CHAPTER 6

COMPARISON BETWEEN LAND ACQUISITION ACT, 1894 AND THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT 2013

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6.1 Introduction and History of Land Acquisition Act 1894

The Land Acquisition Act, 1894 is the primary legislation in India that deals with the acquisition of land by the Government for a public purpose. It forms the Parent Act and is the basis of all Central and State laws relating to compulsory acquisition and the compensation payable to the interested person upon such acquisition. Therefore it is important to note that the power of the Government in this regard is not absolute and is subject to payment of adequate and just compensation to the landowner. Thus the law of compensation is intertwined with the law of acquisition. What any statute relating to acquisition or requisition seeks to achieve is acquisition and not confiscation. The cardinal principles pertaining to acquisition are contained in two inbuilt conditions, viz., the right of the expropriated owner to receive compensation and, no acquisition is permissible without a public purpose.

History of Law of Land Acquisition in India

The first piece of legislation in respect of acquisition of property in India was the Bengal Regulation I of 1824 which was applicable throughout the whole of the provinces immediately subject to the presidency of Fort William. This regulation provided rules for enabling the officers of Government to acquire, at a fair valuation, land or other immovable property required for roads, canals or other public purposes. In 1850, some of the provisions of the Regulation were extended to the town of Calcutta with the object of confirming the title, to lands in Calcutta taken for public purposes. In 1850, when the Railways were being developed, the Railways were declared as public works and the Regulation was extended to the Railways also. As Regards Bombay, the Building Act XXVIII of 1839 was the first piece of legislation which provided for acquisition of land "for the purposes of widening or altering any existing public road, street or other thoroughfare or drain or for making any new public road street or other thoroughfare within, the stands of Bombay and Colaba. This Act was extended to Railways in the year 1850. In Madras, Act XX of 1852 was passed, for the purpose of facilitating the acquisition of land for public purpose in the Madras presidency. Railways were brought under the purview of 'public purpose' in 1850. Thus, it could be seen that till 1857, there was no law of land acquisition applicable to the whole of British India.

The First Legislation on the subject of land acquisition for the whole of British India was the Act VI of 1857, which repealed all previous enactments relating to
acquisition. As stated in its preamble, its object was to make better provisions for the acquisition of land needed for public purposes within the territories in the possession and under the governance of the East India Company and for determination of the amount of compensation to be paid for the same. Under this legislation, the collector was empowered to fix the amount of compensation by agreement if possible; but if there was no such agreement, the dispute had to be referred to arbitrators whose decision was to be final and could not be assailed, except for their misconduct or corruption. Therefore it could be seen that the Collectors have been given a prominent role right from 1857 and still they are playing a key role in awarding compensation even today similarly, the so called Alternative Dispute Resolution (ADR) was introduced in acquisition proceedings way back in 1857.

Then it was found that the method of settlement of compensation by agreement or arbitration was unsatisfactory as the arbitrators were incompetent and even corrupt. Further it was also realized that there was no appellate mechanism against the awards given by the arbitrators. In order to correct this anomaly, the legislature intervened and passed the Act X of 1870. The notable contribution of this Act was that, for the first time, the Act provided for a reference to a Civil Court for the determination of the amount of compensation when the collector could not settle it by agreement. It laid down a clear procedure for the acquisition of land and also provided definite rules for the determination of compensation. However the Act could not plug many loopholes in the then existing system, and had to be eventually replaced by the Land Acquisition Act, 1894. The Land Acquisition Act, 1894 originally applied to the British India only and the Native States passed their own Acts, for example the Mysore Land Acquisition Act, 1894, the Travancore Land Acquisition Act, 1089 and the Hyderabad Land Acquisition Act, 1309 Fasli etc.

In fact under the Government of India Acts 1919 and 1935 the provinces had the power to legislate with respect to compulsory acquisition of land and by exercising such power many provinces amended in respect of certain provisions, the Act of 1894. After the Indian Independence Act, 1947, by virtue of the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948 the Act was made applicable to all the provinces of India.

After the Constitution, came into force it was made applicable to the whole of India except Part B States.
6.2 Criticism of Land Acquisition Act, 1894

Before Independence the land acquisition remains at the centre of many controversies and public policy paralysis in India. The Land Acquisition Act, 1894 since its enactment has been subject to controversies and violent debate. Notwithstanding to remove these shortcoming rounds of amendment came but it has failed to address some important issues associated with land acquisition particularly forcible acquisitions, definition of "public purpose", widespread misuse the of "urgency clause", compensation, lack of transparency in the acquisition process, participation of communities whose land is being acquired and but not add provisions of rehabilitation and resettlement packages to framers. Further weak implementation and ineffective administration at the ground level has increased the suffering and anguish of the people. Due to a lack of clear definition of "public purpose", there has been considerable difference of opinion among various judgments of the Supreme Court, finally resulting into granting very broad discretionary powers to the state in terms of deciding the contours of "public purpose" under particular circumstances.

Another criticism of this Act is required put the band on multi crop agricultural land. Most of the industries or companies acquired agriculture land or multi agriculture land. Due to this India has facing problem food security.

Land acquisition has now become a means for a multitude of middle-men to make a lot of money. This is because the tough regulations and complexities related to acquiring land today provide huge arbitrage to such people. In India large Indian population approximately 70% is dependent on agriculture for livelihood. Most of farmers are reluctant to part with their land holdings much less land which is productive. Corporate while identifying the land for projects should avoid acquiring productive land because it hurts the sentiments of the locals. One of the most important factor necessary for Industrial and Infrastructure growth of India is smooth acquisition of land. Industries/Infrastructure companies are requiring that the land to be acquired to them without much hassle, however, the farmers/land owners whose land is to be acquired oppose the acquisition. If the opposition is not handled well, it may acquire political colour and extinguish of proportion. India has already make a witnessed of examples wherein the mishandling of land acquisition issue has led to cost overrun and even abandonment of project. On the other hand there are also
illustrations wherein efficient handling of the issue has benefited both the Industry and people displaced by acquisition.

For example, the government of Punjab for development of a Thermal Power Project sought to acquire 860 acres of fertile land in Mansa District, Punjab, which lead to agitation amongst the locals. The owners of about 160 acres of land have refused to accept compensation of Rs. 23 lac per acre as they want to continue farming and claim that rate of land is about Rs. 50-60 Lakhs per acres. A promising project has run into difficulties because of ill choice of land. In contrast the Mudra Port trust acquired land for their project which was arid and unoccupied in the Kutch region of Gujarat, and JSW Bengal Steel Limited for its Salboni project acquired 95% of land which was fallow and hence the process of acquisition went on smoothly.

The main issues that surround the acquisition of land in India are more complex than those related to built-up property. Some of these are litigations due to inheritance, multiple sales which have not been properly recorded, pledging of land to local money lenders, fragmented holdings, requirement of cash while dealing with sellers, difficulty in obtaining contiguous land, lands which have been granted to SC/ST by the Government, land ceiling laws, tough resettlement and rehabilitation laws.

The industries and company in India while seeking acquisition of land, gives great emphasis on the legal licence to acquire land and only gives minimal importance to social consent to operate. It requires taking prior permission of land holders. It means to secure the free, prior and informed consent of affected communities to part with or share their land resources. But not give importance to consent of land holders and because of this agriculture India is just now become a corporate India. The Corporate India has to face four challenges in land acquisition process, two of which are with the government and two with the persons who have to part with their lands. The issues with the government are (1) identification of land and (2) execution of memorandum of understanding. The issues with the people are (1) Compensation (2) Rehabilitation.88

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Land Acquisition in India refers to the process of land acquisition by the central or state government of India for various infrastructure and economic growth initiatives. Several controversies have arisen with claims that land owners have not been adequately compensated.

Under the Land Acquisition Act for acquisition of land state government and central government apply doctrine of Eminent Domain. Eminent domain has applied in India since the era of Independence, with over 21.6 million people in the period of 1951-90. They have been displaced with large-scale projects like dams, canals, thermal plants, sanctuaries, industrial facilities, and mining. These occurrences are generally categorized as "development-related displacement". But this process of land acquisition in has proven unpopular. Because the amount reimbursed is fairly low with regard to the current index of prices prevailing in the economy. Furthermore, due to the low level of human capital of the displaced people, they often fail to find adequate employment. The draft of the government’s National Policy for Rehabilitation states that figures around 75% of the displaced people since 1951 are still awaiting rehabilitation. However, it should be noted that displacement is only being considered with regard to "Direct Displacement". These rehabilitation policies do not cover fishermen, landless laborers, and artisans. Roughly one in ten Indian tribals is a displaced person. Dam projects have displaced close to a million adivasis, with similar woe for displaced popular dalits. There have been a rising many of political and social protests against the acquisition of land by various industrialists. Lie in the areas of Bengal, Karnataka, and Uttar Pradesh in the recent past. The acquisition of 997 acres of land by Tata motors in Bengal in order to set up a factory for the cheapest car in India was protested. Similarly, the Sardar Sarovar Dam project on the river Narmada was planned on acquired land, though the project was later canceled by the World Bank.

Even the Land Acquisition Act of 1894 allowed the government to acquire private lands. It is the only legislation pertaining to land acquisition which, though amended several times, has failed to serve its purpose. Under the 1894 Act, displaced people were only liable for monetary compensation, which was still quite minimal. Many that get displaced are from the poorest sections; the majorities are covered tribal and dalit peoples and fail to raise their voice against the government.

Even before as well as after independence land is the most contentious problem in India today. Although land policy development is taking place, the issue is
being looked at in isolation, rather than in the overall framework of human rights. There are many contentious and complex problems in India today than those dealing with land and land rights. Rather than focusing on land as an issue in isolation, a continuum of rights has to be established regarding land, especially in the areas of access and reform, law and enforcement, use planning and management, administration and information, and other cross-cutting issues. Following are data of different projects which are established in different parts of the states, displaced population and tribal percentage.  

<table>
<thead>
<tr>
<th>Project</th>
<th>State</th>
<th>Displaced Population</th>
<th>Tribal Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Karjan</td>
<td>Gujarat</td>
<td>11,600</td>
<td>100</td>
</tr>
<tr>
<td>Sardar Sarovar</td>
<td>Gujarat</td>
<td>2,00,000</td>
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<tr>
<td>Maheshwar</td>
<td>Madhya Pradesh</td>
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<td>Bodhgat</td>
<td>Madhya Pradesh</td>
<td>12,700</td>
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<tr>
<td>Icha</td>
<td>Bihar</td>
<td>30,800</td>
<td>80</td>
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<tr>
<td>Chandil</td>
<td>Bihar</td>
<td>37,600</td>
<td>87.92</td>
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<td>Bihar</td>
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<td>88</td>
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<tr>
<td>Mahi Bajaj Sajar</td>
<td>Rajastjan</td>
<td>38,400</td>
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<tr>
<td>Polavaram</td>
<td>Andhra Pradesh</td>
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<td>Ichampali</td>
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<tr>
<td>Ukai Reservoir</td>
<td>Gujarat</td>
<td>52,000</td>
<td>18.92</td>
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</table>

89 Misuse of Land Acquisition Act 1894 and data of displaced persons available at http://en.wikipedia.org/wiki/Land_acquisition_in_India
In Land Acquisition Act 1894, from many years we are facing the problems of land issues in different sectoral interventions and activities but we find just more problems than the solutions and it is too narrowly. Following are recent examples:

A. **A Special Economic Zone** is a tamed project of the Ministry of Commerce and Industry, Government of India, for economic growth and it is supported by quality infrastructure and attractive fiscal packages, both at the centre and state levels, with the minimum possible labour and environmental regulations. The SEZ rules provide for different land requirements for different classes of SEZs. The ministry continues with the same zeal, and the Board of Approval of SEZs at the department of commerce is meeting as usual to consider applications for new SEZs and also to approve several other proposals of companies to facilitate the working of existing notified SEZs, including increasing their existing land areas.

