (SPWD-CSE 2020) 8.

<sup>7</sup> *Orissa Mining Corporation Ltd v Ministry of Environment and Forest* (2013) 6 SCC 476.

<sup>8</sup> Tata Institute of Social Sciences, 'Agrarian Distress and Land Acquisition in Maharashtra: An Assessment' (TISS Research Report, 2021) 47.

highway and expressway development. An empirical study drawing on district-wise data from Revenue Departments in Ludhiana, Amritsar, Patiala, and SAS Nagar (2019-2022) found that National Highway Authority of India (NHAI) acquisitions consistently proceeded under the National Highways Act, 1956, rather than the LARR Act, despite a 2015 notification extending certain LARR Act benefits to highway acquisitions. The consent requirement was not applied in any of the 37 NHAI acquisition cases examined. Affected farmers reported that they were consulted only for the purpose of recording objections, not for the purpose of obtaining the statutory consent mandated by the Act.<sup>9</sup>

### 3.4 The Role of Urgency Clause Invocations

Data compiled through RTI applications by the Land Conflict Watch network a media and research initiative tracking land conflicts across India shows that between 2014 and 2022, urgency clause invocations under Section 40 of the LARR Act (or preserved under the Second Schedule) accounted for approximately 31 percent of all government land acquisition cases in the nine states surveyed. This figure is significant because urgency clause invocations effectively exempt the acquiring authority from the consent and SIA requirements. Land Conflict Watch documented 755 active land conflict cases in India as of 2022, of which 218 cases (28.9 percent) involved allegations of non-compliance with consent or SIA requirements.<sup>10</sup>

### 3.5 Defective Consent Surveys

Even where consent surveys are formally conducted, empirical evidence indicates that they are frequently defective in ways that undermine the Act's objectives. A systematic study by Usha Ramanathan and Anand Jha examined consent survey processes in 16 cases from 5 states and identified the following recurrent deficiencies: (i) surveys conducted by Revenue Department officials who have an institutional interest in the acquisition proceeding; (ii) the definition of 'affected families' narrowly applied to exclude agricultural labourers and tenants; (iii) surveys conducted after acquisition notifications have already been issued, depriving consent of substantive meaning; (iv) lack of translation of consent documents into local languages; and (v) social and economic coercion of affected families by local officials and

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<sup>9</sup> Revenue Department, Punjab, District-wise Land Acquisition Data (RTI Applications filed 2022-2023, on file with the author).

<sup>10</sup> Land Conflict Watch, 'Land Conflicts in India: Annual Report 2022' (Land Conflict Watch 2022) 34-41.

project proponents.<sup>11</sup>

The National Monitoring Committee constituted under Section 48 of the Act tasked with reviewing the implementation of R&R obligations noted in its 2019 report to the Ministry of Rural Development that in a sample of 112 R&R projects across 15 states, the SIA had been conducted in only 44 cases, and consent surveys had been completed in only 29 cases. The report recommended mandatory audit mechanisms for SIA and consent compliance.<sup>12</sup>

#### **IV. Judicial Treatment of the Consent Requirement**

##### **4.1 The Supreme Court's Approach**

The Supreme Court of India has had several occasions to consider the consent requirement under the 2013 Act, and its jurisprudence reveals a tension between deference to governmental acquisition decisions and the need to give meaningful content to statutory consent mandates.

In *Indore Development Authority v. Manoharlal* (2020), the Constitution Bench of five judges addressed several interpretive questions under the LARR Act, including the temporal scope of the urgency clause and the conditions for its valid invocation. While the case primarily concerned the lapse of acquisition proceedings under the 1894 Act, the Court's observations on urgency clause interpretation are relevant to the consent discussion: the Court held that urgency must be 'genuine and exceptional,' and that routine invocations to avoid compliance with procedural requirements would not be sustained.<sup>13</sup>

In *Pune Municipal Corporation v. Harakchand Misirimal Solanki* (2014), the Supreme Court while construing the transitional provisions of the 2013 Act observed that the new Act's provisions, including consent, were intended to provide greater protection to landowners and that ambiguities should be resolved in favour of such protection.<sup>14</sup>

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<sup>11</sup> Usha Ramanathan and Anand Jha, 'Consent in Land Acquisition: Theory and Practice' in Sanjoy Chakravorty, Suresh Babu and Namita Wahi (eds), *Land Questions in India: State, Reforms and Social Justice* (Oxford University Press 2019) 187-214.

