



## **Land Acquisition Acts in India.**

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### **Abstract**

Land is a free gift of nature. Earth is one of the present eight planets in the solar system. Earth is responsible for the existence of everything we see including ourselves. Earth is the source of food, clean air, clean water, shelter and other social, economic, political, products necessary for all living beings and the backbone of human cultural products. If you ask who in the world fenced the earth, it should probably be humans. Why did humans put a fence on the earth? What is the motivation behind it? Does fencing of land mean establishment of rights over it? Did the concepts of clan, gotra, family, community, state, and nation arise with the intention of establishing rights on land? A small attempt is made here to know to what extent land ownership is responsible for the existence of human society.

**Keywords:** Land Acquisition, Landless, Constitution Rights, Civilization British Rules, Development.

### **Abstract**

Land is a free gift of nature. Earth is one of the present eight planets in the solar system. Earth is responsible for the existence of everything we see including ourselves. Earth is the source of food, clean air, clean water, shelter and other social, economic, political, products necessary for all living beings and the backbone of human cultural products. If you ask who in the world fenced the earth, it should probably be humans. Why did humans put a fence on the earth? What is the motivation behind it? Does fencing of land mean establishment of rights over it? Did the concepts of clan, gotra, family, community, state, and nation arise with the intention of establishing rights on land? A small attempt is made here to know to what extent land ownership is responsible for the existence of human society.

### **Introduction**

The periods of human history are classified as primitive, barbaric, and civilized (L.H. Morgan). As he said in this classification, "The question of his supremacy over the earth, the question of his dominion over nature depends on the achievement of man's skill, and the periods in which human beings have gained complete control over their own food production, the periods in which the sources of means of livelihood have been expanded are more or less the outstanding

periods of human progress". Land is the most important means of livelihood mentioned here. Since the earth is the source of all the goods needed by man, man has developed various social and economic strategies in his lifetime to own it. Because more land is owned by the individual. A symbol of the social status of the community. Wars have been and continue to be fought in the world over its possession. If the acquisition of ready to use natural products prevailed during the Kirat period, all the tools produced by his skills aided in the acquisition of those products. The barbaric period was the period when the knowledge of animal husbandry and agricultural land cultivation was acquired and communal and tribal organized lifestyles were adopted. During this period land and skills are said to be communally owned. For the same, find ways to increase the productive power of the earth. The communities cleared the forests for the grazing and agricultural land they needed and practiced animal husbandry and agriculture and lived in large families. Civilization is the next step. It is a time when human skills are honed. During this period, the concepts of families, individuals, state, nation, and his production skills and tools were also transformed. The system of production (land ownership, skills and tools) which was limited to the community was transferred to the ownership of the individual (private), the state and the nation. Life is time. That is Civilization hides development, modernity, modernity and nationalism in its shell. While development is related to the adequate utilization of goods and services and human rights, modernity represents various means and tools of exchange of human logical and rational knowledge, production skills. Nationalism has fenced them off. Nationalism, named after state and nation, is a mental state of organization for the ownership of all the means of production (land, skills, etc.) of a limited territory. It organizes the people and keeps them in a state of war for the protection of all the assets of the nation. All resources on and within the land in the name of a nation are subject to a common good that is for the good of all the people of that nation. Whatever type of production system a country adopts (capitalist, mixed or socialist) is said to be for the benefit of its public. In this regard, how 'land' has been utilized in India over time for the purpose of nationalism and public development. To see what Acts laws have been framed and how they have influenced the public, one needs to know the land acquisition Acts enacted in India so far and for what purpose the acquired land has been used. Need to know the shifts in use. After the arrival of the British company government, there were differences in land use to facilitate the smooth running of the company's affairs. He implemented the practice of giving away land to landlords and landlords to facilitate trade, railways, roads and commercial crops. Besides this, to take control of the fertile forests in AD. By 1826, it is seen that the forest laws were implemented and the work of evicting the advice tribes was started. It is recorded in history that Indian tribes revolted and fought against the British for the same reason.

