
STUDY ON LAND ACQUISITION LAWS IN INDIA

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ABSTRACT

The article covers land acquisition laws in India in a systematic manner. Land acquisition laws date back to British rule in 1824, since then the laws have been gradually developing toward including a fair and transparent process of acquisition. The pre-independence law was replaced in 1956 and then amended slightly in between, but it was ultimately replaced by The Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, of 2013. The article further discusses a few cases pertaining to land acquisition disputes which were national issues. The cases discussed involve land acquisition for different purposes. Furthermore, the article presents a critique of the existing laws and pointers where the law can be improved. The existing laws lack on the part of transparency, consent, fairness, and adequate compensation. The article concludes on a note of hope suggesting measures which can ensure a more inclusive land acquisition process.

Keywords: Land Acquisition, Compensation, Rehabilitation, Resettlement.

Introduction:

Land acquisition laws in India play a critical role in determining the rights and interests of affected communities and the process by which the government can acquire land for public purposes. Over the years, the laws have undergone several changes and amendments to make the process more transparent, fair, and equitable. Despite these changes, there remains a strong need for further reforms in the laws to address the ongoing concerns of affected communities and ensure that the land acquisition process is in line with the principles of justice and fairness. This article will provide an overview of the history of land acquisition laws in India, the criticisms faced by the current laws, and case studies of some landmark judgments regarding land acquisition.

History of Land Acquisition laws in India:

The land acquisition law originated from the Bengal Regulation Act of 1824, enacted by the East India Company (Verma: 2015). "The 1824 Regulation I of the Bengal Code had two purposes, one was to acquire land at a "fair price" for the construction of "roads, canals or other public purposes," and the second one dealt with the contentious issue of land required for salt manufacture" (Bhattacharyya: 2015; 48). After the introduction of railways, legislation was needed to acquire land to develop railways. In 1850 the Company extended some provisions of the Bengal Regulation Act of 1824 to the Calcutta Presidency.¹

After a decade of independence, the Government of India appointed a Law Commission to review the Land Acquisition Act in 1956. The Commission received a large number of suggestions urging that the term public purpose should be clearly defined. The Commission submitted its 10th report and recommended that attempting a proper definition of the term public purpose is impossible. Thus, the problem remained unsolved. "Given the appalling prospect facing a person whose land is compulsorily acquired by the Government, not only the right to life guaranteed by Article 21 of the Constitution but the various freedoms guaranteed by Article 19 too would seem to be nothing more than "paper" right" (Vaswani, 1992:159). The 1894 Act was amended in 1984 to include provisions for the rehabilitation and resettlement

¹ Suman, Anushree Nagpal, Neeraj, *Land Acquisition Acts: A Long History of Injustice*, 7 Quest Journals 33, 34 (2019).

of affected communities.²

Due to the pressure of political parties, international organizations and many NGOs, the government appointed National Advisory Council to prepare a new draft for the Land Acquisition Resettlement and Rehabilitation Bill, 2011. It was introduced in Lok Sabha on 7 September 2011 and referred to the Standing Committee of the Ministry of Rural Development. It submitted the report on 17 May 2012. Then presented in Lok Sabha and received the President's assent on 26 September 2012. It came into force on 1 January 2014 as *The Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act, 2013*.

Nevertheless, all recommendations of the NAC draft were not included in the bill as suggested. This act replaced the 1894 Act and aimed to make the land acquisition process more transparent, fair, and equitable. It introduced provisions for the consent of affected communities, social impact assessments, and enhanced compensation for affected landowners.³ The 2013 Act was amended through an ordinance in 2014, which relaxed some of its provisions and made it easier for the government to acquire land. Moreover, finally, the ordinance was replaced by an amendment to the 2013 Act in 2015, restoring some of the relaxed provisions in the 2014 ordinance.

Overall, the history of land acquisition laws in India has gradually evolved towards more transparent and fair processes, focusing on protecting the rights of affected communities.