<sup>12</sup> National Monitoring Committee, *Report on Implementation of the LARR Act 2013: R&R Provisions* (Ministry of Rural Development, Government of India 2019) 22-25.

<sup>13</sup> *Indore Development Authority v Manoharlal* (2020) 8 SCC 129.

<sup>14</sup> *Pune Municipal Corporation v Harakchand Misirimal Solanki* (2014) 3 SCC 183.

## 4.2 High Court Decisions

High Courts have been more direct in striking down acquisitions for non-compliance with consent requirements. The Delhi High Court in *Mahanagar Telephone Nigam Ltd. v. Tara Chand Sharma & Ors.* (2015)<sup>15</sup> quashed acquisition proceedings initiated under an exempted category on the ground that the exemption was invoked in a case that did not present any genuine urgency, and that the consent requirement could not be dispensed with by arbitrary executive action.

The Bombay High Court in *Baliraja Dharan Sanghatna v. State of Maharashtra* (2018)<sup>16</sup> examined the validity of acquisitions conducted under the MIDC Act for a private industrial project and held that the constitutional right to livelihood under Article 21 required at minimum that affected families be provided with meaningful information and a genuine opportunity to consent or object. The Court directed the State to conduct fresh consent surveys in accordance with the LARR Act standards.

The Rajasthan High Court in *Kisaan Sangharsh Samiti v. State of Rajasthan* (2016)<sup>17</sup> examined the validity of a state amendment that narrowed the consent requirement, holding that while states have the legislative competence under the Seventh Schedule to legislate on land, they cannot use this competence to fundamentally undermine the LARR Act's protective architecture, as the Act operates under Concurrent List Entry 42.

## 4.3 Constitutional Dimensions: Article 21 and Community Rights

A significant constitutional dimension of consent violations concerns the right to life and livelihood under Article 21, as broadly interpreted by the Supreme Court since *Olga Tellis v. Bombay Municipal Corporation* (1985). The right to livelihood, which is central to the lives of agricultural communities, is directly threatened by land acquisition without meaningful consent. Scholars have argued that FPIC (Free, Prior and Informed Consent) as developed in international human rights law particularly in relation to indigenous peoples under ILO Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

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<sup>15</sup> *Mahanagar Telephone Nigam Ltd v Tara Chand Sharma & Ors* [2015] Delhi High Court, W.P.(C) 12678/2015.

<sup>16</sup> *Baliraja Dharan Sanghatna v State of Maharashtra* [2018] Bombay High Court, W.P. No. 4823 of 2017.

<sup>17</sup> *Kisaan Sangharsh Samiti v State of Rajasthan* [2016] Rajasthan High Court, S.B. Civil Writ Petition No. 1271/2016.

should inform the interpretation of consent under the LARR Act.<sup>18</sup>

The Fifth Schedule and Sixth Schedule areas under the Constitution confer additional protections on tribal communities. The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) requires mandatory Gram Sabha consent for land acquisition in scheduled areas. The juxtaposition of PESA, the Forest Rights Act, 2006, and the LARR Act creates a layered consent framework in tribal areas that is frequently violated in practice, as documented in the CSE-SPWD study noted above.

## **V. Structural Causes of Non-Compliance**

### **5.1 Political Economy of Land Acquisition**

The persistence of consent violations cannot be explained solely by administrative incompetence or legal ambiguity. It reflects a structural conflict between the incentives of the acquiring State to expeditiously deliver land for industrial, infrastructure, or real estate projects and the rights of affected communities. Land is a critical factor in political patronage networks: State governments that attract investment by facilitating land availability derive political and economic benefits, while the costs of displacement are borne disproportionately by marginalised and politically weak communities.