B. **Because of problems in land acquisition and environmental clearance companies** are getting unstable. There are many major projects in sectors like steel and power, equivalent to Rs 244,815.5 crore, are stuck due to procedures relating to land acquisition and forest and environmental clearances. The major companies involved are Arcelor Mittal, POSCO, Vedanta Group, Tata Steel, Essar Steel, Jindal and DLF.

### 6.2.1 Impact of Land Acquisition under SEZ Act

SEZ's and land acquisition often involve in agricultural land and the central and state governments are acquiring the land from the farmers. The various advantages of the SEZ's and land acquisition in India are that it has helped in bringing in huge amounts of foreign currency into the country, increased the number of jobs for the people and to bring technological advances to Indian industry, and make it a cost-effective producer. On the other hand the disadvantages are that it is estimated that more than ten lakh people, who are dependent upon agricultural land, will be evicted from their lands. It is estimated that the farming families will have to face a loss of around Rs.212 crores each year in total income, and it will also lead to putting the food security of India to risk. Land acquisition in India has now resulted in dissent, uproar and opposition from farmers for the livelihood has been put to stake.
Whether it is Nandigram, Singur, Koodankulam, Jagatsinghpur (POSCO), Kannamangal or Bastar, the issues are the same. In the name of development, land acquisition is being done forcibly without due respect to basic human rights the right to life and personal liberty. The government promises 'humane' displacement followed by relief and rehabilitation. However, historical records show that an estimated 40 million people have lost their land since 1950 on account of displacement due to large development projects. At least 75% of them still await rehabilitation. Moreover compensation is being discussed only for those who hold titles to land. No compensation had been planned for those who don't till the Narmada Water Disputes Tribunal provided for it. The present system of payment of compensation to the farmers is perceived to be totally unfair. If the land is being acquired for a commercial purpose under the garb of public purpose then let the market decide the price of the land as free markets are not about corporate entities ,or even industrialisation, they are about freedom. Then why restrict freedom of the farmers to sell their land at the market price. Mutual negotiation, with the prospect of reverting to Land Acquisition only after 90% of the Land has been bought by negotiation, may become necessary.

No doubt that for development to take place land has to be acquired by the government. There are a few success stories of land acquisition as well, which has been very smooth, resulting in the development of the area. Market forces have awakened rural India as well. The government will have to have new mechanisms in place so that the farmers become partners in the process of development. The acquisition of farmland at low prices is hurting farmers' interests, which shows our current rural land acquisition system has not adjusted to the demands of the times, there must be reform. A fresh look needs to be taken at the land acquisition policy, including legislation, packages for compensation and advance plans for rehabilitation.

It has already been noted that consent of the land owner is not required either under SEZ or under land Acquisition Act. Estimates show that close to 114,000 farming households and an additional 82,000 farm worker families who are dependent upon these farms for their livelihoods, have been displaced due to SEZs. Experts calculate that the total loss of income to the farming and the farm worker families is at least Rs. 212 crores a year. This does not include other income lost due to the demise of local rural economies.

The government promises ‘humane' displacement followed by relief and rehabilitation. However, the historical record does not offer any room for hope on this
count: an estimated 40 million people of which nearly 40% are Adivasis and 25% Dalits have lost their land since 1950 on account of displacement due to large development projects. At least 75% of them still await rehabilitation. Almost 80% of the agricultural population owns only about 17% of the total agriculture land, making them near landless farmers. Far more families and communities depend on a piece of land for work, grazing than those who simply own it. However, compensation is being discussed only for those who hold titles to land. No compensation has been planned for those who don't.

Therefore development versus the rights of the land owners and more so of poor adivasis continues to be an unresolved issue attracting the displeasure and wrath of a millions.

6.3 Need and Object of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill 2013

The Government of India claims there is heightened public concern on land acquisition issues in India. Of particular concern is that despite many amendments, over the years, to India's Land Acquisition Act of 1894, there is an absence of a cohesive national law that addresses. Government acquire for public purpose and private company acquire land they required fair compensation and fair rehabilitation of land owners and those land losers or owners directly affected from loss of livelihoods.

The Government of India believes that a combined law is necessary, one that legally requires rehabilitation and resettlement necessarily and simultaneously follow government acquisition of land for public purposes. Government acquires land for its own use, hold and control. Government by using their eminent domain power acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose and acquires land for immediate and declared use by private companies for public purpose.

The provision of public facilities or infrastructure sometimes requires the exercise of legal powers by the State under the principle of eminent domain for acquisition of private property which can lead to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional
resource bases and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the displaced population which calls for affirmative State action for protecting their rights, in particular of the weaker sections of society like tribals, marginal farmers and women. Displacement of people may be caused by other factors also. There is imperative need to recognize resettlement and rehabilitation issues as intrinsic to the development process formulated with the active participation of affected persons, rather than as externally imposed requirements. Monetary compensation, in most cases, may not be adequate for affected land owners to seek land-based alternatives. The plight of those who do not have legal or recognized rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of planners to include in the displacement process framework not only those who directly lose land and other assets but all those who are affected by such acquisition of assets. The displacement process often poses problems that make it difficult for displaced persons to continue their old income-generating activities after resettlement. This calls for a careful assessment of the social impact of displacement and a holistic effort aimed at improving the living standards of the displaced population, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services.

Rapid urbanization and industrial growth is now a day has forced government to acquire land for executing infrastructure projects. But our government’s inadequacy of proper legal regime on compensation and rehabilitation part, such land acquisitions has faced a considerable opposition from landowners and farmers, which finally converted in delayed execution of projects.

For example, the SEZ Act stipulated that 25 percent of the area be used for productive purposes. Under pressure from the people it was raised to 50 percent. The rest can be used for tourist resorts, hotels, township and other purposes. It is simply a disappointment to observe that some companies having only experience in real estate speculation and none in production have applied for some of the more than 300 proposed SEZs.

For example, in industries, Nano Car Factory is the best example. A factory needs one acre to produce 1000 cars and the Tatas proposed to make 350,000 of them. They were allotted 997 acres at Singur when needed less than half of it. The proposed
bill has not provided any steps to remove such abuse of land. They limit rehabilitation to projects that displace four hundred families in the plains and 200 in the hills and scheduled areas. People cannot decide even on their own rehabilitation. The administrator will prepare a plan in consultation with them. However, this would be a good step because if rehabilitation decision is left to the people, this would create disorder as many people may only demand the luxurious rehabilitations. The bill demand social impact assessment before taking a decision on land acquisition. But they limit it to common property like schools, ponds and roads and do not mention impacts such as impoverishment, social disruption, psychological trauma and cultural degradation that the displaced feel. The UPA has promised to improve on it. Its National Advisory Council prepared a Draft that demanded people’s prior informed consent before displacement, stipulated their involvement at every stage, replaced the “public purpose” of displacement with “public interest” since acquisition for private profit cannot be called a public purpose, included replacement value for compensation instead of measly compensation given today and declared rehabilitation a right of the displaced.90

A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2003 and it came into force w.e.f. February, 2004. Experience of implementation of this policy indicates that there are many issues addressed by the policy which require to be reviewed. There needs to be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families – economic, environmental, social and cultural – needs to be assessed. The thrust of NPR-2006 is towards meaningful addressal of these issues. It is acknowledged that many State governments and Central public sector undertakings/agencies either have their own resettlement and rehabilitation (R&R) policies or are in the process of formulating them. The provisions of NRP-2006 provide the basic minimum that all projects leading to involuntary displacement must address. State governments and Central public sector undertakings/agencies are free to put in place greater benefit levels than those prescribed in NRP-2006. The

90 http://drt.co.in/2011/11/15/land-acquistion-for-SEZs-are-the-%E2%80%9Cengines-for-growth%E2%80%9D-losing-its-steam/
principles of this policy may apply to the rehabilitation of persons displaced due to any reason.\(^{91}\)

Government requires harmonious balance between the interest of landowners and industrialization growth of country is the need of the day, which Land acquisition Act, 1984 was failed to address. Considering this requirements, the two bills "The Land Acquisition (Amendment) Bill 2007 and "The Rehabilitation and Resettlement Bill, 2007" were introduced in Lok Sabha in 2007, but got lapsed on dissolution of 14th Lok Sabha.

The rehabilitation of displaced person’s bill 2007 and Amendment to the land acquisition act 1894 were passed by the 14th Lok Sabha in February 2009 but were defeated in the Rajya Sabha. In its proposal, the congress had promised to enact the legislation as solution to the problems faced by persons displaced by development projects. In furtherance of its promise, the National Rehabilitation and Resettlement Policy 2007 have been notified in the official Gazette and have become operative with effect from the 31st October, 2007. The bill will make the acquisition easier than in the past but do not promise anything new to the estimated 60 million persons displaced since 1947 in the name of national development.

It is clear that the aim of the Rehabilitation and Resettlement Bill 2007 is to minimize large scale displacement as far as possible. But not passed by our government. After that Land Acquisition, Rehabilitation and Resettlement Bill in India is a much awaited bill for Land acquisition reforms and rehabilitation for the development projects in India. The bill was introduced in Lok Sabha in India on 7 September 2011. The bill will be central legislation in India for the rehabilitation and resettlement of families affected by land acquisitions."The Land Acquisition, Rehabilitation and Resettlement Bill, 2011" was introduced in Lok Sabha, which was finally approved by Indian Parliament on 5th September 2013 with some amendments under the name of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013" The Land Acquisition, Rehabilitation and Resettlement, 2011 Bill is also known as LARR Bill 2011 and LARR 2011. The Bill has 107 clauses. It is currently in public domain and India's

parliament for review, as Bill number 77 of 2011. After liberalization private companies are demanding more land than required.

The object of the enactments is to ensure and adopt humane, participatory informed consultative and transparent process for land acquisition for industrialization and urbanization with the least disturbance to the owners of the land and other affected families; and to provide just and fair compensation to the affected families. The bill further seeks to ensure that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development. The objects and reasons of bill is that the Land Acquisition Act, 1894 is a general law relating to acquisition of land for public purpose and also for companies and for determining the amount of compensation to be made on account of such acquisition. The provisions of the said Act have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the state for involuntary acquisition of private land and property. The Act does not address the issues of rehabilitation and resettlement to the affected persons and their families.