Landmark Cases:

Narmada Bachao Andolan vs. Union of India:

Narmada Bachao Andolan (NBA) is a social movement in India aimed at protecting the rights of the communities displaced by the construction of the Sardar Sarovar Dam on the river Narmada. Environmental activist Medha Patkar led the movement.

The NBA filed a petition in the Supreme Court of India against the Union of India, alleging

² Suman, Anushree Nagpal, Neeraj, *Land Acquisition Acts: A Long History of Injustice*, 7 Quest Journals 33, 35 (2019).

³ Psa. (2015, April 2). India's controversial land acquisition laws - land law & agriculture - india. India's Controversial Land Acquisition Laws - Land Law & Agriculture - India. Retrieved February 5, 2023, from <https://www.mondaq.com/india/land-law--agriculture/386234/indias-controversial-land-acquisition-laws#:~:text=The%202013%20Act%20was%20criticized,availability%20of%20land%20for%20industry>.

that the government had not adequately compensated and resettled the people affected by the dam and that the project's environmental impact had not been appropriately assessed.

The Narmada Dam project in Gujarat led to the displacement of thousands of people, which led to the formation of the Narmada Bachao Andolan (NBA) to protest against the acquisition of land. The Supreme Court of India ruled in favour of the government but with specific conditions for rehabilitation and compensation for the affected families.⁴

Kedar Nath Yadav vs State of West Bengal & Ors:

The Singur Land Acquisition Case⁵ was a legal dispute in India over acquiring farmland for an automobile factory by Tata Motors in Singur, West Bengal. The government of West Bengal acquired over 1000 acres of farmland for the factory, and some of the farmers who had owned the land argued that the acquisition was unconstitutional and that they were inadequately compensated.

The case was heard by the Calcutta High Court, which ruled in favour of the government and Tata Motors in 2008. However, the case was later appealed to the Supreme Court of India, which delivered its verdict in 2016. The Supreme Court declared the acquisition of land by the West Bengal government illegal and set aside the order of the Calcutta High Court.

The Singur Land Acquisition Case became a politically charged issue and was widely covered in the media. It was seen as a test case for the Indian government's policy of acquiring land for industry and development and raised important questions about the rights of farmers and the balance between industrialization and agriculture. The West Bengal government's acquisition of 997 acres of farmland in Singur for setting up a Tata Motors factory led to widespread protests by farmers. The Calcutta High Court declared the acquisition illegal, and the land was returned to the farmers.

POSCO Land Acquisition Case:

The POSCO Land Acquisition Case refers to a legal dispute in India over the acquisition of farmland for a steel plant project by the South Korean Company POSCO (Pohang Iron and

⁴ Narmada Bachao Andolan vs. Union of India, 2000, 10 S.C.C. 664.

⁵ Kedar Nath Yadav v. State of West Bengal, 2016, Civil Appeal No.8438 of 2016.

Steel Company) in the state of Odisha. The project was to be located in the Jagatsinghpur district and would have involved the acquisition of over 4,000 acres of farmland.⁶

The land acquisition for the project was met with resistance from local communities and farmers, who argued that the land was being acquired without their consent and that they needed to be more adequately compensated. The case was heard by the National Green Tribunal (NGT), which is a specialized court in India that deals with environmental disputes.⁷

In 2013, the NGT declared land acquisition for the POSCO project as illegal and set aside the environmental clearance granted to the Company. The NGT held that the Company had failed to obtain the local communities' consent and that the project's environmental impact must be appropriately assessed. Later, the Odisha government's acquisition of land for the POSCO steel plant in Jagatsinghpur district led to protests by local farmers and tribals. The Supreme Court of India upheld the acquisition but imposed conditions for the rehabilitation and compensation of affected families.⁸

The POSCO Land Acquisition Case is an essential example of the challenges of balancing industrialization and conservation in India and highlights the need for a transparent and equitable process for acquiring land for development purposes. It is also an example of the resistance of local communities to large-scale development projects that are perceived to threaten their rights and livelihoods.

