
**CHALLENGES FACED IN ACQUISITION AND REQUISITIONING UNDER
CONCURRENT LIST**

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ABSTRACT

This research looks at challenges associated with land acquisition in India, a process that, in spite of legislative reforms, remains fraught with social, legal, and financial difficulties. The Land Acquisition Act of 2013 marked a significant change from the 1894 Act of the colonial era, with the goal of providing more equitable compensation and protecting landowners' rights. But the Act's inflexibility and center-state disputes over land governance have made it less effective, which is why it was amended in 2015 to streamline the acquisition procedures. The abuse of authority by governments, insufficient compensation systems, and a lack of procedural protections are among the persistent problems that are highlighted in this paper, which draws from case studies, literature, and significant court decisions. According to research, legal framework flaws and inconsistent state-by-state enforcement of the law frequently jeopardize individual rights.

A more flexible and integrative approach is suggested in the paper, which calls for a joint center-state surveillance body, more precise definitions of "public purpose," and a flexible compensation model that takes into consideration the social and financial effects on impacted communities. The creation of a specialized Land Acquisition Tribunal to speed up dispute resolution, the addition of a regulatory watchdog to increase transparency, and the integration of community input into frameworks for compensation and resettlement are among the recommendations. In order to promote distributive justice to prevent misuse during the acquisition process, this study emphasizes

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the necessity of a fair and balanced land acquisition system that safeguards private rights while permitting real public benefit.

1. KEYWORDS:

Land Acquisition, India, Legal Framework, Social Impact, Economic Challenges, Rehabilitation & Resettlement, Compensation, Public Purpose, Landowner's Rights, Infrastructure Development, Industrialization, Displacement, Land Acquisition Act, 1894, Right to Fair Compensation and Transparency Act, 2013, Consent Clause, Environmental Impact, Government Policies, Litigation, Private Sector Participation.

2. INTRODUCTION:

The issue of land acquisition and requisitioning in India, governed under the Concurrent List, has long been a subject of intense debate, reflecting deep-seated conflicts between federal powers, public interest, and private rights. Over the years, the struggle to balance state and central authority, alongside the rights of individuals, has led to numerous legal reforms and policy challenges. The Land Acquisition Act of 2013, though ambitious in its attempt to safeguard the interests of landowners, has been criticized for its rigidity and failure to adequately recognize individual legal rights. Subsequent amendments in 2015, introduced by the BJP government, sought to address these shortcomings but have drawn criticism for their focus on process rather than substantive justice.

This paper explores these ongoing challenges, particularly in terms of distributive justice and the role of government authority in land acquisition. The research highlights the need for a more flexible framework that ensures adequate compensation while preventing the misuse of power by officials. Amidst growing concerns about the intersection of public interest and private profit, the evolving landscape of land acquisition continues to raise fundamental questions about equity, fairness, and the rights of affected communities in India.

3. STATEMENT OF PROBLEM:

Despite the introduction of the Land Acquisition Act of 2013 and subsequent amendments in 2015, the legal and policy frameworks governing land acquisition in India continue to face significant challenges. The tension between public interest and private rights remains unresolved, as federal and state powers struggle to balance equitable land acquisition with individual legal rights. The rigidity of existing laws, combined with concerns over the misuse of governmental authority and inadequate compensation, underscores the need for a more flexible and just approach.

4. RESEARCH OBJECTIVES:

Investigate how the concurrent nature of land acquisition authority in India affects the balance of powers between central and state governments, leading to conflicts and inconsistencies in the application of the law. Analyze the key provisions of the Land Acquisition Act of 2013, focusing on its attempt to safeguard landowners' rights and its rigidities that may hinder fair compensation and equitable processes.

Examine instances where governmental authority in land acquisition has been misused, highlighting legal loopholes or gaps that allow for such exploitation, and propose solutions to prevent abuses of power. Investigate the adequacy of compensation frameworks under the 2013 Act and subsequent amendments, assessing whether they align with the principles of fairness and equity in compensating affected individuals and communities.