The main salient feature of the LARR Bill, 2011 are as under

1. New integrated legislation dealing with land acquisition and rehabilitation & settlement while repealing the Land Acquisition Act, 1894
2. Exemption to 16 Central Acts specified in Fourth Schedules from ambit of the Bill.
3. Defining the term ‘affected family”, which includes both the land losers and livelihood losers.
4. Provision of R & R benefits in case of specified private purchase of land equal to or more than 100 acres in rural areas and equal to or more than 50 acre in urban areas.
5. Provide Special Impact Assessment (SIA) study in all cases where the government intends to acquire land for a public purpose.
6. Provides for formation of committee under the chief secretary for examining proposals of land acquisition where land sought to be acquired is equal to or more than 100 acres.
7. Putting limitation on acquisition of multi-crop land for safeguarding the food security
8. Institutional mechanism for R& R in the form of institutions of Administrator for Resettlement, Rehabilitation and Resettlement Committee at project level, the Land Acquisition, Rehabilitation & Resettlement Authority at State level and National Monitoring Committee at Central level.

9. Provisions of consent of the 80 per cent affected families for land acquisition for certain projects.

10. Provisions for enhanced compensation to the land owners and rehabilitation and resettlement entitlements.

11. Provisions of 25 per cent on shares as part of compensation in cases where the Requiring Body offers its shares to the owners of land whose land has been acquired.

12. Restricting the ‘urgency clause’ for land acquisition for Defence of India or National Security or for any other emergency out of natural calamities.

13. Specified timelines for payment of compensation and provision of rehabilitation and resettlement entitlements.

Before Government passed this bill there were some important key issues which have discussed namely doctrine of Eminent Domain and Acquisition as public purpose for private corporation, public private partnerships.

Following are the some important issued which were discussed:

1. The Land Acquisition Act, 1894 is law relating to acquisition of land for public purposes and also for companies and for determining the amount of compensation and paid to be made on account of such acquisition. The provisions of this Act have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property. Moreover this Act does not address the issues of rehabilitation and resettlement to the affected persons and their families.

2. The definition of "public purpose" as given in the Act is very wide. Therefore it’s become necessary to re-define it so as to restrict its scope for acquisition of land for strategic purposes vital to the State and for infrastructure projects where the benefits accrue to the general public. The provisions of the Act are also used for acquiring private lands for companies. This frequently raises a question mark on the desirability of such State intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be
seen to be a more fair arrangement from the point of view of the land owner. In order to streamline the provisions of the Act causing less hardships to the owners of the land and other persons dependent upon such land, it is proposed repeal the Land Acquisition Act, 1894 and to replace it with adequate provisions for rehabilitation and resettlement for the affected persons and their families.

3. There have been multiple amendments came to the Land Acquisition Act, 1894 not only by the Central Government but by the State Governments as well. Though governments and companies have been purchased land especially multi-cropped irrigated land and so land acquisition become always heightened public concern but there is no central law to adequately deal with the issues of rehabilitation and resettlement of displaced persons. As land acquisition and rehabilitation and resettlement need to be seen as two sides of the same coin, a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement has become necessary. Hence the proposed legislation proposes to address concerns of farmers and those whose livelihoods are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialization, infrastructure and urbanization projects in a timely and transparent manner.

4. Before the parliament passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Land Acquisition (Amendment) Bill, 2007 and Rehabilitation and Resettlement Bill, 2007 were introduced in the Lok Sabha on 6th December, 2007 and were referred to the Parliamentary Standing Committee on Rural Development for Examination and Report. The Standing Committee presented its reports to the Lok Sabha on 21st October, 2008 and laid the same in the Rajya Sabha on the same day. Based on the recommendations of the Standing Committee and as a consequence thereof, official amendments to the Bills were proposed. The Bills, along with the official amendments, were passed by the Lok Sabha on 25th February, 2009, but the same lapsed with the dissolution of the 14th Lok Sabha.

5. Everyone is now proposed to have a united legislation dealing with acquisition of land, provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families. The Bill thus provides for repealing and replacing the Land Acquisition Act, 1894 with broad provisions for adequate rehabilitation and resettlement mechanism for the project affected persons and their families.
6. Depriving families, displacement of people require provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property.

The historic Land Acquisition Act 1894 to replace a 120-year-old legislation and provide just and fair compensation to farmers was passed by both Houses of Parliament with overwhelming majority during the Monsoon session last year. It received the Presidential assent on September 27, 2013.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, commonly referred to as the Land Acquisition Act, will come into effect from today, i.e., January 1, 2014. The new legislation will guide all land acquisitions of central and state governments, bringing in stricter norms and increasing landowners’ compensation significantly.

The law replaces the Land Acquisition Act of 1894 by establishing new rules for compensation as well as resettlement and rehabilitation. The most important feature of the Act is that the developers will need the consent of up to 80 per cent of people whose land is acquired for private projects and of 70 per cent of the landowners in the case of public-private partnership projects. It also provides for compensation as high as four times more than the existing practice in rural areas and two times in urban areas.

According to the new Act, state governments will have to set up at least six bodies, including the state-level Land Acquisition Rehabilitation and Resettlement Authority, to hear disputes arising out of projects where land acquisition has been initiated by the state or its agencies. Further, as per the the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement rules, the state governments should take immediate steps to create and establish the State Social Impact Assessment Unit, the office of the Commissioner Rehabilitation and Resettlement, and the State Level Monitoring Committee.92

The main aim and object of this act are as follows:

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1. Generally the Land Acquisition Act, 1894 is law relating to acquisition of land for public purposes and also for companies and for determining the amount of compensation and made payment on account of such acquisition. But provisions of this Act have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property. Moreover this act does not address the issues of rehabilitation and resettlement to the affected persons and their families.

2. In the Land Acquisition Act, 1894 give definition of "public purpose" is very wide. It has, therefore, become necessary to re-define it so as to restrict its scope for acquisition of land for strategic purposes vital to the State, and for infrastructure projects where the benefits accrue to the general public. The provisions of the Act are also used for acquiring private lands for companies. This frequently raises a question mark on the desirability of such State intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be seen to be a more fair arrangement from the point of view of the land owner. In order to streamline the provisions of the Act causing less hardships to the owners of the land and other persons dependent upon such land, it is proposed repeal the Land Acquisition Act, 1894 and to replace it with adequate provisions for rehabilitation and resettlement for the affected persons and their families.

3. There have been multiple amendments came to the Land Acquisition Act, 1894 not only by the Central Government but by the State Governments as well. Though land acquisition has been heightened public concern, especially multi-cropped irrigated land and there is no central law to adequately deal with the issues of rehabilitation and resettlement of displaced persons. As land acquisition and rehabilitation and resettlement need to be seen as two sides of the same coin, a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement has become necessary. Hence the proposed legislation proposes to address concerns of farmers and those whose livelihoods are dependent on the land being acquired, while at the same time facilitating land acquisition for industrialization, infrastructure and urbanization projects in a timely and transparent manner.
4. Before the Right to fair Compensation and Transparency in Rehabilitation and Resettlement Act 2013, the Land Acquisition (Amendment) Bill, 2007 and Rehabilitation and Resettlement Bill, 2007 were introduced in the Lok Sabha on 6th December, 2007 and were referred to the Parliamentary Standing Committee on Rural Development for Examination and Report. The Standing Committee presented its 39th and 40th Reports to the Lok Sabha on 21st October, 2008 and laid the same in the Rajya Sabha on the same day. Based on the recommendations of the Standing Committee and as a consequence thereof, official amendments to the Bills were proposed. The Bills, along with the official amendments, were passed by the Lok Sabha on 25th February, 2009, but the same lapsed with the dissolution of the 14th Lok Sabha.

5. Everyone is required to have a unified legislation dealing with acquisition of land and provide for just and fair compensation and make adequate provisions for rehabilitation and resettlement mechanism for the affected persons and their families for the project affected persons and their families.

6. The State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resources base and uprooting them from their socio-cultural environment they require public facilities or infrastructure. All these have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, particularly in case of the weaker sections of the society including members of the Scheduled Castes (SCs), the Scheduled Tribes (STs), marginal farmers and their families.

7. It arise imperative need to recognize rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Government and private companies who acquire land it requires provide additional benefits beyond monetary compensation to families affected adversely by involuntary displacement.

8. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2003, which came into force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and
justifiability of each project. The adverse impact on affected families-economic, environmental, social and cultural-must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place.

9. The National Rehabilitation and Resettlement Policy, 2007 has been formulated on these lines to replace the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from the 31st October, 2007. Many State Governments have their own Rehabilitation and Resettlement Policies. Many Public Sector Undertakings or agencies also have their own policies in this regard.

10. The law would apply when Government acquires land for its own use, hold and control, or with the ultimate purpose to transfer it for the use of private companies for stated public purpose or for immediate and declared use by private companies for public purpose. Only rehabilitation and resettlement provisions will apply when private companies buy land for a project, more than 100 acres in rural areas, or more than 50 acres in urban areas. The land acquisition provisions would apply to the area to be acquired but the rehabilitation and resettlement provisions will apply to the entire project area even when private company approaches Government for partial acquisition for public purpose.

11. India food security is also essential and from last many years India facing problems of food shortage and to ensure food security it require purchased barren land in spite of multi crop land.

12. To ensure comprehensive compensation package for the land owners a scientific method for calculation of the market value of the land has been proposed. Market value calculated will be multiplied by a factor of two in the rural areas. Solatium will also be increased up to 100 per cent, of the total compensation. Where land is acquired for urbanization, 20 per cent, of the developed land will be offered to the affected land owners.

13. Comprehensive rehabilitation and resettlement package for land owners including subsistence allowance, jobs, house, and one acre of land in cases of irrigation projects, transportation allowance and resettlement allowance is proposed.
14. Comprehensive rehabilitation and resettlement package for livelihood losers including subsistence allowance, jobs, house, transportation allowance and resettlement allowance is proposed.

15. Special provisions for Scheduled Castes and the Scheduled Tribes have been envisaged by providing additional benefits of 2.5 acres of land or extent of land lost to each affected family; one time financial assistance of Rs. 50,000/-; twenty-five per cent, additional rehabilitation and resettlement benefits for the families settled outside the district; free land for community and social gathering and continuous of reservation in the resettlement area, etc.

16. Twenty-five infrastructural amenities are proposed to be provided in the resettlement area including schools and playgrounds, health centers, roads and electric connections, assured sources of safe drinking water, Panchayat Ghars, Anganwadis, places of worship, burial and cremation grounds, village level post offices, fair price shops and seed-cum-fertilizers storage facilities.

17. The benefits under the new law would be available in all the cases of land acquisition under the Land Acquisition Act 1894 where award has not been made or possession of land has not been taken.

18. Land that is not used within ten years in accordance with the purposes, for which it was acquired, shall be transferred to the State Government's Land Bank. Upon every transfer of land without development, twenty per cent, of the appreciated land value shall be shared with the original land owners.

