

DEVELOPMENT VS. DISPLACEMENT: HUMAN RIGHTS CONCERNS IN LAND ACQUISITION FOR INFRASTRUCTURE PROJECTS IN INDIA

AUTHOR – HARSHIT VERMA, STUDENT AT LAW COLLEGE DEHRADUN

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ABSTRACT

In this Article, we take a look at how India's land acquisition procedures for infrastructure projects are a complicated junction of development goals and human rights issues. Beginning with the Land Acquisition Act of 1894, which was passed during India's colonial era, the book follows the development of the country's legal structure all the way up to the groundbreaking Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR) of 2013. The progressive aspects of the LARR Act, such as the need to conduct social impact assessments, get consent, and establish thorough compensation systems, as well as the broader acknowledgement of impacted persons, continue to face substantial hurdles throughout implementation.

Forced displacement of people, destruction of indigenous ways of life and cultural traditions, and insufficient plans for compensation and rehabilitation are some of the serious human rights concerns highlighted in the report. One of the worst development-induced displacement crises in the world is happening in India, where an estimated 50 million people have been displaced since independence. This article examines India's human rights policy in light of international norms and finds that the country falls far short of its commitments under the UN Guiding Principles on Business and Human Rights and the International Covenant on Economic, Social and Cultural Rights.

The article shows how the court has changed its role in balancing economic needs with human rights safeguards by analysing landmark judicial interventions. Infrastructure development must continue without violating the rights and dignity of impacted communities, especially indigenous and other oppressed groups, according to the study's findings, which highlight the need for substantial reforms to implementation mechanisms notwithstanding legislative progress.

Key words: (Land acquisition, displacement, human rights, LARR Act, infrastructure development, indigenous communities, rehabilitation)

1. Legal Context: Analysing the LARR Act, 2013 and Other Land Acquisition Policies and Laws in India

The basic liberties of marginalised communities impacted by acquiring land have often clashed with India's relentless pursuit of revenue growth and construction of infrastructure. One of the many difficult ethical challenges in modern India is the conflict among economic

requirements and protecting the liberties of those who have been displaced. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act) is a watershed moment in the dramatic evolution of this intricate web of relationships among governmental authority, corporate interests, and disadvantaged populations.

A. The Development of India's Land Acquisition Laws Through Time

Colonial Past: The 1894 Land Acquisition Act:

The existing system for acquiring land in India has its origins in colonial laws enacted by the British to further their administrative and commercial goals. Exemplifying the colonial approach to land governance, the Land Acquisition Act of 1894 embraced principles that supported the state's "prominent realm" power, offered little safeguards for homeowners, and disregarded the rights of people who are not who relied on the land.

Several troubling norms were set by the 1894 Act that affected the buying of land in India for more than a hundred years:

To take private property for a "public purpose," an intentionally wide and nebulous term, it granted the government unprecedented powers.

Without considering livelihood losses or social costs, it set minimal compensation calculations based on market value alone.

It offered insufficient means of contesting acquisition choices.

It failed to address the needs of displaced people in terms of rehabilitation and relocation.

Landless workers, tenant farmers, and anybody else who relies on land but does not legally own it had their rights utterly disregarded.

After Independence: Carrying on the Colonial Tradition:

The colonial Land Acquisition Act stayed mostly intact until 2013, even though India gained its independence in 1947 and adopted an evolving government in 1950. As a result of government slowness and the growth objectives of succeeding administrations, which prioritised fast industrialisation and infrastructural development, the process continued.

The colonial legal system and the rights-based constitution of India became increasingly at odds in the years following independence. "No

person shall be deprived of his property save by authority of law," read Article 300A, although property was already a basic right, guaranteed in Article 31 (before the 44th Amendment repealed it).

This time was marked by several significant developments:

A path through the conflict between development needs and property rights paved by a succession of Supreme Court rulings and constitutional amendments.