5. LITERATURE REVIEW:

- a. WHOSE LAND IS IT ANYWAY? PROPERTY, LAW AND RIGHTS IN THE LAND ACQUISITION QUESTION IN INDIA².

² De, G. (2016). Whose Land Is It Anyway? Property, Law and Rights in the Land Acquisition Question in India. *Journal of Land and Rural Studies*, 4(1), 23-35.

Review: This Article emphasizes that the concept of Land Acquisition is a complex issue in India. It portrays that the process of Land acquisition in India is a unit of federal power despite having a continuous conflict in defining public use and Individual ownership. Constitutional provisions created dispute between Centre and State as Land is a state subject but acquisition is under Concurrent list. It has led to the rise of compensation issues marred by hierarchical agrarian relations with overlooking market value calculations. These conflicts are often influencing Political formation of the state. The author identified the key issue is in regard with the consent of persons whose land is being acquired making it an unconstitutional and undemocratic process beyond the existing conflicts. This is representing a failure of democratic mechanisms intended to be accountable. Despite being highlighted in the First amendment, conflict between land as fundamental right and government authority to resolve public grievances, still land acquisition focuses on land price rather than the individual legal rights.

Gap: The author highlights the federal power struggles and conflict and raises the issue of failure to recognize Individual legal rights and providing a resolution through distributive justice.

b. LAND ACQUISITION IN INDIA³

Review: The Author has made a detailed comparison between The Land Acquisition Act 1894 and 2013 in India. The allowance for forced acquisitions, Provision of low compensation, Lack of rules for resettlement and rehabilitation was identified as the drawbacks in the act of 1894. Absence of real appeal mechanisms often led to litigation and social unrest. The Supreme Court condemned the law stating that it disregarded the welfare of common people. Then appreciated the act of 2013 which marked a major shift providing a requirement of 70% consent from landowners for public-private projects and 80% for private projects. The promise of fair compensation up to four times the market value in rural areas and up to twice in urban areas was also enacted. Also included

³ Arora, Simran, Land Acquisition in India (January 27, 2017). Available at SSRN: <https://ssrn.com/abstract=2906856> or <http://dx.doi.org/10.2139/ssrn.2906856>

comprehensive provisions of resettlement and rehabilitation for displacement caused. The Act has been made retrospectively applicable in certain cases and mandated the return of unused acquired land. However, the author has criticized this act of 2013 for being too rigid, especially compared to the more flexible land acquisition policies of states like Gujarat and Maharashtra, which have successfully facilitated industrialization. The Modi government viewed the 2013 Act as a hindrance to development which led to amendments in 2015 to make the land acquisition process more workable, sparking significant political and public debate.

Gap: The author criticized the 2013 act for its nature of rigidity and also appreciated the 2015 amendments by the BJP Government but possessed dissatisfaction over the process of acquisition.

c. LAND ACQUISITION, REHABILITATION AND RESETTLEMENT: LAW, POLITICS AND THE ELUSIVE SEARCH FOR BALANCE⁴.

Review: The research investigated the regulatory challenges in the process of land acquisition, drawing on both primary and secondary data. Primary data was collected from 55 respondents which included administrative officials and affected people along with the secondary data. The findings revealed significant malpractices in the process of land acquisition. Affected people often did not receive fair compensation and were forced into paying bribes for accessing compensation. The author condemns that the discretionary authoritative power held by officials is frequently misused leading to wrongful acquisition of agricultural land. However, the study highlights the tension between the need for development and the adverse effects on landowners. The study discussed the role of the District Land Allocation Committee (DLAC) and the Central Land Allocation Committee (CLAC), who often oversee land acquisition at the district and central levels, respectively. Despite a provisional framework to guarantee adequate compensation, the

⁴ Goswami, A. (2016). Land Acquisition, Rehabilitation and Resettlement: Law, Politics and the Elusive Search for Balance. *Journal of Land and Rural Studies*, 4(1), 3-22.

corruption within the system undermines the implementation which leads to social unrest and loss of public confidence in the authorities.