19. The provisions of this Act have been made fully compliant with other laws such as the Panchayats (Extension to the Scheduled Areas) Act, 1996; the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Land Transfer Regulations in Fifth Scheduled Areas.

20. Stringent and comprehensive penalties both for the companies and Government in cases of false information, mala fide action and contravention of the provisions of the propose legislation have been provided.

21. Certain Central Acts dealing with the land acquisition have been enlisted in the Act. The provisions of the Act are in addition to and not in derogation of these Acts. The provisions of this Act can be applied to these existing enactments by a notification of the Central Government.
22. The Act also provides for the basic minimum requirements that all projects leading to displacement must address. It contains a saving clause to enable the State Governments, to continue to provide or put in place greater benefit levels than those prescribed under the Act.

23. The Act would provide for the basic minimum that all projects leading to displacement must address. A Social Impact Assessment (SIA) of proposals leading to displacement of people through a participatory, informed and transparent process involving all stakeholders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.


120 years after the old the Land Acquisition Act, 1894 has been replaced by the “Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” (LARR), The UPA Government had seven years after two separate legislations, Land Acquisition Act (Amendment) 2007 and Resettlement and Rehabilitation Bill, 2007 introduced in wake of Nandigram Singur, Kalinganagar and many other militant opposition to land acquisition by farmers in the country. In this Act claims to better reflect Government’s Commitment towards securing a legal guarantee for the rights of project affected, and ensuring greater transparency in the land acquisition process. India Government believed that there was a heightened public concern on land acquisition. For this despite many amendments in India’s Land Acquisition Act 1894 there was an absence of cohesive national law that addressed fair compensation when private land is acquired for public use, and fair rehabilitation of land owners and those directly affected from loss of livelihoods.

The main aims and objectives of this Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under
the Constitution of India, a humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families. It provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition. It makes adequate provisions for such affected persons for their rehabilitation and resettlement. Moreover it ensures that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto. The purpose of Act to establish the law relating to land acquisition, as well as the rehabilitation and resettlement scheme of those directly affected by the land acquisition in India. It gives benefit to all land acquisition whether it is acquired by the Central Government or State Government except state of Jammu and Kashmir.

This Act is applicable when Government acquires land for its own use, hold and control, including land for Public sector undertakings. Even if Government acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose. The purpose of LARR 2011 includes public-private-partnership projects, but excludes land acquired for state or national highway projects and acquires land for immediate and declared use by private companies for public purpose. But this Act does not apply to acquisitions under 13 existing legislations including the Ancient Monuments and Archaeological Sites and Remains Act, the Atomic Energy Act, the Damodar Valley Corporation Act etc.

**Procedure of Land Acquisition under the Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013**

Following are the important provisions which are followed by the state government as well as private companies for acquisition of land.

A. Determination of Social Impact and Public Purpose

**Section 4 : Preparation Investigation for Determination of Social Impact and Public Purpose**

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Before the Government issues notification to acquire any land, the Government has to take two steps:

i. to appoint a Committee to prepare a report on social impact

ii. appoint an Authority for rehabilitation and resettlement.

The Government will issue the notification to acquire the land only after it is satisfied about the need of acquiring the proposed land and after satisfying itself with the schemes of rehabilitation and resettlement. Hence the first step is to decide on the public purpose and second question about the schemes of rehabilitation and resettlement.

Social Impact Assessment Report shall be prepared by the Government. It may be the Collector of the District where the land is situated. His report is examined by an expert group consisting of the District Collector and other officers who are social scientists. The Social Impact Assessment Report shall then be examined by the High Level Committee at Secretariat consisting of Chief Secretary, Secretaries of Finance, Revenue, Rural Development, Social Justice and Tribal Welfare, Panchayat Raj and three other experts in the field of relevant subjects The contents of the report and the social impact assessment may deal with the question whether the purpose behind the land acquisition is public purpose. The other particulars relating to the details about the property sought to be acquired and the impact of its severance on the other land, and also whether there were any alternatives available and whether the local bodies are consulted. It is only after the Government is satisfied about the purpose it will proceed further to acquire the land. The other step the Government takes is the scheme prepared on the measures of rehabilitation and resettlement. Even the schemes are examined by the resettlement Committee at the District level and further considered by the Commission for rehabilitation and resettlement. It is only after it is satisfied about the schemes of rehabilitation and resettlement the Government will proceed further to acquire the land by issuing notification under Section 9 of the Act.

Section 5 Public hearing for Social Impact Assessment

In order that the report of social impact assessment is effective, it must be in the first instance examined by the expert group and then examined by the High Level Committee headed by the Chief Secretary. The High Level Committee records its opinion
a. on the public purpose;
b. fulfilment of public interest on the basis of the social impact assessment report;
c. that the land acquired is minimum;
d. all the possibilities and alternatives are examined;
e. no irrigated double crop wet land is involved;
f. consent of the people affected has been obtained.

Section 6 Publication of Social Impact Assessment Study

The Social Impact Assessment study report is concerned about the purpose for which the Government may acquire the land and special impact management plan refers to the assessment of the facilities provided to the persons who are affected by the land acquisition. The reports of both the Committees shall be published by the Government in the language of the people residing in the area and the same shall be uploaded in the website. A copy of the above reports shall be supplied to the agency which is authorized to conduct environmental impact on the people on account of the acquisition of land. Whenever any meeting is conducted for the purposes of environmental assessment on account of land acquisition it is the responsibility of the persons conducting such public meetings to supply the above assessment report the Right to Information Act states that if any person attending such meeting desires to secure a copy of the above reports they are recommended to approach the website. It would have been proper for the State Government or the Central Government, as the case may be, to supply copies of the above to all persons attending such meetings free of cost.

Here it is appropriate to sketch the scheme of the Act. As soon as it is proposed to acquire the land under this Act, the Government should appoint a Committee headed by the District Collector to specify the public purpose. The report of the District Collector should be considered by the High Level Committee constituted by the Government at the Secretariat level. This Committee headed by the Chief Secretary and the members include the Secretaries of different departments. If the High Level Committee is satisfied about the public purpose, the Government proceeds to appoint an expert group on the social impact to evaluate the social impact of land acquisition. The said Committee prepares report which among others
promising several special benefits to the land losers and others who are deprived of
their source of livelihood on ground of land acquisition. Even if the Committee
decides against the acquisition, the Government may still proceed with land
acquisition.

B. Appraisal of Social Impact Assessment Report by an Expert Group

Section 7 Appraisal of Social Impact Assessment Report by an Expert Group

The recommendations of the expert group under Section 5 are not binding on
any Authority much less on the high level authority under this section. The High
Level Authority can also act independently. It only records the recommendations of
the expert group. It need not follow the recommendations of the expert group. The
text of the High Level Committee Report shall be included in the Report of Social
Impact Assessment Authority. The members of the high level committee consist of
Chief Secretary of the Government and Secretaries of all the concerned departments
and three other independent experts.

The purpose of land acquisition and rules framed by the District Collector
shall not only be published but shall form part of the Report of Social Impact
Assessment Authority. The schemes approving additional benefits under the
rehabilitation and resettlement need to be examined thoroughly, by a superior
authority in the Government so that no proposal which is defective or frivolous may
be executed. The executive only shall have the absolute discretion to decide whether
a particular acquisition of the land is intended for public purpose. So long as the bona
fides of the executive are not doubted, the executive shall have the absolute discretion
to undertake the projects and execute them. The Land Acquisition Act was originally
concerned with and executed to enable railways to fulfill their projects. That is the
reason why acquisition of land for the company is treated as one intended for public
purpose. Laying of railway lines, construction of workshops for railways, construction
of railway stations and storage sheds were achieved in a very short time. The scale of
achievement spread over whole of India was magnificent. Hence, interference of too
many authorities to decide whether a particular project satisfies the parameters of
public purpose may block quick planning and execution of works of significant
magnitude. Under the present Act the final authority to decide on public purpose is
left to the executive. Accordingly, the Land Acquisition Act did not leave the question of public purpose to an open debate.

**Section 8 Examination of proposals for land acquisition and Social Impact Assessment report by appropriate Government:**

The approval of Administrator implies that the State Government has already prepared the schemes for rehabilitation and resettlement. The draft schemes incorporated in Scheduled II are recommendatory. Depending on the circumstances, the State Government may adopt the draft under Schedule II as it is or may affect such changes which are an improvement over the proposals contained in Schedule II. The scheme of the Government which is in conformity with the Schedule is the minimum. The publication of the scheme and the report of the administrator to carry out the terms of the scheme are mandatory. It implies that the consideration of all the matters by the Government should be thorough.

**Section 9 Exemption from Social Impact Assessment**

After the report of the Social Impact Assessment is circulated and the schemes framed under the rehabilitation and resettlements are examined, the Government may publish a Notification of its intent to acquire land. This Notification is similar to the Notification under Section 4 of the repealed Act, but the content and meaning of the Notifications are different. Notification under Section 9 of the present Act enables the Government Officer to enter the land, survey the same, fix boundaries and also examine whether there are any minerals under the earth. They may also note the existence or otherwise of the crops, trees, buildings and other movables fixed to the land. The Notification will be issued only after the report of the officer inspecting the land is submitted. After the Notification under Section 9 is issued, the District Collector shall hold enquiry firstly on the question of public purpose, secondly on the question of the schemes finalized for purposes of rehabilitation and resettlement. The Notification under Section 9 shall be issued within six months from the date on which the Social Impact Assessment Report was accepted by the Expert Committee. If there is delay in this regard, the Notification issued under Section 9 lapses and a fresh assessment report needs to be prepared and accepted. If the award is not made by the Collector within two years from the date of Notification under Section 9, the
proceedings for acquisition will lapse and the whole process in this regard will have to be repeated. In case of urgency, the State Government may exempt the proceedings of land acquisition from the provision relating to rehabilitation and resettlement.

Section 10 Special Provision to Safeguard Food Security

This is a provision made in the context of guaranteeing food under Food Security Act. If the provisions of Food Security should be successively implemented, it is necessary that there should be separate schemes by which the production of food is increased. Therefore, this Act prohibits the acquisition of land which is classified as double crop wet land. This Act further provides that in case such double crop wet land is acquired, the Government shall see to it that equivalent land of similar nature is brought under cultivation. There is however, an exemption where the land acquisition is contemplated for laying railway lines, highways etc. and for laying canals, power lines and other vital transport lines to facilitate movement of food materials to isolated places.

Section 11 Publication of preliminary notification and power of officers thereupon

The objections to the Notification issued under this section may relate to the purpose behind the acquisition, the extent of the land proposed to be acquired and also about the report of the Social Impact Assessment. The objections shall be filed within sixty days from the date of publication of the Notification under Section 9 of this Act. The objections shall be in writing and the objector shall be given an opportunity of hearing. The Collector shall file his report to the Government along with his own recommendations. The decision of the Government on the report of the Collector shall be final. As the question of public purpose is concerned, the matter gets concluded with the Notification under this section. The nature of public purpose is discussed in the report of Social Impact Assessment. No land holder shall create any encumbrances on the land proposed to be acquired.

