
STUDY OF ‘SOCIAL IMPACT ASSESSMENT’ UNDER THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013

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Introduction

Land as a resource is very vital for human to sustain their life on earth. As per the Transfer of Property Act, 1882 land is inclusive of its surface, below the surface and above the surface. Thus, it is important not only for living but for the fulfilment of material and non-material desires also. In relation to economical aspect, land is very essential and emerged as a critical resource. Many vital things are attached to it like Urban Expansion, Industrialization, Infrastructure development etc. Apart from this, the agriculture is all the way depended on land which ensures the food security to all the human beings. Further, people’s significant moral, social and cultural values are attached to the land. That’s why the acquisition of the land by the government for any purpose or activity mandates that all the facets of acquisition like the proportional compensation, least adverse effect and all other repercussions must be considered with far sightedness. Today is 21st Century where there is a requirement of well-developed infrastructure, growing industrialization etc. To fulfil such needs of today’s world, the land acquisition is essential. But in other hand, these acquisitions have multiple effects on human lives. Land acquisition for any projects or any development interventions cause huge displacement, losses of livelihoods etc. and regard to that lack of any efficient policy measures to compensate the land losers proportionally and to minimize the adverse effects on people leads to protests and violence among the people concerned. Thus, in regard to short out these kinds of issues, *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* proposes a solution in the way of Social Impact Assessment (SIA) study to point out and estimate the costs and benefits to the people and society affected by the acquisition. *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* has come into force on 1st January, 2014 by replacing the *Land Acquisition Act, 1894*. This law regulates “the acquisition of land by

government (Centre and states except J&K) for industrialization, development of essential infrastructural facilities and urbanization. It puts in place the rules for granting compensation, rehabilitation and resettlement to the affected persons”.

This law sures that;

- a) affected people will get fair and proportionate compensation.
- b) there will be transparency in Land acquiring process.
- c) rehabilitation for the affected people.
- d) minimize the adverse effects on people and their livelihood as much as possible.
- e) Local Self Governments will be consulted before this assessment.
- f) Mandatory consent of minimum 70% of affected people for PPP projects and 80% for private companies.

Social Impact Assessment

SIA-Social Impact Assessment- is a way of research and practice which involves a body of knowledge, techniques, and values for analyzing, monitoring and managing the intended and unintended social consequences, both positive and negative of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. SIA alerts the planners and programme executors of the likely benefits and costs of a proposed project, which may be social, cultural and/or economic and such others¹.

Relevance and Objectives of SIA

Social Impact Assessment given under Section (4-9) forms an integral part of Land Acquisition under this act. SIA study helps make informed decision concerning the issues that the displacement will cause. SIA makes way to enhance the project benefits to poor and vulnerable people while minimizing or mitigating concerns, risks and adverse impacts through a participatory, informed and transparent process involving all stakeholders. The SIA study can

¹ SIA; International Institute for Sustainable Development (IISD), pg 1.

even question the justification provided for public purpose, suggest alternative mechanism and can even recommend dropping the whole acquisition process. It helps estimate the number off a milieu displaced and affected, if the ameliorative measures will be adequate to effectively mitigate the adverse impact on individual and community assets, infrastructure and restoration of livelihood of affected families and also calculate the compensation to be paid².

Objectives

- a) to examine the extent of impact on people.
- b) to make sure that the acquisition is actually for public purpose or not.
- c) to look after that the acquisition is bare minimum.
- d) to identify the affected and displace people.
- e) to estimate the expenses of project, the compensation amount and all other cost effectiveness.
- f) to record the consent of people of affected areas and apply the same.

Process of SIA- *RFCTLAR&R Act, 2013*

Before beginning with assessment of social impact, according to **section 4(1)** the appropriate government before acquiring the land for public purpose³ shall consult the concerned panchayat if the affected area is village or shall consult municipality or municipal corporation if it is at ward level. To conduct SIA, government will notify the date of assessment by notification. This is the very first and primary process of SIA.

² Bijayalaxmi Nayak; *Relevancy and Process of SIA under RFCTLAR&R Act, 2013, 9/5/2018 (ROTI)*

³ “‘Public Purpose’ includes:

- a) strategic use by the armed forces or state police for national security;
- b) Infrastructure projects except private hospitals, private hotels, private educational institutions;
- c) projects related to industrial corridors, mining, national investments and manufacturing zone, sports, healthcare, tourism and space programmes;
- d) housing projects for income groups specified by government;
- e) projects planned for development of village sites, residential areas for lower income groups in urban areas;
- f) project involves agro-processing, ware-housing, cold storage, marketing infrastructure, dairy, fisheries, and meat processing co-operatives”.

Section 4(2) says that the notification which the government shall notify regarding SIA must be in local language⁴ and made it avail to panchayat, municipality or municipal corporation (as the case may be) and in the offices of District Collector, SDM and tehsil and must get published in affected areas. It

also says that from panchayat or Municipal Corporation, there should be adequate representation at the stage when the SIA is carrying out and the completion of this assessment must be within the period of 6 months from the date of commencement.