Critique:

There are several criticisms of land acquisition cases which aim at acquiring private lands for public use⁹. Some of the fundamental critiques of land acquisition are:

1. *Lack of Transparency*: Land acquisition cases are often criticized for lacking transparency, as the process can be opaque and bureaucratic. This can result in a lack of information for

⁶ Posco's odisha project: OECD National Contact Point Complaints and a decade of resistance (no date) Corporate Accountability Research. Available at: <https://corporateaccountabilityresearch.net/njm-report-v-posco-odisha>.

⁷ Geomin Minerals & Marketing v. State Of Orissa, 2013, Civil Appeal No. 4561 Of 2013.

⁸ Posco's odisha project: OECD National Contact Point Complaints and a decade of resistance (no date) Corporate Accountability Research. Available at: <https://corporateaccountabilityresearch.net/njm-report-v-posco-odisha>.

⁹ Psa. (2015, April 2). India's controversial land acquisition laws - land law & agriculture - india. India's Controversial Land Acquisition Laws - Land Law & Agriculture - India. Retrieved February 2, 2023, from

the affected communities and create confusion about the purpose and consequences of the acquisition.

2. *Inadequate Compensation*: The compensation provided to the affected communities is often inadequate and does not fully cover the losses incurred by the individuals or families. This can lead to a sense of injustice and result in opposition to the acquisition process.
3. *Forced Displacement*: Land acquisition by the government often leads to forced displacement of communities, forcing them to leave their homes and livelihoods. This can result in a loss of cultural heritage, social networks, and economic opportunities and cause widespread distress and hardship.
4. *Lack of Consultation*: Land acquisition cases are often criticized for needing adequate consultation with the affected communities. This can result in a lack of understanding about the implications of the acquisition and can create resistance to the process.
5. *Environmental Concerns*: Land acquisition can result in environmental degradation, as the acquired lands are often used for industrial or commercial purposes, leading to pollution and other environmental hazards.

In a 2011 case, the Supreme Court observed that "...the provisions contained in the Act, of late, have been felt by all concerned, do not adequately protect the interest of the land owners/persons interested in the land. The Act does not provide for rehabilitation of persons displaced from their land although by such compulsory acquisition, their livelihood gets affected ...To say the least, the Act has become outdated and needs to be replaced at the earliest by fair, reasonable and rational enactment in tune with the constitutional provisions, particularly, Article 300A of the Constitution. We expect the law making process for a comprehensive enactment with regard to acquisition of land being completed without any unnecessary delay."¹⁰

Overall, the critiques of land acquisition cases highlight the need for a more transparent, fair, and inclusive process that protect the rights of the affected communities and the environment. This requires better communication, consultation, engagement with the affected communities,

¹⁰ Ramji Veerji Patel and Ors. Vs. Revenue Divisional Officer and Ors., MANU/SC/1288/2011.

and fair and just compensation for losses incurred.

Conclusion:

In conclusion, land acquisition laws in India have undergone several changes over the years, aimed at making the process of acquiring private lands for public use more transparent, fair, and inclusive. Despite these efforts, there remain several challenges and criticisms of the current land acquisition process, including inadequate compensation, forced displacement, lack of consultation, and environmental concerns.

The government must continue to review and improve the land acquisition laws in India in order to address these challenges and ensure that the rights of affected communities and the environment are protected. This can be achieved through better communication, consultation, engagement with the affected communities, and fair and just compensation for losses incurred. Additionally, the government must adhere to the legal framework for land acquisition, which requires that the affected communities are consulted, and their rights are protected.

Ultimately, land acquisition is a complex and sensitive issue and requires a careful and balanced approach that considers the needs of both the government and the affected communities. With the right policies and practices in place, it is possible to ensure that land acquisition processes in India are transparent, fair, and inclusive and that the rights of the affected communities and the environment are protected.