Section 12 Preliminary survey of land and power of officers to carry out survey
The finalization of the schemes of rehabilitation and resettlement may be before or after the Notification under Section 9 of the Act is issued. It is prepared by the Administrator, examined by the Expert Committee and considered by the High Level Committee with the Chief Secretary as its head. The schemes shall be time bound. They must be in accordance with the Schedule and shall be in force throughout till they are fulfilled. Immediately after this notice, the authorized Officers can enter the land for purposes of survey. The report made after such survey shall be accepted subject to any objections the parties may prefer.

**Section 13 Payment for damage**

The authorized Officer who enters the land for the purposes of survey shall pay for all the damages which may be caused on account of survey. If the amount paid is disputed, the District Collector is the competent Authority to finalize the amount. His order is final. This section further confers on the Collector to review the benefits conferred under the scheme of rehabilitation and resettlement.

**Section 14 Lapse of Social Impact Assessment report**

This section shows the importance of social impact assessment. If the assessment is not made or if the appraisal of the social impact assessment report is not finalized within twelve months and preliminary notification under Section 11 is not issued, it shall be deemed that the social impact assessment report has lapsed and fresh inquiry in this regard shall be undertaken or repeated bringing the benefits up to-date wherever necessary. If no further action is taken towards acquisition of land, the time of twelve months may be extended.

**Section 15 Hearing of objections**

Directions issued under sub-sections (4) and (5) of Section 9 may be perused not only for the land proposed to be acquired, but also to the land to be surveyed and also the report about the existence of minerals within the land and also to the crops, trees and buildings. The said directions will also apply for the purposes of updating the land records.
Section 16 Preparation of Rehabilitation and Resettlement Scheme by the Administrator

After the preliminary notification proposed to acquire the land is issued, two things must follow. The first thing is that the authorized Officers should survey the land and record the assets available there and payment to be made for damages during survey shall be paid immediately then and there. The second provision is that the Administrator shall publish the rehabilitation and resettlement provisions. The Administrator's report shall be considered by the Gram Sabhas and their objections shall be recorded so that they may be suitably attended to while the objections relating to survey are considered. The objections relating to rehabilitation and resettlement proposals can be filed by any person interested in the land acquisition. While the objections relating to survey are complied with then and there, the objections relating to rehabilitation and resettlement proposals shall be settled finally in appeals and references. Both the matters shall be discussed at the public hearing at the Panchayat level. The objections recorded at the Panchayat level may be attended to by the Collector or the Government in an appropriate manner.

Section 17 Review of the Rehabilitation and Resettlement Scheme

The Collector shall consider and review the draft scheme submitted by the Administrator and shall submit his own comments to the Commissioner for rehabilitation and resettlement. The said Commissioner will finally approve the scheme of rehabilitation and resettlement. Thus, it may be seen that the question of public purpose is finally decided by the Government, the question of finalizing the schemes of rehabilitation and resettlement lies with the Commissioner.

Section 18 Approved Rehabilitation and Resettlement Scheme to be made public

The Commissioner of rehabilitation and resettlement is also directed to publish his final report in the locality so that the Panchayats and Municipal bodies may discuss the schemes of rehabilitation and suggest measures for improvement. Thus it is imperative that the final Authority to approve the public purpose and to approve the schemes of rehabilitation and resettlement may be the Gram Sabhas and Panchayat bodies.
Section 19 Publication of declaration and summary of Rehabilitation and Resettlement

In pursuance of the preliminary publication of the intention to acquire the land for public purpose and after the necessary schemes for rehabilitation and resettlement are finally approved, the Government shall issue a notification by which the decision to acquire the land is notified. This notification vests the land proposed to be acquired in the Government free of all encumbrances. This notification shall be signed by the Secretary to the Government. It may be noted that the legal consequences of vesting the land acquired in the Government will take place only on the publication of this notification in the Gazette and the Government can do so only if the beneficiary institution, i.e. body for which the acquisition is made, pays the full amount with the Government. This final notification shall be issued within twelve months from the preliminary notification issued under Section 11. If for any reason the final notification under this section is not issued within twelve months as stated, it means that the preliminary notification issued under Section 11 is rescinded. If, notwithstanding such consequences the Government proposes to acquire the said land it shall repeat the whole process of holding inquiry on the question of public purpose, preliminary notification and confirmation of the schemes of rehabilitation and resettlement. Thus, it is apparent that under the Act of 2013 the proceedings for acquisition are strictly time bound and shall not be continued indefinitely as was the case under the repealed enactment. The declaration or notification made under this section shall be treated as conclusive evidence on the question of public purpose as far as the Government is concerned and also it means that the scheme of rehabilitation and resettlement are final. As and from the notification issued under this section the Collector shall commence the proceedings for making the award.

Section 20 Land to be marked out, measured and planned including marking of specific areas

If the Collector has not already directed the survey after the issue of preliminary notification, he shall now immediately after the notification under Section 19 get the land surveyed and marked and necessary Survey Plan Is prepared.

Section 21 Notice to persons interested
This is a substantial section. The Collector after publishing the consequent final declaration of the Governments to acquire the land shall issue a public notice calling upon everybody to file his objections and representations before him so that he may make the final award firstly as regards the compensation and secondly as regards the benefits under the scheme of rehabilitation and resettlement. He may make as many awards as there are claimants. He may make separate awards in respect of compensation and also with regard to the measures of rehabilitation and resettlement. Each award must be in the form of a decree which can be executable. Before he makes the award he shall consider the representations and evidence produced by each claimant. The claimants include the occupiers claiming interest in the land acquired such as tenants, mortgagees and others who have any interest in the land by virtue of any agreement.

Section 22 Power to require and enforce the making of statements as to names and interests

The Collector is entitled to ask for production of evidence from the claimants not only in respect of what the claimants claim but also in respect of any matter on which he proposes to make the award. It means, he can call for all the evidences which he may require for the purposes of fixing the market price for determining the compensation. The Collector may require such information as may be required for a period of three years preceding the date of preliminary notice under Section 11. He is not entitled to ask for any information beyond three years prior to such date. The person required to file information is bound to furnish the information. If he fails to furnish the information, he is liable to be punished under Sections 175 and 176 of IPC.

Section 23 Enquiry and land acquisition award by Collector

The proceeding of inquiry conducted by the Collector prior to making the award shall be thorough and he shall give full opportunity to those who appear before him. The award made by the Collector may relate to persons not only who appear before him but all those who are reputed to have interest in the land. If the Collector fails to give any opportunity to the claimant the same will be rectified by the Tribunal and the High Court to the extent of the persons to whom opportunity is denied.
Section 24 Land acquisition process under Act No. I of 1894 shall be deemed to have lapsed in certain cases

This section continues the proceedings initiated under the previous Land Acquisition Acts. Therefore, any proceedings prior to the present Act and which are treated as surviving or pending by the date on which the present Act comes into force, shall be decided in accordance with the provisions of this Act. It means the provisions relating to rehabilitation and resettlement shall be provided in cases initiated under the previous Land Acquisition Acts. In addition such of the cases initiated under the previous Land Acquisition Acts may be treated as lapsed and proceedings in respect of such land may now be initiated.

Section 25 Period within which an award shall be made

In order that the proceedings under the land acquisition may not be pending for long time, this section fixes the period within which the Collector shall make the award. This section provides that the Collector shall make award within a period of twelve months from the date on which final declaration under Section 19 was issued. If the award is not made within the time so prescribed, all the proceedings for acquisition of land shall be treated as having lapsed. In case the Government wants to acquire the land thereafter, he shall commence the whole process for acquisition of land.

Section 26 Determination of market value of land by Collector

This is a substantial section which lays down as to how the market value of the property shall be ascertained. Market value is the price at which the willing seller offers his property for sale and the willing purchaser who agrees to pay such price. In order to ascertain the price there are several methods. One of such method is capitalization. Capitalization means multiplying the annual return from the property by number of years of its life expectation. The other method is adopting the price fixed by the Registrar of the area for purposes of stamp duty and registration. The third method is the average price of the land noted in 50% of the documents. The method is adoption of the present value of the land, which is already developed by the deducting the costs of development. Still another method is adding the prospective
potentialities which might increase the price of land. In all such cases the claimants must adduce necessary evidence by producing certified copies of the documents. Registration of such document must be insisted upon and no private documents or unregistered documents may be allowed to be produced in evidence relating to the price. The Collector will not go into any question relating to forgery etc. The District Collector is not entitled to decide on such allegations. In addition to the market price, solatium is also to be calculated on the entire property at 100% of its value. Solatium is calculated for other items of property such as the value of the crops, trees, buildings etc. If the requisitioning authority is a company, it may issue 25% of the amount in the form of shares.

Section 27 Determination of amount of compensation

The market value of the land proposed to be acquired is not the same as the amount to be fixed as compensation. The compensation payable to the land owner should cover the value of all other assets. Solatium and interest also be ascertained and added to the compensation payable to the land. While calculating the compensation, the District Collector may take the assistance of the concerned officials and specialists

Section 28 Parameters to be considered by Collector in determination of award

a) In determining the amount of compensation to be awarded for land acquired under this Act, the Collector shall take into consideration:
b) the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules:
c) the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;
d) the damage if any sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land:
e) the damage if any sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the
acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

f) in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses if any incidental to such change;

g) the damage if any bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land: and

h) any other ground which may be in the interest of equity, justice and beneficial to the affected families.

**Section 29 Determination of value of things attached to land or building**

The Collector may take the help of experts in the course of acquisition of land, its valuation etc. In the case of buildings and other assets, he may take the assistance of experts in relevant fields. In the case of trees and plants, he may take the assistance of those experienced in forestry, agriculture, horticulture, sericulture etc. In the case of crops destroyed during the operations for survey etc., he may take the assistance of experts in agriculture. Accordingly, he may in the context of the advice tendered by experts make different awards for different claims.

The question relating to fixing market value of the assets means the ascertainment of buildings and other immovable properties or the assets attached to the land. Since the fixation of market value of property is a matter of which the services of experts is required, the Collector may seek the assistance of such experts in different fields such as buildings, machinery, and goods and services. Where standing crop is required to be valued, persons experienced in the field of agriculture may be treated as experts.

**Section 30 Award of solatium**

The award to be passed by the District Collector shall be in one document only and it shall have three parts. Part I shall deal with the question of public purpose. Part II shall contain the particulars of compensation to the property acquired. Part III shall
contain the names of persons to whom the compensation is payable and the proportions in which the compensation is proposed to be paid. Where there is an agreement among the sharers of the compensation, the same must be incorporated and followed in the award. The copies of the award shall be served on all the claimants irrespective of whether they participated in the enquiry or not. The extent of the land and the compensation payable to it and also the benefits granted to the beneficiaries shall form part of the award. The amounts mentioned in the award shall be treated as final and shall be treated as correct as between the Collector and the claimants. It is not open to any Court to alter the Collector's list of particulars.