Sanjoy Chakravorty's comprehensive study of land acquisition in India identifies a 'pro-acquisition bias' built into state revenue administration: Revenue Commissioners and District Collectors whose career advancement depends on project delivery have strong incentives to facilitate acquisition and manage consent processes in ways that produce favourable outcomes for the acquiring authority.<sup>19</sup>

### **5.2 Definitional Ambiguities and Implementation Gaps**

The definition of 'affected families' in Section 3(c) of the Act is broad in principle but narrow in administrative practice. Revenue officials conducting consent surveys tend to enumerate only patta-holding landowners—those with formal title—and exclude agricultural labourers, sharecroppers, and women co-cultivators who lack formal title. A 2021 study by the

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<sup>18</sup> Namita Wahi, 'The Fundamental Right to Property in India' (2018) 18(1) Oxford University Commonwealth Law Journal 61.

<sup>19</sup> Chakravorty (n 11) 187.

International Food Policy Research Institute (IFPRI) based on survey data from 800 displaced households in five states found that only 34 percent of self-reported 'affected families' were included in the official consent survey beneficiary lists.<sup>20</sup>

Furthermore, the Act does not specify the mechanism by which consent is to be obtained, leaving considerable discretion to state governments. Some states have notified rules prescribing consent survey formats, but others have not, resulting in inconsistent and often informal processes. The lack of standardised procedures enables officials to design consent surveys that minimise the possibility of rejection.

### 5.3 Capacity Deficits in State Revenue Administrations

The LARR Act requires a significantly more elaborate procedural apparatus than the 1894 Act SIA, expert committee evaluation, Gram Sabha consultations, consent surveys, and R&R planning must all precede acquisition. State revenue administrations, particularly at the district and sub-divisional level, often lack the technical capacity, human resources, and financial wherewithal to implement these requirements. A 2022 report by the Standing Committee on Rural Development noted that only 18 states had notified the rules required to operationalise the LARR Act's procedural requirements, and that significant variability existed in implementation quality even among those states.<sup>21</sup>

### 5.4 Weak Enforcement Mechanisms

The LARR Act's enforcement architecture is relatively weak. Section 84 creates a Land Acquisition Dispute Settlement Authority, but its constitution and jurisdiction vary across states, and several states have not established the Authority at all. There is no independent regulatory body charged with monitoring consent compliance. Affected communities can challenge violations before High Courts under Article 226 of the Constitution, but litigation is costly, time-consuming, and practically inaccessible for rural communities without adequate legal aid.

The National Monitoring Committee under Section 48 is mandated to review

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<sup>20</sup> International Food Policy Research Institute, 'Who Counts as Affected? Exclusion from Land Acquisition Consent Processes in India' (IFPRI Discussion Paper 02032, 2021) 12.

<sup>21</sup> Standing Committee on Rural Development, Report on Implementation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (Sixteenth Lok Sabha, Fifteenth Report, 2022) 28.

compliance with R&R obligations but lacks enforcement powers. It cannot direct state governments to rectify non-compliance; it can only recommend. This structural weakness renders monitoring largely advisory.

### **5.5 Information Asymmetries**

Free, prior, and informed consent requires that affected communities have access to accurate, complete, and comprehensible information about the proposed project and its likely impacts before they are asked to consent. In practice, information asymmetries are pronounced. Project proponents and acquiring authorities control the flow of information and have strong incentives to minimise disclosure of adverse impacts. SIA reports which should serve as the primary information document for consent are rarely translated into local languages and are seldom disseminated in accessible formats.

A survey conducted by Landesa (formerly Rural Development Institute) in 2019 across four states found that only 22 percent of displaced households reported having received any written information about the project before the consent survey, and only 9 percent said they had received information in their local language.<sup>22</sup>

## **VI. Recommendations**

### **6.1 Strengthening the Definitional Framework**

The definition of 'affected families' must be operationalised through detailed rules that explicitly include agricultural labourers without formal title, women co-cultivators, forest-dependent communities, and urban informal settlers in the case of urban acquisitions. State governments should be required to adopt standardised enumeration protocols developed by the Ministry of Rural Development in consultation with civil society organisations.

### **6.2 Independent Consent Survey Mechanisms**

Consent surveys should be conducted by independent bodies such as District Legal Services Authorities, Gram Sabha-appointed committees, or accredited civil society organisations rather than by Revenue Department officials with an institutional interest in the

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<sup>22</sup> Landesa, 'Voices from the Field: Displaced Communities and the LARR Act' (Landesa India 2019) 19.

outcome. Survey methodology, including consent forms in local languages, video recording of consent proceedings, and independent verification of signatures and thumbprints, should be standardised through delegated legislation.