Land acquisition for private enterprise was intensified after economic liberalisation in 1991, despite growing opposition from affected populations.

It is becoming more apparent that the compensation is inadequate and that there are no provisions for rehabilitation.

The rise of anti-displacement social movements, especially among indigenous communities

B. New Era: The 2013 Land Acquisition, Rehabilitation, and Resettlement Act

An important change from the colonial laws that had been in place for a century was the LARR Act of 2013, which established a framework for land acquisition based on rights. After much criticism for its one-sided approach and lack of safeguards for impacted communities, the Land Acquisition Act of 1894 was succeeded by this Act on January 1, 2014. An increasing consensus on the need to combine development imperatives with social justice issues arose after years of consultation and debate, and the LARR Act emerged as a result.

Main Attributes and Benefits

A number of innovative measures were included in the LARR Act to remedy the problems with earlier laws:

Farmers, tenants, sharecroppers, artisans, and indigenous communities with ancestral entitlements to woodlands are all considered "Project Affected Persons" under the LARR Act, in

contrast to the 1894 Act, which solely recognised property owners as affected parties. The reimbursement and rehabilitation procedure will take into account all individuals whose lives are dependent on the land, thanks to this broader definition.

All acquisition initiatives are required by law, with the exception of situations involving extreme urgency, to conduct a thorough social impact assessment (SIA). Displacement of populations, effects on livelihoods, and impacts on public and communal properties are among the several aspects that the SIA must assess. The societal costs of land acquisition will be systematically assessed before any decision is made, according to this regulation.

For business endeavours, 80% of impacted families must provide their consent; for collaborative public-private initiatives 70% of affected families must give their consent. This provision is a big change from the previous method, which allowed for the acquisition of land without consulting the communities that would be impacted.

The Act establishes a thorough system of payment that incorporates not only the land's market value but also a solatium equal to 100% of the market value (added reimbursement for the acquisition's unintentional nature) and an extra factor varying between 1 and 2 depending on how far it is from downtown areas. Reimbursement amounts ranging from two to four times the land's market worth are frequently the outcome of such cases. Affected households are entitled to specific rehabilitation and resettlement (R&R) benefits, such as housing, infrastructure, and livelihood support, as outlined in the Act. Some vulnerable groups, such as scheduled castes and tribes, have their needs specifically addressed.

The Act mandates the release of initial notices in indigenous languages and provides organisations for mediation and arbitration, such as the Land Acquisition, Rehabilitation and Resettlement Authority, promoting transparency and accountability. To avoid

endless delays, it also includes time-bound procedures.

In order to prevent the jeopardization of food security, the Act forbids the purchase of irrigated multi-crop land and requires the creation of comparable arable land in cases where such a purchase is inevitable.

The state land bank or the original owners are entitled to the return of any acquired but undeveloped land after five years.

2. Issues related to human rights

A. The forcible removal of entire communities

One of the foremost glaring ethical issues with India's infrastructural growth is the occurrence of relocation caused by industrialisation. With an estimated 50 million people uprooted from their homes since independence, India ranks among the top countries in the world for development-induced displaced persons, based to the Internal Displacement Monitoring Centre (IDMC). Forceful tactics are commonly used in these changes, and engagement is limited.

For a long time, the government was able to acquire land with little safeguards for impacted people according to the Land Acquisition Act of 1894, which was passed during the colonial era. Despite the fact that the Land Acquisition, Rehabilitation, and Resettlement Act (LARR) of 2013 brought about substantial reforms, there are still obstacles to its implementation. While the Act did lay the groundwork for social impact assessments and permission procedures, these safeguards have been severely watered down in numerous cases due to amendments and changes made at the state level.

Numerous case studies conducted in India have shown that there is a system of forced evictions that goes against human rights norms recognised worldwide. Coal mining expansions in Chhattisgarh and Jharkhand have displaced entire communities with little to no warning. More than 200,000 people were forced to leave their homes in three different states as a consequence of the Sardar Sarovar Dam

project on the Narmada River. Numerous families have complained about the lack of proper communication and consultation during this process. Intimidation techniques, such as police action and legal harassment through criminal charges, are frequently used against communities who resist displacement.