The Collector shall add to the compensation so arrived at and the benefits to be granted under the scheme of rehabilitation and resettlement, what is called solatium. Under the new Act, the quantum of solatium is increased by 100%, that too on the total compensation including the assets. The solatium shall be treated as a separate amount. Interest has to be calculated only on the amount of compensation. The interest payable shall be calculated at the rate of 12% on the amount of compensation fixed for the land acquired from the date of the first notification under Section 4 till the date of the award made by the District Collector or till the date of taking possession whichever is earlier. It will not be redundant to once again state that awards shall be made in respect of every person independently so that there are as many awards as there are claimants.

Solatium shall be calculated on the amount of compensation payable for the land holder for assets attached thereto. The interest shall be calculated on the compensation but not on the solatium.

Sections 31 to 42 Rehabilitation & Resettlement Award

These are important provisions which are added in this Act. For the first time the Act itself provided that those who lost land and those who lost the opportunities of living as a consequence of land acquisition shall be entitled to the benefits of rehabilitation and resettlement. Formerly the Central and State Governments are providing discretionary reliefs relating to rehabilitation and resettlement. It is now made a statutory obligation under the Act to provide assistance to all those who lost opportunities of living as a direct consequence of land acquisition. It is also made a mandatory obligation for the Collector to make a separate award providing each person the measures of rehabilitation and resettlement. Such measures may be in the
form of cash or may be in the form of land for cultivation or in the form of houses for the houseless families. The award made in this direction may also provide the infrastructural facilities to be made available at the resettled areas. The award made by the Collector shall be binding on the parties referred to in the award. In order to see that the beneficiary, for whom the land is acquired, shall also promptly pay the compensation and benefits of rehabilitation and resettlement, they are required to pay the full amount of compensation and full value of the schemes of rehabilitation and resettlement in advance. In the case of the land acquired for irrigation and other hydel projects, the rehabilitation and resettlement shall be completed within six months prior to submergence of the lands acquired. In the case of land acquired in Scheduled areas or land acquired from members of Scheduled Castes and Scheduled Tribes, they shall be paid additional compensation. Apart from the additional compensation, they should be resettled preferably in the scheduled areas in a compact block so that they can retain their ethnic, linguistic and cultural identity. In case if the Scheduled Castes and Scheduled Tribes are located outside their areas in a different district, they should be paid further compensation as well as additional reliefs due under the rehabilitation and resettlement schemes. Notwithstanding the change of location the rules of reservation in posts, in services and seats in educational institutions, they were enjoying shall continue in the new locations where they are resettled.

Sections 43 to 47 Procedure and Manner of Rehabilitation and Resettlement

For the purpose of implementing measures of rehabilitation and resettlement the Government shall appoint an Administrator for rehabilitation and resettlement. The Administrator shall function under the Commissioner who is of the rank of Secretary to the Government. While the Administrator is responsible for implementing every one of the proposals under rehabilitation and resettlement and that too in respect of everyone who is entitled to such benefits, the Commissioner will see that the Administrator functions effectively without committing any defaults. Where the benefits under the scheme of rehabilitation and resettlement are subject to social audit, the recommendations of the Gram Sabhas and Municipalities should be duly implemented. The responsibility for such implementation shall vest with the Commissioner.
Sections 48 to 50 National Monitoring Committee for Rehabilitation and Resettlement

In case where land acquisition involves inter-State or National Projects, the Central Government may constitute a body called National Monitoring Committee. The functions of the National Monitoring Committee shall be confined to the measures of rehabilitation and resettlement only. Such Committee shall function through the Officers of the Central and State Governments. For similar purpose the State Governments may appoint Monitoring Committees for each State.

Sections 51 to 74 Establishment of Land Acquisition, Rehabilitation and Resettlement Authority

Under the old Land Acquisition Act, every Court of Subordinate Judge is the first Judicial Authority to which the award is referred. It was the Collector who makes the award may refer his own award to the designated Court of Subordinate Judge in that district On a reference made by the District Collector the Subordinate Judge will take up each award. He has the jurisdiction to go into every aspect of the award. He has the jurisdiction to go into the public purpose. He has the jurisdiction to go into the amount of compensation. Since no reliefs as regards the rehabilitation and resettlement were not a subject matter of the award paid under the previous Act, the Subordinate Judge is not concerned with any benefits arising out of rehabilitation and resettlement. If the claimants compromise as regards their share in compensation, the compromise recorded by the Collector can become the subject matter for consideration of the Subordinate Judge. He can record such compromise in the proceedings before him.

If the Collector does not refer the award to the Subordinate Judge, the Subordinate Judge may receive an independent application in which the Subordinate Judge can direct the Collector to refer the award to the Court. If the Subordinate Judge does not issue the necessary direction, the High Court may be moved for a direction to the Collector to refer the award to the Subordinate Judge's Court. While there were the provisions relating to referring the award to the Court under the old law, the present law creates a special Authority called Land Acquisition Rehabilitation and Resettlement Authority. The Authority created under the present Act can go not only into the question of compensation and apportionment of the same to the claimants and also the measures relating to rehabilitation and resettlement. The Authority created to
go into the different aspects of the award has territorial jurisdiction. Such territorial jurisdiction is fixed by the Government. The Authority may consist of one person or a Bench of five or more members. The Authority is directed to dispose of the matter within six months from the date of reference. The members and other members of staff are treated as public servants.

The Authority has jurisdiction to order the costs. Where the Collector's awards is not upheld, the Authority may levy the costs incurred by the parties on the Collector. If the Authority finds the claims of the applicant as extravagant, he may be directed to pay the Collector his own costs. The costs incurred by the Collector for the publication and declarations and notices shall be borne by the Collector himself. Here the Authority increases the compensation, the Authority may direct the Collector to pay interest at the rate of 15% from the date which is a year after the excess is determined. If and when the Authority allows larger compensation all those who have land notified under the same notification are entitled to claim the additional compensation. The Collector himself suo motu direct the payment of such excess compensation to those who have not protested earlier or have otherwise received the compensation in full settlement. The Collector should issue such proceedings within three months from the date of the award by the Authority. If the Collector does not take up the matter voluntarily, the parties concerned may move the Collector for the redetermination of the compensation. This provision is now included in the new Act to avoid discrimination as between the claimants who were affected by the same notification.

The order of the Authority is appealable to the High Court. Such appeal shall be filed within sixty days from the date of the award passed by the Authority. Here also the High Court is advised to finalize the appeal within six months.

**Sections 75 and 76 Apportionment of Compensation**

The award made by the Collector shall specifically apportion the compensation when there are more than one claimant in respect of the same property. If there is any agreement between the claimants, the Collector must give effect to such agreement. The award of the Collector so made is binding on the claimants. If the agreement or apportionments are disputed, the same can be decided by the Authority designated under this Act.
The Act encourages the parties to compromise their claims. Since most of the claims are dependent on the rights of parties it is advisable that the parties may agree to apportionment. If the apportionment is not in accordance with the shares to which the parties are other entitled, there is no need to write any special document duly registered or stamped. The agreement forms the basis of compensation it shall be in writing. Accordingly, the shares specified in the Collector's award are binding on the parties. Therefore, if the shares are disputed before the Authority, the parties shall dispute the execution of the agreement itself.

**Sections 77 to 80 Payment**

The award issued by the Collector is a final document. Therefore the Collector is required to pay the amount of compensation awarded by him to the parties concerned or deposit the same in their Bank accounts. In case he refers the award to the Authority, he shall deposit the relevant compensation before the Authority. The fact that a person has received the compensation without any protest will not deprive him of the right to refer the disputed matter to the Authority or claim the difference in the compensation awarded to others. In case the Collector finds that the land holder has no power to alienate the same, he may order the compensation amount to be invested and the proceeds may be paid to the person in possession of the land at the time of take over. In such case the Collector may recover the costs of investment out of the proceeds of such investment. Till the date of such investment the Collector shall pay the interest on the amount awarded.

**Sections 81 to 83 Temporary Occupation of Land**

Instead of acquiring the land, the Government can direct the Collector to temporarily take over the land if it is needed for temporary purpose. The Collector then take over the land from the owner after securing from him an agreement relating to the amount payable for use and occupation during the temporary period. If any dispute arises about such contract or payment, the same shall be referred to the Authority for its final decision. There may arise a case in which the owner of the land may dispute the quality of the land while taking the surrender after the Collector's temporary occupation and use. In such case the dispute relating to the quality of the land at the time of surrender shall be referred to the Authority for its final decision. Therefore it is apparent that while the Authority to decide upon the temporary occupation and the terms thereof is the Government, the disputes about the terms of
temporary occupation and the quality of the land at the time of its restoration to the
owner shall be decided by the Authority. The temporary occupation shall be confined
to the dry land or arable land; temporary occupation shall not be either wet land or
irrigated land. The temporary occupation shall not exceed three years from the
commencement of occupation.

Sections 84 to 90 Offences & Penalties

The only offence for which a person can be tried and punished is the offence
of false and misleading evidence before the Authorities. Such misleading and false
evidence can be in relation to any matter under consideration by the Government, or
the Authority or by the Collector or the person making the award or before any other
person or any other person who is entitled to decide any issue under this Act. If the
person accused is a Government servant, he can be proceeded under disciplinary
proceedings, provided the Officer concerned is proved to have acted mala fide. If the
person concerned is a department, the proceedings for prosecution can be initiated
against the Head of the Department.

The other circumstance in which a person can be prosecuted and punished is
an omnibus section which is not specific. It says that if any person contravenes any of
the provisions of the Act, he shall be punishable. Such a wide and independent
provision is not maintainable under criminal jurisprudence. Therefore this provision
can be treated as ultra vires.

The offences under this Act are not cognizable. It means that the Police
Officers cannot initiate any proceedings of investigation or inquiry. Only the
Magistrate of First Class is competent to entertain a complaint and proceed-with the
trial. In this context it may be mentioned that the Magistrate can proceed with the trial
only if prior sanction is granted, wherever it is provided in the Act that a prior
sanction is necessary. It means that the concerned Magistrate after taking cognizance
of the offence can proceed with the investigation and inquiry without the permission
of the Government in cases where such prior permission is required for trial.

Where the prosecution is to be initiated against the requiring body, it can be
initiated only on the complaint filed by the Collector. It means that no other person
can file a complaint against the requiring body.