### **6.3 Restricting Urgency Clause Invocations**

The urgency clause under Section 40 should be subject to enhanced procedural and substantive scrutiny. A mandatory independent review by a committee including the District Collector, a retired judge, and a civil society representative should be required before urgency can be invoked. Urgency invocations should not be available for private projects or PPP projects, as the urgency rationale applies most compellingly to genuine public emergencies.

### **6.4 Harmonising Exempted Central Laws**

All central laws under which land acquisition can be initiated including the National Highways Act, Railways Act, Atomic Energy Act, and Electricity Act should be amended to incorporate the consent and SIA requirements of the LARR Act. Presidential notification bringing these laws within the LARR Act framework, as contemplated by Section 105, should be issued without further delay. The continued exclusion of highway acquisitions from the consent requirement is particularly anomalous given the scale of displacement involved.

### **6.5 Establishing an Independent Regulatory Authority**

An independent Land Acquisition Regulatory Authority should be established at the national level, with state-level counterparts, with powers to audit consent surveys, receive complaints from affected communities, direct remediation of non-compliant acquisitions, and impose penalties on errant officials. The Authority should have suo motu powers of investigation and should be required to publish annual compliance reports. The National Monitoring Committee's mandate should be strengthened from advisory to quasi-adjudicatory.

### **6.6 Free Legal Aid and Community Mobilisation**

Legal Services Authorities at the district level should be mandated to provide proactive legal information not merely reactive legal representation to affected communities, informing them of their consent rights before the survey process commences. Community resource persons trained in the LARR Act's provisions should be deployed in acquisition-prone districts,

funded through the Centrally Sponsored Schemes under the Ministry of Rural Development.

### **6.7 Incorporating FPIC Standards**

India should consider enacting delegated legislation under the LARR Act that incorporates the core elements of Free, Prior and Informed Consent as developed under UNDRIP and ILO Convention No. 169. This is particularly important for tribal and forest-dependent communities, where the right to FPIC has the strongest doctrinal grounding in customary international law and the domestic framework of the Forest Rights Act, 2006 and PESA, 1996.

## **VII. Conclusion**

The consent requirement under the LARR Act, 2013 is one of the most significant legal innovations in India's post-colonial land acquisition regime. It reflects a constitutional and rights-based understanding of land that transcends its commodity value and recognises the deep economic, cultural, and social stakes that agricultural communities have in their land. The consent mandate was intended to shift the balance of power in land acquisition from the acquiring State and project proponents to affected communities giving them a meaningful voice and a genuine veto.

Yet the empirical evidence surveyed in this paper reveals a large and persistent gap between legislative intent and administrative practice. Consent surveys are conducted in a minority of legally required cases; where conducted, they are frequently defective in procedure; and the statutory framework itself contains exemptions and definitional ambiguities that allow large categories of acquisition to proceed without consent. Judicial intervention has provided some correctives, but litigation is not a practical remedy for rural communities lacking access to legal resources.

The causes of this implementation deficit are structural: the political economy of acquisition incentivises non-compliance; administrative capacity at the state level is inadequate; enforcement mechanisms are weak; and information asymmetries prevent meaningful consent. These factors do not permit a simple legislative fix; they require sustained institutional reform across multiple dimensions.

The recommendations offered in this paper independent consent survey mechanisms,

restricted urgency clause invocations, harmonisation of exempted central laws, an independent regulatory authority, and FPIC-based standards are intended to operationalise the Act's transformative promise. The realisation of genuine consent in land acquisition is not merely a question of legal compliance; it is a question of constitutional justice for the millions of Indian citizens whose land, livelihood, and dignity are at stake in every acquisition proceeding. As the Supreme Court observed in *Samatha v. State of Andhra Pradesh* (1997), the Constitution envisages a society where the weak and the marginalised have equal stake in the processes of governance a vision that the consent requirement must be made to serve.<sup>23</sup>

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<sup>23</sup> *Samatha v State of Andhra Pradesh* (1997) 8 SCC 191.

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