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RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, (2013)

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CONTEXT

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (or LARR Act, 2013) was enacted to replace the colonial era law that governed land acquisition in India, the Land Acquisition Act, 1894. The LARR Act, 2013 was an attempt to correct ambiguities and unjust provisions of the 1894 law. Notable agitations arising out of these include those over the Sardar Sarovar Dam project and the Tata Nano factory in Singur.

The new Act seeks to protect the rights of people with respect to state acquisition of land for development purposes, by creating a protective, compensatory, transparent, humane and participatory framework for land acquisition, rehabilitation, resettlement and compensation. The nodal Ministry for its enactment and implementation is the Ministry of Rural Development.

The debate around the right to property in independent India has stemmed from the tussle between the need to establish a just social order in a highly unequal society through land reforms, the impetus to develop infrastructure for economic growth, while also trying to uphold rights of the individual in a democratic country.

KEY PROVISIONS

TYPES OF ACQUISITION

The Act covers land acquisition by the government for its own use, as well as land acquired by the government for Public Private Partnership (PPP) projects related to certain public purposes (discussed below) and for government acquisition of land for private companies to execute projects related to public purposes.

DEFINITION OF PUBLIC PURPOSE

The law defines ‘public purpose’ as related to strategic projects of national security, defence, law and order coming under the ambit of armed forces, police and other such entities and certain infrastructure projects which are quite varied- ranging from industrial corridors, tourism, mining, sports and space to housing for the poor, projects for displaced persons and so on.

SOCIAL IMPACT ASSESSMENT

Any process of acquisition must start with a mandatory Social Impact Assessment (SIA), conducted by the government in consultation with local representative bodies like the Panchayat, Municipality etc. It covers matters like whether the acquisition serves a public purpose, the number of families affected, the number likely to be displaced, extent of lands likely to be affected, whether the land to be acquired is the absolute bare minimum needed, whether an alternate location is not feasible and cost-benefit analysis of the project.

PUBLIC HEARING

While carrying out the SIA, a public hearing must be conducted to obtain the views of all affected families. The final study must be published in the local language and made available to representative bodies like the panchayat and on the relevant government website

CONSENT

Consent of a minimum of 80% of the families that will be losing land in case the acquiring party is a private party must be obtained and 70% if it is a public-private partnership.

The consent is also required with regards to the compensation that will be awarded. It is not required for acquisitions made by the government for its own use and ownership if done so for ‘public purposes.’

BODIES PROVIDED FOR IN THE ACT

The Act provides for the setting up of various bodies and authorities that play roles at different stages of the acquisition process. An Expert Group performs the function of appraising the SIA and making recommendations. A Rehabilitation and Resettlement Committee is formed at the project level to perform review and monitoring functions. Similar functions are performed at the state level by State Monitoring Committee for Rehabilitation and Resettlement and at the national or inter-state level by a National Monitoring Committee for rehabilitation and resettlement.

A Land Acquisition, Rehabilitation and Resettlement Authority can also be set up for speedy disposal of disputes.

COMPENSATION

Compensation is to be given upto four times the market rate in rural areas and two times the market rate in urban areas. If land is sold further for a higher price, 40% of the appreciated land value has to be shared with the original owners. There are also provisions for compensation to persons who are not owners but dependent on the land for their livelihood such as artisans, share-croppers who worked on the land for at least 3 years prior to the acquisition.

RESETTLEMENT AND REHABILITATION

The Act provides binding parameters for providing resettlement and rehabilitation of affected families. It enlists multiple options like employment, annuity payments, land for land and other benefits like transportation costs for displaced people. Additional benefits are prescribed for SC/ST families.

SPECIAL PROTECTIVE PROVISIONS

As far as possible, acquisition cannot be made in Scheduled Areas, in order to protect tribal communities. When such acquisition is made, stringent conditions apply. The Act also protects irrigated multi-crop land which can be acquired only under exceptional circumstances and as a last resort. If it is acquired, then the government has to develop land of the same area for agricultural purposes or invest its value for food security purposes.

LAND THAT IS NOT UTILISED

If any land acquired under the Act is not used for five years starting from the date of possession, then it has to be returned to the original owner, or their heirs. Also, the purpose for which the land was originally acquired cannot be changed, unless unforeseeable circumstance makes it unusable for that purpose.



QUESTIONS FOR DISCUSSION/ LIMITATIONS OF THE LAW

One of the stated aims of the LARR Act, 2013 was to define ‘public purpose’ to rectify its broad scope. However, ‘public purpose’ continues to be defined fairly broadly still and does not necessarily translate into public welfare. For instance, a tourist resort can qualify as serving ‘public purpose under the law. Should the law further narrow down what constitutes ‘public purpose’?

Throughout the Act, differing standards are applied to acquisition solely by the government and when private parties are involved. Should the law provide the same restrictions on all parties involved?

While the Act empowers land owners to accept or reject the compensation amount, it does not allow them to determine the amount. Should determination of compensation be extended to land holders and other affected families?

Former Union Minister Jairam Ramesh, who spearheaded the law, has stated that its aim and complexities are intended to minimise acquisition and ultimately all transactions should be voluntary. Does this complexity discourage acquisition or make it for difficult for the recipient of the right to seek justice?



ACTION POINTS

Notice for public hearing must be given at least three weeks before the decided date (as prescribed by Rules framed under the Act).

Representatives of panchayats and municipalities are entitled to be represented at the stage of SIA, in the Expert Group and in the Rehabilitation and Resettlement Committee.

The following must be made available in the local language- the notification of an SIA study, publication of the SIA study, recommendations of the Expert Group, preliminary notification of acquisition, the approved Rehabilitation and Resettlement Scheme.

A person interested in land notified under the preliminary notification specifying area where land acquisition might take place is entitled to represent their objections in person or in writing within 60 days.

For acquisition in Scheduled Areas, prior consent of gram sabha or the Panchayats or the autonomous District Council is mandatory even in cases of urgency.

A D D I T I O N A L R E S O U R C E S

You can read Ramesh , Jairam and Muhammad A. Khan (2015), Legislating for Justice: The Making of the 2013 Land Acquisition Law, Oxford University Press, New Delhi

**You can look at specific case studies and ground reports of land conflicts, and communities affected here:
<https://www.landconflictwatch.org/>**

**You can read about alternative models to land acquisition, which are gaining popularity, here:
<https://wrirosscities.org/research/publication/state-led-alternative-mechanisms-acquire-plan-and-service-land-urbanisation>**

**You can access resources on jurisprudence on land acquisition and land rights here:
<https://www.cprindia.org/projects/land-rights-initiative>**