Sections 91 to 114 Miscellaneous Provisions

These provisions relate to several powers conferred on the Authorities to act
by themselves. If the Collector is resisted from taking over the land acquired, he shall
seek the assistance of the concerned Magistrate or the Commissioner of Police. If the
Officer of the concerned Authority or person is required to serve the notice on the
person required to be served, he shall follow the procedure prescribed in the Act.
Where the Government proposes to withdraw acquisition, it can do so by a
Notification published in the Gazette. It can withdraw from the acquisition only where
possession of the acquired land is not taken. The provisions of this Act shall not be
applied to the case where a part of house is required to be acquired. The Government
shall acquire the whole house along with the land. The Government shall pay the
damages to the third party when the land acquired is separated from the property of
such another person. All expenses incurred by the Government for the purposes of
acquiring the land from others, such other person or institution shall also pay all the
incidental expenses required for such acquisition. No income tax or any stamp duty
shall be levied on the award or any agreements produced before the Authority making
the award. Normally whenever any certified copy is produced as evidence before the
Court, the contents of the document will be taken as evidence, provided any of the
parties connected with the document deposes about its contents. Where a certified
copy of registered document is produced, the Authorities and persons hearing any
matter under this Act may receive the certified copy and treat the contents as proof
without the evidence of the persons connected with such document. Under Section 80
of the CPC suits against certain persons and suits against Government can be filed
only after serving on them a notice. Similar provision is made under this Act. CPC
however provides that the Court may dispense with such notice but such provision is
not made in this Act. Hence it is necessary that issuance of previous notice to the
person and the Government is an essential condition before any suit is filed against
the persons or Government. It may be noted here that any suit filed without notice
cannot even be numbered. A suit filed without notice under this Act should be
rejected. The Act reiterates that the purpose stated in the notice issued under Section
11 cannot be altered. Therefore, if the purpose is altered or a new purpose is created,
fresh notice under Section 11 shall be issued. If the Government uses the land for a
different public purpose than it was mentioned in the preliminary notice under Section
11, the proceeding under the Act will cease to be such proceedings and the
Government is liable to pay appropriate compensation as if the Government has
illegally trespassed into the land. Under the new Act time schedule is very important,
and it is wrong to keep pending the proceedings under this Act for an indefinite time.

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If the land is not used by the Government for over a period of five years, the same shall be returned to the owner. Similarly, if the proceeding for rehabilitation and resettlement are not confirmed within time prescribed by the Government, the scheme for rehabilitation and resettlement should be treated as lapsed and the proceedings for fresh preparation of the schemes should be launched and where the authorized person does not make the award within time, the whole proceedings for acquisition shall be recommenced. If the beneficiary instead of using the land for the purposes for which it is assigned to the beneficiary but instead it is sold to some third parties, the original owner shall be entitled to a fixed percentage of the additional consideration. Even though the Government is mandatorily required to use the land acquired, it may instead of acquiring it may take the same on lease. The Act of 2013 shall be construed as an additional enactment and it shall not be treated as a substitute of any other enactment. -If any other enactment provides for land acquisition, it shall be an independent proceeding and the provisions of this Act will not in any way influence those provisions. However, the Central Government, if it so chooses, require that the provisions of rehabilitation and resettlement may be applied to the acquisition made under different enactments. The usual provision that the Central Government or State Governments may make rules for carrying out the provisions of the Act is provided under this Act, prescribing the usual terms such as publication and placing the rules before the Parliament or State Legislature as the case may be. The rule making power conferred on the Government is within the scope of delegation of legislative power. The principle of jurisprudence that delegate shall be under the control of the Authority which delegates power and that delegate shall act only within the conditions prescribed for making appropriate rules is reiterated in this Act. The other rule which provides that the Central Government may fill up blanks in the enactment and that the Central Government can exercise the power within a period of two years from the commencement of this Act is also provided in this Act. it must however be noted that the period of two years shall be counted from the date of commencement of the appropriate provisions in case different sections of the Act are brought into force on different dates. Finally, this Act provides that any action pending under the repealed enactments shall continue and shall be finalized as if the repealed enactment was in force subject however to the condition that any award made now shall provide for the benefits enumerated in the scheme for rehabilitation and resettlement.
6.5 Comparative study of Land Acquisition Act, 1894 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

Following are comparative study of Land Acquisition Act, 1894 and the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.

1. The LARR Act, 2013 has received the Presidential assent on September 27, 2013 and came into effect from January 1, 2014.
   According to the Government of India Acts 1919 and 1935 the provinces had the power to legislate with respect to compulsory acquisition of land and by exercising such power many provinces amended in respect of certain provisions, the Act of 1894. After the Indian Independence Act, 1947, by virtue of the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948 the Act was made applicable to all the provinces of India. But now this Act has been repealed.

2. In the LARR Act, 2013 parliament added Section 4 of preparation of social impact assessment study i.e. before government issues notification to acquire any land, the government has to take two steps firstly to appoint committee to prepare a report on social impact and secondly appoint an authority for rehabilitation and resettlement. It’s totally new procedure for acquisition of lands. In Section 5 after completion of procedure of Section 4 next step is public hearing for social impact assessment after under section 6 government publish social impact assessment study than under section 7 an expert group appraisal of assessment report than according section 8 appropriate government examination of proposals for land acquisition and social impact assessment report. After these According section 9 government officer to enter the land and survey the same, fix boundaries examine minerals, existence of crops, trees, buildings and other movables fixed land after notification issued and after district collector hold enquiry firstly on the question of public purposes and secondly finalized the question of the schemes of rehabilitation and resettlement. And after issue notification under section 9 and if there is delayed section lapses and a fresh assessment report need to be prepared and accepted and in case of urgency, the state government may
exempt the proceedings of land acquisition from the provision relating to rehabilitation and resettlement.

But in old Act government is issuing straight away a notification under section 4. State government not requires following any provisions of new LARR Act, 2013.

3. According to section 11 of the LARR Act, 2013, the objection shall be filed within the sixty days from the date of publication of the notification under section 9 of this Act.

According to section 4 of the old Land Acquisition Act, 1894 the objection shall be filed within the thirty days from the date of publication of the notification under section 4.

4. Under section 11 of the LARR Act, 2013 publication of preliminary notification and powers of officers. But this type of provision not available in the old Land Acquisition Act, 1894.

5. Under section 13 of the LARR Act, 2013 the authorized officer who enters the land for the purposes of survey shall pay for all the damages and if the amount paid is disputed, the Distinct Collector is the competent Authority to finalize the amount.

6. Under section 5 of the Land Acquisition Act, 1894 the authorize officer who enters the land for the purposes of survey shall pay or tender payment for all necessary damages and in case of dispute the decision of the collector or other chief revenue officer of the district shall be final.

7. According to section 14 of the LARR Act, 2013 shows the importance of social impact assessment i.e. if the appraisal of the social impact assessment report is not finalized within the twelve months and preliminary notification under section 11 is not issued, it shall be deemed that this report has lapsed and fresh inquiry in this regard shall be undertaken or repeated bringing the benefits up to-date wherever necessary.

But this type of provisions is not available in the old Land Acquisition Act, 1894.

8. If any person has any objection for acquisition of land shall be made to the collector in writing within 60 days of date of publication and after making further inquiry and make report and deliver this report to the central government and decision of central government is final. But under the old Act
if any person has any objection only within 30 days shall be made to the collector and after making further inquiry send report to the appropriate government and decision of appropriate government is final.

9. Under the LARR Act, 2013 there are provisions of preparation of rehabilitation and resettlement scheme by the administrator, review of the rehabilitation and resettlement scheme and approved rehabilitation and resettlement scheme to be made public. But in the old acquisition act no provisions for rehabilitation and resettlement for who lose their land.

10. After the approval of rehabilitation and resettlement scheme the Government shall issue a notification by which the decision to acquired and also declare summary of rehabilitation and resettlement.

In the old Land Acquisition Act after hearing of objections directly declaration that land is required for a public purpose and after the declaration collector to take order of acquisition.

11. According to section 24 of the LARR Act, 2013 if the land notified under the previous Land Acquisition Act is not taken over or if the compensation is not paid fully, this case treated as a pending case so the provisions relating to rehabilitation and resettlement shall be provided.

12. Under the LARR Act award shall be made within one year from the date of publication but in old Act award shall be made within two years from the date of publication.

13. After the determination of compensation collector declared rehabilitation and resettlement award for affected families and also made provision of infrastructural amenities in resettlement area. These provisions not included in the old Act.

14. In this LARR Act, 2013 added another new point is that if families already displaced one time and another time displaced so they are entitled to additional compensation.

15. Under the LARR Act, 2013 in the case of land acquired in Scheduled areas or land acquired from members of Scheduled Castes and Scheduled Tribes, they shall be paid additional compensation. Apart from the additional compensation, they should be resettled preferably in the scheduled areas in a compact block so that they can retain their ethnic, linguistic and cultural identity. In case if the Scheduled Castes and Scheduled Tribes are located
outside their areas in a different district, they should be paid further compensation as well as additional reliefs due under the rehabilitation and resettlement schemes. Notwithstanding the change of location the rules of reservation in posts, in services and seats in educational institutions, they were enjoying shall continue in the new locations where they are resettled. In this act included provisions of appointment of administrator, commissioner for rehabilitation and resettlement, and rehabilitation and resettlement committee at project level, provisions relating to rehabilitation and resettlement to apply in case of certain persons other than specified persons, quantification and deposit of rehabilitation and resettlement amount, establishment of national monitoring committee for rehabilitation and resettlement, reporting requirements, establishment of state monitoring committee for rehabilitation and resettlement, establishment of land acquisition rehabilitation and resettlement authority, composition of authority, qualifications for appointment as presiding officer, terms of office of presiding officer. The old act was not given important to scheduled areas and members of scheduled castes and scheduled tribes.

16. If the person is not satisfied with the order of the collector within 30 days make an application a reference to the appropriate authority and reference to authority than give statement to authority and proceeding in held in public and in old act reference to the court proceeding to be in open court.

17. LARR Act, 2013 if any person contravenes any of the provisions relating to payment of compensation or rehabilitation and resettlement, every such person shall be liable to a punishment of six months which may extend to three years or with fine or with both, offences by companies, offences by government department, cognizance of offences by court, offences to be non-cognizable, offences to be cognizable only on complaint firld by certain person. This provisions not including under old Act.

18. Under the LARR Act, 2013 no change of purpose to be allowed, no change of ownership without permission to be allowed, return of unutilized land, difference in price of land when transferred for higher consideration to be shared, provisions to be in addition to existing laws, opinion of appropriate government to lease, provisions of this act not to apply in certain cases or to apply with certain modifications, power of state legislatures to enact any law
more beneficial to affected families and option to affected families to avail better compensation and rehabilitation and resettlement. All this provisions not available in old act.

19. In the LARR Act, 2013 four schedules added. In the first schedule some components available which are kept in mind while deciding compensation for land owner, second schedule elements of rehabilitation and resettlement entitlement for all affected families, third schedule provisions of infrastructure amenities and in the fourth schedule list of thirteen enactments regulating land acquisition and rehabilitation and resettlement available in which exemption given by the central government that this act is not apply. These provisions also not available in the Land Acquisition Act, 1894.

20. In the LARR Act double crop wet land shall not be acquired

21. Moreover in the LARR Act, entry of government offices for the purposes of survey will be permitted after the beneficiary deposits the compensation amount

22. The schemes of rehabilitation and resettlement are compulsory when the government acquires a land. It is mandatory when the private institutions acquire land for their projects, whether the land acquired or purchased extends beyond 100 acres irrespective whether any part of such projects has any land which belongs to government.

23. Where any person is granted land or immovable property had a part of compensation of has a part of benefits, the same may be recorded in the name of wife or oldest woman member in the family. However it may be noted that infrastructural projects as may be notified are exempt from providing Rehabilitation and Resettlement methods.