Section 4(4) talks about what this assessment consists of. Means in the concerned assessment, what are the issues that will be assessed. So, it includes the following study: -

- a) assessment as to whether this acquisition serves the public purpose or not;
- b) estimation of affected and displaced families;
- c) extent of adverse effects to other lands, properties, houses and settlements due to this acquisition;
- d) whether the acquisition is absolute bare-minimum as the project required;
- e) whether the alternate place has been considered and found non-feasible; and
- f) analysis of extent of social impact, the costs of addressing them and overall costs of projects and fair compensation.

According to **Section 4(5)**, the government, despite of all this, take into consideration other things like livelihood of affected families, public and community properties, assets and infrastructures like roads, public transport, drainage and sewage, drinking water, sanitation, sources of water for cattle, plantation, post-offices, Fair Price Shops, health care facilities, electricity, godowns, schools, anganwadis, parks, place of worship, burial and cremation grounds.

Further, **Section 5** talks about ‘the public hearing for Social Impact Assessment’. That is for SIA to be prepared, the appropriate government shall ensure that in affected area, a public hearing shall be held after enough of publicity about the date, time and venue for the public

⁴ ‘Local Language’ means the regional language of the concerned area.

hearing. The objective of this public hearing is to ascertain the views of the affected families to be recorded and in SIA report it must be included.

For the transparency, the SIA report and SIA plan shall be published in local language to the affected areas and the copies of publication made available to the panchayat, municipality or municipal corporations (as the case may be) and also in the offices of collector, SDM and tehsil⁵. It shall also upload on the government website. Also, if after SIA, Environment Impact Assessment is carrying out then the SIA plan and report must be provided to the Impact Assessment Agency authorised by the central government⁶.

After SIA report get prepared, it shall be appraised by the multi-disciplinary 'Expert Group'⁷. This Expert Group shall be constituted by the appropriate government and their work is to evaluate and examine the report and make the government to reach to a conclusion concern to the project⁸. Amongst the members of Expert Group, one member will be the chairperson of the group nominated by the government itself.

If the Expert Group is of the opinion that the project is not serving the public purpose or, the social costs and adverse impacts is outweighing the potential benefits of the project, then it shall make recommendation to abandoned the project and thus no steps shall be taken for acquiring the land anymore. This expert recommendation shall be made within two months from its constitution.

Further, if the Expert positively satisfied that the project is serving the public purposes or it have minimum adverse effects then again, the Expert Group made recommendation in sense of affirmation of the project to be initiated.

These recommendations shall be in writing and all the reasons and details shall be there behind such decision.

⁵ Section 6; *RFCTLAR&R Act, 2013*.

⁶ Proviso (Section 6; *RFCTLAR&R Act, 2013*).

⁷ "Expert Group" includes: -

- a) two non-official social scientists
- b) two representatives of Panchayat, Gram Sabha, municipality or municipal corporations (as the case may be)
- c) two experts on rehabilitation, and
- d) a technical expert related to subject-matter of the project".

⁸ Section 7 (Appraisal of SIA Report by an Expert Group), *RFCTLAR&R Act, 2013*.

As per Section 8, the appropriate government shall examine the SIA report and ensure that: -

- that the legitimate and *Bona Fide* public purpose for acquisition has been identified;
- that the potential benefits and the public purpose shall outweigh the social costs and negative impacts determined by SIA that has been carried out;
- that the minimum area of land is to be acquired;
- that no land is unutilized.

These are the procedures which need to be followed for Social Impact Assessment as because for any purpose, whatever it is, the basic rights like Right to Livelihood, Right to Shelter, Right to Food, Right to drinking water, Right to electricity (all the rights under Right to Life⁹) shall not be hampered in any condition. So, the question arises that, Is it necessary for the appropriate government to carry out SIA for acquisition of Land always and in every situation? So, the answer is conditional. Yes, the appropriate government shall follow the process of SIA but as per Section 9, the government may exempt undertaking of Social Impact Assessment when the land acquisition invoking the urgency¹⁰.

Conclusion

The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and its provisions are very much democratic in nature as in much more 'for the benefits of people'. It ensures that the affected people by the land acquisition must be adequately listened to their problems which they face after acquisition of land and adequately compensated for their losses. It upheld the idea of Fundamental Rights of citizens conferred by the Constitution of India. thus, this act not only promotes and priorities the Fair Compensation to the losses of citizens but also et the citizens to enjoy their fundamental and democratic rights.

⁹ Article 21 (Right to Life), COI

¹⁰ Urgency means 'defence of India' or 'national security' or 'emergencies arising out of natural calamities' or 'any other emergency'. (Section 40; Section 6; *RFCTLAR&R Act, 2013*).

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