B. Indigenous Styles of Living and Livelihoods Taking a Hit

In addition to forcing people to leave their homes, construction efforts often alter long-standing economic patterns and cultural practices. The governing law of India and international human rights agreements both recognise this disturbance as an affront to cultural, social, and economic rights.

In rural areas, land is more than just a commodity; it is a symbol of economic stability, cultural preservation, and social status. It can be quite challenging for farmers, especially those with specialised skills that are tailored to specific farming contexts, to find other livelihoods when their field is taken over for construction endeavours. Over 40% of farmers who were displaced continue to see a substantial decline in income despite several years of relocation and a large number of them fall into poverty as a result of their displacement.

C. Compensation and Rehabilitation Policies That Are Deficient

Even if there have been legislative changes to make reimbursement and reconstruction processes better, these reforms aren't always put into practice to guarantee that displaced communities can get back on their feet. A major human rights concern is the disparity between official declarations and actual conditions.

Acquired land is frequently compensated at a lower value than its true market value. Particularly in areas experiencing rapid development and skyrocketing property values, the selling rates used for calculation might not always represent the actual equivalent value. Centre for Policy Analysis discovered that when

considering geographic advantages and growth potential, compensation levels were 30–50% fewer than current market rates in over 60% of cases spanning six states.

Issues with documents add to the reimbursement process. Settlement systems do not take into account the traditional agricultural rights of many indigenous and rural populations because these rights do not have official status. Additional obstacles to just reparation arise from India's complicated land register system, which contains substantial errors and out-of-date information.

3. International standards

A. Evaluate India's policies in light of global standards for human rights

When it comes to forcible foreclosures and relocation, global human rights laws lay out clear requirements. Right to sufficient housing along with safeguards against compelled departures are recognised in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which India joined in 1979. Further recommendations can be found in the United Nations Basic Rules and Regulations on Development-Based Removals and Migration, which stress the importance of genuine engagement, sufficient notice, equitable remuneration and rehabilitation efforts.

Indian methods show large discrepancies when contrasted with these global standards. Insufficient discussion, poor reimbursement, and forcible evictions are still hallmarks of land acquisition, even after legal revisions. When it comes to disadvantaged groups and tribes in particular, India's resettlement methods frequently fall short of international norms, according to the World Bank's assessment of displacement practices.

The liberties of groups living in forests were intended to be protected by the Forest Rights Act of 2006, but due to bureaucratic red tape and competing development agendas, its execution has been hindered. Research conducted by the Rights and Resources

Initiative (2019) reveals a multitude of instances where indigenous forest dwellers were forcibly removed from their homes without due process, a practice that goes against both national and international norms.

B. Consideration for Human Rights in Business as Established by the United Nations.

The UN General Principles on the Relationship between Business and Human Rights lay forth an order of "safeguard, Honour, and Repair" for dealing with the human rights consequences caused by businesses. These principles were accepted in 2011 by the UN Human Rights Council. According to the UN, the system assigns states and companies separate but complementary duties.

When it comes to fulfilling the state's obligation to safeguard the rights of people under the UNGPs, India's performance is inconsistent. Execution of India's 2018 National Action Plan on the intersection of business and human rights has been sluggish and disjointed. Investment facilitation is frequently given more weight than human rights provisions in the legal structure for construction projects. There is a lack of robust enforcement measures and environmental clearance procedures sometimes skip over human rights due diligence. Businesses must ensure they do not inflict or exacerbate any harm to human rights as part of their duty to uphold these principles. A wide range of human rights policies are in place at major domestic and multinational infrastructure corporations working in India. According to research done by Oxfam India in 2021, out of all the big infrastructure businesses in India, just 23% had human rights due diligence procedures that were in line with the UNGPs. When firms acquire land without conducting thorough due diligence, they run the risk of being implicated in violations of rights.