6.6 Provisions of Acquisition of Land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 for SEZs

Under the SEZ Act, 2005, the person intending to set up SEZ first makes a proposal to the State Govt. or to the BOA. Even the State Govt., if it intends to set up SEZ can make a proposal to the Board. This is followed by authorization to Developer to operate, and notification of SEZ.
Thus functioning of the SEZs is governed by a three tier administrative set up. The Board of Approval is the apex body and is headed by the Secretary, Department of Commerce. The Approval Committee at the Zone level deals with approval of units in the SEZs and other related issues. Each Zone is headed by a Development Commissioner, who is ex-officio chairperson of the Approval Committee.

Once an SEZ has been approved by the Board of Approval and Central Government has notified the area of the SEZ, units are allowed to be set up in the SEZ. All the proposals for setting up of units in the SEZ are approved at the Zone level by the Approval Committee consisting of Development Commissioner, Customs Authorities and representatives of State Government. All post approval clearances including grant of importer-exporter code number, change in the name of the company or implementing agency; broad banding diversification, etc. are given at the Zone level by the Development Commissioner. The performances of the SEZ units are periodically monitored by the Approval Committee and units are liable for penal action under the provision of Foreign Trade (Development and Regulation) Act, in case of violation of the conditions of the approval.

Broadly speaking there is a similarity in the procedure adopted to acquire land under Land Acquisition Act and SEZ Act to the extent that the consent of the landowner is not required under both. However under Land Acquisition, the final authority is the appropriate Govt. whereas under SEZ it is the Board of Approval.

6.7 Public Purpose under the Land Acquisition Act, 1894 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013

Black’s Law Dictionary clarifies the public purpose expression, “The term is synonymous with governmental purpose. (State vs Dizon). As employed to denote the objects for which taxes may be levied, it has no relation to the urgency of the public need or to the extent of the public benefit which is to follow; the essential requisite being that a public service or use shall affect the inhabitants as community, and not merely as individuals, (Stevenson vs Port of Portland). A public purpose or public business has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or
residents within a given political division, as, for example, State, the sovereign powers of which are exercised to promote such public purpose or public business. \cite{greenVsFrazier}

According to Section 3(f) of the Land Acquisition Act, 1894 the public purpose includes-

ix. The provision of village-sites, or the extension, planned development or improvement of existing village-sites;

x. The provision of land for town or rural planning;

xi. The provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

xii. The provision of land for a corporation owned or controlled by the State;

xiii. The provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

xiv. The provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a state, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

xv. The provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate Government, by a local authority;

\cite{padmaDrTpadmaandDPCRao}
xvi. the provision of any premises or building for locating a public office, but does not include acquisition of land for companies.\footnote{Definition of public purpose under the Land Acquisition Act available at: http://www.lawzonline.com/bareacts/land-acquisition-act/land-acquisition-act.html}

**Definition of public purpose under LARR Act, 2013**

Section 2(1) of the LARR Act defines the following as public purpose for land acquisition within India,

- For strategic purposes relating to naval, military, air force, and armed forces of the Union, including central paramilitary forces or any work vital to national security or defence of India or State police, safety of the people; or
- For infrastructure projects, which includes the following, namely:
  - All activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated 27 March 2012, excluding private hospitals, private educational institutions and private hotels;
  - Projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such as dairy, fisheries, and meat processing, set up or owned by the appropriate Government or by a farmers' cooperative or by an institution set up under a statute;
  - Project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy;
  - Project for water harvesting and water conservation structures, sanitation;
  - Project for Government administered, Government aided educational and research schemes or institutions;
  - Project for sports, health care, tourism, transportation of space programme;
  - Any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;
  - Project for project affected families;
• Project for housing, or such income groups, as may be specified from time to time by the appropriate Government;
• Project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas;
• Project for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by the Government, any local authority or a corporation owned or controlled by the State.

When government declares public purpose and shall control the land directly, consent of the land owner shall not be required. However, when the government acquires the land for private companies, the consent of at least 80% of the project affected families shall be obtained through a prior informed process before government uses its power under the Act to acquire the remaining land for public good, and in case of a public-private project at least 75% of the affected families should consent to the acquisition process.

The scope of the definition of public purpose has been widened in the Act so as to include

Provision of land for strategic purposes relating to naval, military and air force works for any other work vital to the state, which are owned and funded out of state, which are owned and funded out of state exchequer to the tune of minimum 51% of the total project cost,

Provision of the land for infrastructure projects of the appropriate government, where the benefits accrue to the general public, and such infrastructure project must be owned and funded out of the state exchequer to the tune of minimum 51% of the total project cost

Provision of land for any other purpose useful to the general public, and necessary for planned development for which land has been purchased by a person under lawful contract to the extent of 85% but the remaining 15% of the total area of land required for removing hurdles in completion of the project.
6.8 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill 2015

On December 31, 2014, the Government promulgated the ordinance to amend some provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation (Amendment) Act, 2013. Following are main provisions of ordinance:

- **Removal of consent clause and Social Impact Assessment**
  
  The government has amended Section 10(A) of the Act to expand sectors where assessment and consent will not be required. For five sectors, the consent clause has been removed. So the government or private individuals/companies will no longer need mandatory 80% consent for land acquisition in those five sectors. The mandatory "consent" clause and Social Impact Assessment (SIA) will not be applicable if the land is acquired for national security, defence, rural infrastructure including electrification, industrial corridors and housing for the poor including PPP where ownership of land continues to be vested with the government. The rehabilitation and resettlement packages will be available as per the new Land Acquisition act. In the earlier law, the assessment was meant to find out how many people will be impacted. So apart from the land owner, all those who are dependent on the land also needed to be compensated. But the new ordinance ensures that only land owners will be compensated. Also whether the land is fertile or not will also not be taken into consideration while acquiring it for these five specific sectors.

-Pro-farmer step-

The government has balanced out the ordinance by including 13 so far excluded Acts under the Land Acquisition Act. It is hailed as a pro-farmer move as with this decision, rehabilitation, resettlement and compensation provisions will be applicable for the 13 existing central pieces of legislation. Till now land could be acquired under these Acts and there was no uniform central policy of rehabilitation and resettlement.

These Acts include the Coal Bearing Areas Acquisition and Development Act 1957, the National Highways Act 1956, Land Acquisition (Mines) Act 1885, Atomic Energy Act 1962, the Indian Tramways Act 1886, the Railways Act 1989, the Ancient Monuments and Archaeological Sites and Remains Act 1958, the Petroleum and
Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 and the Damodar Valley Corporation Act 1948. The Electricity Act 2003, Requisitioning and Acquisition of Immovable Property Act 1952, the Resettlement of Displaced Persons (Land Acquisition) Act 1948 and the Metro Railways (Construction of Works) Act 1978 are also brought under its purview to provide higher compensation, rehabilitation and resettlement benefits to farmers whose land is being acquired.

**Compensation remains the same**

The compensation package remains the same. It is four times the market price for rural and and two times for urban land. The government despite pressure from various groups has decided to keep the package intact.96

Difference between LARR Act, 2013 and Land Ordinance 201497

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<th>Sr. No.</th>
<th>LARR Act, 2013</th>
<th>Land Ordinance 2014</th>
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| 1)      | • Mandatory 70% consent for PPP projects.  
          • Mandatory 80% consent for private projects.  
          • Mandatory Social impact assessment (SIA) for every project. | Those “mandatory” things are no longer required for 5 types of projects:  
1. National security and Defense Production  
2. Rural infrastructure, Rural electrification  
3. Infrastructure and Social infrastructure  
4. Industrial corridors  
5. Housing for Poors. |
| 2)      | SIA mandatory for every type of project. | SIA not needed for  
1. Those five categories listed above  
2. PPP projects, IF Government owns the land. |
| 3)      | ------ | Building private hospitals and private educational institutes will also count as “public purpose”. Means, they too can acquire land if 80% affected |


97 http://mrunal.org/2015/01/polity-land-ordinance-features-criticism-land-acquisition.html

The Bill replaces the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014.

The LARR Act, 2013 outlines the process to be followed when land is acquired for a public purpose. Key changes made by the Bill are:

**Provisions of other laws in consonance with the LARR 2013**

The LARR Act, 2013 exempted 13 laws (such as the National Highways Act, 1956 and the Railways Act, 1989) from its purview. However, the LARR Act, 2013 required that the compensation, rehabilitation, and resettlement provisions of these 13 laws remain in consonance with the LARR Act, 2013.
laws be brought in consonance with the LARR Act, 2013, within a year of its enactment (that is, by January 1, 2015), through a notification. The Bill brings the compensation, rehabilitation, and resettlement provisions of these 13 laws in consonance with the LARR Act, 2013.

**Exemption of five categories of land use from certain provisions**

The Bill creates five special categories of land use: (i) defence, (ii) rural infrastructure, (iii) affordable housing, (iv) industrial corridors, and (v) infrastructure projects including Public Private Partnership (PPP) projects where the central government owns the land.

The LARR Act, 2013 requires that the consent of 80% of land owners is obtained for private projects and that the consent of 70% of land owners be obtained for PPP projects. The Bill exempts the five categories mentioned above from this provision of the Act.

In addition, the Bill permits the government to exempt projects in these five categories from the following provisions, through a notification:

The LARR Act, 2013 requires that a Social Impact Assessment be conducted to identify affected families and calculate the social impact when land is acquired.

The LARR Act, 2013 imposes certain restrictions on the acquisition of irrigated multi-cropped land and other agricultural land. For example, irrigated multi-cropped land cannot be acquired beyond the limit specified by the appropriate government.

**Return of Unutilised land**

The LARR Act, 2013 required land acquired under it which remained unutilised for five years, to be returned to the original owners or the land bank. The Bill states that the period after which unutilised land will need to be returned will be: (i) five years, or (ii) any period specified at the time of setting up the project, whichever is later.

**Time period for retrospective application**

The LARR Act, 2013 states that the Land Acquisition Act, 1894 will continue to apply in certain cases, where an award has been made under the 1894 Act. However, if such an award was made five years or more before the enactment of the LARR Act, 2013, and the physical possession of land has not been taken or compensation has not been paid, the LARR Act, 2013 will apply.
The Bill states that in calculating this time period, any period during which the proceedings of acquisition were held up: (i) due to a stay order of a court, or (ii) a period specified in the award of a Tribunal for taking possession, or (iii) any period where possession has been taken but the compensation is lying deposited in a court or any account, will not be counted.

**Other changes**

The LARR Act, 2013 excluded the acquisition of land for private hospitals and private educational institutions from its purview. The Bill removes this restriction.

While the LARR Act, 2013 was applicable for the acquisition of land for private companies, the Bill changes this to acquisition for ‘private entities’. A private entity is an entity other than a government entity, and could include a proprietorship, partnership, company, corporation, non-profit organization, or other entity under any other law.

The LARR Act, 2013 stated that if an offence is committed by the government, the head of the department would be deemed guilty unless he could show that the offence was committed without his knowledge, or that he had exercised due diligence to prevent the commission of the offence. The Bill replaces this provision and states that if an offence is committed by a government official, he cannot be prosecuted without the prior sanction of the government. 98

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