The study offered several recommendations: It calls for the cessation of agricultural land acquisition to ensure sustainable development. Recommended a special committee to monitor the actions of Land Acquisition Officers (LAOs), and related documentation. Reduce the complexity and opacity of the process. Furthermore, the study suggests compensation should not only cover the loss of land but also improvements made to it, as well as any disturbances caused by the projects. Finally, the study emphasizes that there is a need to improve the ethical standards of administrative officials and suggests establishing a watchdog agency to scrutinize the land acquisition process, ensuring it to be a fair and free from corruption process.

Gap: The research suggested bringing in a new framework for adequate compensation. The research also focuses on the misuse of government authority by the officials resulting from this situation.

d. LAND ACQUISITION FOR 'PUBLIC PURPOSE' – A CRITICAL ANALYSIS⁵

Review: This article discusses the evolution of land acquisition laws in India which highlights the transition from the colonial-era Land Acquisition Act of 1894 “to” Right to Fair Compensation and “to” Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act). The old Act has been criticized for its vague definition of "public purpose" and it lacked provisions for rehabilitation and resettlement, allowing the government to acquire land with minimal accountability which according to the author led to the misuse of power. The LARR Act of 2013 aims to address the issues by redefining "public purpose," as to ensure fair compensation which included provisions for the rehabilitation of displaced families. Despite these reforms, the

⁵ Anjana, Lalit, Land Acquisition for 'Public Purpose' – A Critical Analysis (July 25, 2018). Available at SSRN: <https://ssrn.com/abstract=3772691> or <http://dx.doi.org/10.2139/ssrn.3772691>

Act is still put to criticism by the author. The definition of "public purpose" still remained broad, creating the room for government discretion, which often leads to the acquisition of land for projects that primarily benefit private entities instead of the public. Challenges of land acquisition in peri-urban areas, where land value increases significantly after acquisition leaving the original owners with inadequate compensation was also discussed. The regulatory process of government has emphasized stricter definitions and protections to prevent exploitation of landowners. The 2015 amendments to the LARR Act also had room for undemocratic practices, exempting certain projects from social impact assessments and consent requirements, which have been controversial. Author argues that these changes might result in regression to the practices under the 1894 Act, where the rights of individuals were overlooked in favor of industrial and infrastructure development.

Gap: The author stresses upon the ongoing challenges and recent amendments that continue to spark debate about the balance between public interest and private profit in the process of land acquisition.

e. CHENNAI METRO CASE- LAND ACQUISITION OFFICER, CHENNAI METRO RAIL LMT. & ANR V. STATE OF TAMILNADU⁶

Analysis: The petitioner sought Writ of Mandamus directing the state to deposit any compensation related to land acquisition in a civil suit that the petitioner had filed for partition of the property. The property in question is located in Chennai, and comprises an extent of 1788 sq.ft. The petitioner filed a civil suit for partition against private respondents concerning the property. His concern was that, if the land was acquired for Metro Rail work, then the private respondents might receive compensation, so he wanted compensation deposited in the court instead. The state argued

⁶ CHENNAI METRO RAIL LMT. & ANR V. STATE OF TAMILNADU WMP No.2582 of 2023

that although there was a proposal to acquire that land for Metro Rail work, only a small portion of the land was actually acquired. The petitioner's property was not included in the acquisition and there is no intention to acquire it in the future. The court determined that the petitioner's concerns were unfounded. The petition became infructuous since the petitioner's land was not being acquired and thus no compensation was in due. The writ petition was dismissed.

6. RESEARCH METHODOLOGY:

This study will adopt a Doctrinal research methodology, primarily focusing on legal analysis and critical evaluation of the Land Acquisition Act of 2013, its amendments in 2015, and relevant case laws. A comprehensive review of academic articles, books, government reports, and legal commentaries will be conducted to understand the historical context of land acquisition laws in India. The literature review will help identify key themes, such as the conflicts between central and state governments, distributive justice, and compensation mechanisms. The core of the research will involve a detailed examination of the Land Acquisition Act of 2013, including its key provisions related to public interest, compensation, and the role of government authority. Amendments introduced in 2015 by the BJP government will also be analyzed to assess their impact on procedural justice and individual rights.