Access to remedy for victims of human rights abuses related to business is the emphasis of the third pillar of the UNGPs. Due to procedural complexity, hefty expenses, and lengthy delays,

court remedies in India are frequently inaccessible, despite their availability. State human rights commissions and the National Human Rights Commission offer alternate channels, but they do not have the authority to enforce human rights. Affected communities sometimes have no meaningful redress since project-level grievance processes are either insufficient or non-existent.

4. Judicial Interventions in Land Acquisition and Displacement

The property rights of tribes in India have often been in conflict with the country's fast infrastructure development. When impacted communities are left high and dry by executive and legislative processes, the legal system steps in to restore balance to the delicate balance between economic requirements and human rights concerns. The efficacy of legal remedies accessible to displaced populations is assessed in this analysis, which also looks at seminal court rulings.

Landmark Court Decisions Related to Land Acquisition and Displacement:

Olga Tellis v. Bombay Municipal Corporation (1985): This case did not resolve the issue of infrastructure land acquisition per se, it did demonstrate that Article 21 of the Constitution guarantees a person the right to exist, which includes the right to support oneself. The precedent that displacement cannot occur without due process was set by the Court's ruling that eviction without appropriate notice violated basic rights

Narmada Bachao Andolan v. Union of India (2000): was a landmark decision that changed the game (2000). The Sardar Sarovar Dam, which was set to be built on the Narmada River and would have forced thousands of people to leave their homes, was the subject of this lawsuit. Even though the proposal was eventually greenlit by the court, extensive rehabilitation had to be completed before any displacement could take place. "The rehab has to be performed as a prelude to immersion"

was the central point of Justice Kirpal's majority ruling. This ruling made it clear that sufficient repairs must be included of every major infrastructure project.

Raghu Singh Sehrawat v. State of Haryana (2012): the concept of "public purpose" in property acquisition was examined. It is not enough for the government to declare anything to be a "public purpose"; the Supreme Court stressed that this must be assessed objectively. The court ruled that whomever is in charge of purchasing land must consider whether or not it serves a public purpose. According to the Supreme Court's ruling, this matter cannot be solely decided by the government's subjective opinion.

Indore Development Authority v. Manoharlal (2020): The LAR Act of 2013 was the subject of the seminal case which dealt with questions of interpretation. It was made clear by the five-judge bench that if recompense had been put into the government coffers, the land purchase procedures would not expire, regardless of whether the landowners were paid. This view gave the purchasing agencies the upper hand, but the Court stressed that "the 2013 Act is a helpful law and its regulations must be read generously in order to help those whose property were purchased" so it wasn't all bad.

CONCLUSION

Although there has been a marked improvement in land acquisition policy in India since the LARR Act of 2013, there are still major obstacles to its implementation that have a negative impact on human rights, especially for indigenous and disadvantaged populations. Forced evictions, the loss of conventional lives, and inadequate reparation that doesn't reflect real market values are disturbing trends that have impacted the over 50 million displaced people since independence. Going forward, India needs to make sure that social impact assessments and consent requirements are strictly followed, create standardised rehabilitation packages that take into account cultural and social impacts, not just monetary

reparations, and set up unbiased oversight bodies to make sure that national and international human rights standards are being followed. Growth in the economy and basic constitutional safeguards must be maintained through judicial interventions, especially for disadvantaged areas. Companies should have strong constitutional screening processes that are in line with the UN Guiding Principles. Additionally, there is a need to develop accessible grievance systems on all levels. Recognising that economic growth cannot happen at the cost of basic human rights and dignity of refugees, particularly people of indigenous descent whose cultural identity has a fundamental connection to their land, policy reforms should prioritise incorporating significant ownership of populations impacted all over the process of land acquisition.

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