The analysis will include a comparison of these laws with previous land acquisition laws, highlighting areas of continuity and change. The research will incorporate case studies of specific land acquisition projects across India, focusing on instances of conflicts between state and central powers, misuse of authority, and compensation disputes. The role of the judiciary in safeguarding individual legal rights in the face of governmental authority will be critically examined. The methodology will also involve interpreting the key sections of the Land Acquisition Act and its amendments in light of constitutional provisions, particularly the right to property (Article 300A) and the principle of distributive justice. Qualitative interviews with legal experts, policymakers, affected communities, and activists will be conducted to gain diverse perspectives on the practical challenges of land acquisition in India.

Data on compensation patterns, disputes, and legal challenges arising from land acquisition will be gathered from government records, legal databases, and independent studies. Statistical data will be used to evaluate the effectiveness of the compensation framework under the 2013 Act and its amendments. The research will culminate in proposing a new, more flexible legal framework that balances federal and state powers, ensures fair compensation, and prevents the misuse of authority in land acquisition processes.

7. DISCUSSION:

In the case of *State of Bihar v. Kameshwar Singh*⁷, The constitutionality of the Bihar Land Reforms Act, 1950, which aimed at eliminating zamindari (feudal landholding) and acquisition of land for redistribution, was disputed in this case. The Act was opposed by landowners who argued as an infringement of property rights. The Act was upheld by the Supreme Court, which emphasized that, as long as fair compensation was given, land acquisition for public benefit is valid even if it infringed on private rights. The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013 (LARR Act) was significantly influenced by this case, which highlighted the importance to balance the public interest with compensatory rights. Furthermore, public purpose continues to be a fundamental justification for acquiring land when proper compensation and constitutional protections are provided.

In the case of *Dev Sharan & Ors v. State of Uttar Pradesh & Ors*⁸, challenged the use of Uttar Pradesh's urgency clause to acquire agricultural property for a housing project. The petitioners contended that the right to a fair hearing has been violated by abusing the urgency provision. Emphasizing that the urgency clause should be applied selectively and not as a way to compromise landowners' rights, the Supreme Court declared the acquisition to be illegal. In accordance with

⁷ *State of Bihar v. Kameshwar Singh* (1952 AIR 252)

⁸ *Dev Sharan & Ors v. State of Uttar Pradesh & Ors* (2011) 4 SCC 769

arguments for restricting discretionary power in land acquisition under the 2013 Act and its following amendments, this ruling directly tackled issues of abuse of power and the necessity of fair procedures which are necessary to safeguard individual rights from unfair acquisitions under urgent circumstances.

In the case of *Indore Development Authority v. Manoharlal*,⁹ The decision clarified the 2013 Act's provisions for the retrospective application of compensation would be applied in situations where acquisition proceedings had been started under the 1894 Act but were still ongoing when the 2013 Act took effect. In order to provide more equitable compensation and rehabilitation measures under the new legislation, the Supreme Court ruled that incomplete acquisitions under the 1894 Act might bring into effect provisions of the 2013 Act. Despite concerns about rigidity, the 2013 Act aimed at strengthening arguments for reasonable compensation, supports and demonstrates the court's recognition of individual rights. The 2013 Act's fair compensation and rehabilitation rules apply to acquisitions that are even partially completed, preserving distributive justice principles.

In the book emphasizing on land acquisition procedures, author "Chakravorty" found that a strict emphasis on "public purpose" without sufficient regulation frequently results in land acquisition largely for private or commercial purposes, compromising the rights of those disadvantaged¹⁰. This criticism analyzes that the 2013 Act's strict definitions of "public purpose," which yet grant significant discretion to the government permitting the abuse of authority for private benefit, are challenging. In the book of *Emerging economic studies*, authors Sazzad Parwez and Vinod Sen in article of *Special Economic Zone, Land Acquisition, and Impact on Rural India* focus on the fact that states with varying political agendas may have varied interpretation of the Act and its

⁹ *Indore Development Authority v. Manoharlal* (2020) 8 SCC 129

¹⁰ *The Price of Land: Acquisition, Conflict, Consequence*, Sanjoy Chakravorty, 2013, 9780199082438.

amendments, which could result in discrepancies in procedural requirements and compensation¹¹. This issue is crucial because the concurrent nature of land acquisition laws leads to inequalities making it difficult to implement a consistent strategy for fair land acquisition, which poses issues regarding egalitarian governance among states.

8. FINDINGS:

Conflicts between the center and state governments continue to arise as a result of enforcement of the land acquisition law in concurrent nature. According to this research, these conflicts result in inconsistent legal enforcement and make it challenging to establish a balance between individual legal rights and fair land acquisition. Despite being a major advancement over the 1894 Act since the colonial era, the Land Acquisition Act of 2013 is criticized for being too rigid. Government's capacity to modify acquisition terms and provide compensation to meet local needs is restricted by the inflexibility, which results in complications with implementation.

The research identified instances of administrators abusing their power during the land acquisition process, which frequently leads to inappropriate acquisition and insufficient compensation. The research highlighted that there are insufficient legal and legislative mechanisms that adequately safeguard individual rights during the land acquisition proceedings. There are still existing legal loopholes that restrict safeguards against arbitrary acquisition, even after amendments.

9. SUGGESTIONS/RECOMMENDATIONS:

A more integrated framework for land acquisition should be created in order to resolve problems between state and central authority. This includes forming a joint federal-state body to supervise land acquisitions that impact a lot of people in diverse areas. By eliminating differences across states, standardized regulations and processes encourage consistency in rehabilitation,

¹¹ Parwez, Sazzad & Sen, Vinod. (2016). Special Economic Zone, Land Acquisition, and Impact on Rural India. *Emerging Economy Studies*. 2. 10.1177/2394901516661104.

compensation, and transparency. A clearer definition of "public purpose" is necessary to make sure that land acquisitions legitimately serve the public interest and avoid abuse for private gain. A consultation approach must be emphasized before any acquisition, and transparent standards must make it clear that acquisitions for private enterprises or public-private partnerships require the express approval of impacted communities. It is necessary to implement a more adaptable compensation mechanism that considers future economic displacement, community attachment, and market worth. In order to provide landowners a share in the financial gains from the future projects, provisions should be made for lifetime pension plans for displaced people such as vocational training programs, and equity holdings in the projects.

Resettlement plans should be created in partnership with the community to make sure they address actual needs, and consent requirements should be effectively implemented. It is advised that an impartial regulatory body be established to supervise land acquisition procedures in order to stop authorities from abusing their power. In order to combat corruption and irregularities, this institution should immediately receive complaints from impacted parties and supervise standards for compensation, rehabilitation, and transparency. In matters involving land acquisition, the judiciary needs to be actively involved. People should be able to appeal against improper acquisitions or insufficient compensation quickly, easily, and affordably with the help of a specialized Land Acquisition Tribunal. Tribunals can guarantee fair justice by reducing long delays in land-related issues.

10. CONCLUSION:

In conclusion, this study highlights the complexities and ongoing challenges involved in land acquisition in India, even as a result of legal changes intended to strike a balance between the interests of the public and private sectors. In an effort to address equal compensation, rehabilitation, and transparency, the Land Acquisition Act of 2013 marked an important change from colonial-era legislation. Its inflexibility, center-state disputes, and problems with state-specific implementation, however, continue to impede fair and efficient land acquisition procedures. This study shows that insufficient compensation procedures and frequently abused

governmental power enhance grievances within impacted communities, escalating social and legal conflicts.

The study promotes a more adaptable, integrated approach for addressing these gaps. This comprises a unified center-state supervisory body, uniform state regulations, and a well-defined "public purpose" to prevent abuse for one's own benefit. It suggests establishing a Land Acquisition Tribunal to speed up dispute resolution, flexible compensation mechanisms taking into account social and economic effects, and a participatory approach to acquisition procedures. These recommendations, which place a strong emphasis on distributive justice, accountability, and transparency, seek to create a framework for land acquisition that upholds private rights while taking into account legitimate public needs, ultimately leading to more equitable and sustainable land governance in India.

11. REFERENCES:

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