### **Land Acquisition Laws and India**

Growing urbanization, increasing infrastructure needs and rapid economic development have undoubtedly put a lot of pressure on land in India. In this direction land is regularly acquired for state sponsored development and private projects. British India's Land Acquisition Act 1894 is a century old statute and an Act that was shaped in a different social, economic and political environment. The post-independence Indian government fundamentally changed its



land acquisition policy to reflect the values and needs of our own land. This has led to the legal, social, cultural, economic and political collapse of this country. Therefore, the Rehabilitation and Land Acquisition Bill was introduced in 2007 to amend the Land Acquisition Act of India as it found several shortcomings in acquiring land for public purpose and economic development. But unfortunately the 14th Lok Sabha was dissolved by the time it was passed and implemented.

### **Important Concepts of Land Acquisition Act**

In this background, the Land Acquisition Act of 1894 was repealed and an Act was framed in the name of Fair Compensation and Transparency in Land Acquisition and as "Fair Compensation and Transparency in Land Acquisition and Empowerment for Resettlement and Rehabilitation Act, 2013". The said Act is currently in force with several amendments (2014, 2015). Looking at the basic concepts outlined in the Act,

### **Important Concepts of Land Acquisition Act (1984, 2013, 2014, 2015)**

Land, Landless, Landless, Public Purpose, Rehabilitation Area, Scheduled Areas, Small Farmer, Patta, Agricultural Land, Affected Area, Company, Family, Displaced Family, Abnormal Family, Social Impact Assessment, Food Security. The concept of land is defined as follows. It shall include facilities arising from the land and things attached to the land and anything permanently attached to the land. (Definition) (a) While the term agricultural land is referred to as horticultural land in section AA2 of the same Act, the Land Acquisition Act, 2013 defines agricultural land as including the following: (d) as in clause

1. Agricultural or horticultural land,
2. Milk production farm, poultry production farm, fish farming, sericulture production farm, and livestock breeding or diseased herb growing field
3. Growing crops, trees, grass or garden produce and
4. It says land used for cattle grazing.

### **Landlord (R)**

1. Name of any person who is mentioned as the owner of the land/building/part thereof in the records of the concerned officer.
2. Forest powers granted to any person under the Scheduled Tribes and other Customary, and other Traditional Forest Dwellers (Recognition of Forest Officers) Act, 2006 (2 of 2007) or any other law for the time being in force.
3. Powers entitled to allotment of land under any law of the State including vested lands

4. Any such person declared by order of a court or authority.

**Landless (Q)**

Persons means the persons or class of persons contemplated or specified under the laws of any State in force.

**Patta (W)**

Shall be understood to mean as it is named in the relevant Central and State Acts or rules made thereunder or in Exchanges;

**Rehabilitation Area (ZC)**

That is, the area of displaced affected families resettled by the appropriate government as a result of land acquisition.

**Scheduled Areas (ZD)**

Means scheduled areas as defined in the proviso to section 2 of the Panchayats (Extension to Scheduled Areas) Act, 1996 (40 of 1996).

**Small Farmer (ZE)**

That is, a cultivator holding up to two hectares of non-irrigated land or holding up to one hectare of irrigated land with a small amount in excess of that of a cultivator.

**Family (M)**

A person's dependents include his or her wife/husband, minor children, minor sons and minor daughters.

**Non-local family (K)**

Means any family resettled and resettled in connection with land acquisition from the affected area to the resettlement area.

**Company (J)**

Means, 1. a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), excluding a Government company. 2. A society registered under the Registration of Societies Act, 1860 (21) or any equivalent law for the time being in force in the State.

**An unusual family (c)**

1. Family of land or other property applied for.



2. The family owns no land but the member or members of such family are agriculturists, possessing any form of tenancy, or possessing leasehold power sharing crops grown by tenants or artisans or working in an abnormal area for three years prior to land acquisition and being in abnormal condition by way of primary livelihood from land acquisition.
3. Scheduled Tribes and other Traditional Forest Dwellers who have lost any of their forest rights recognized by reason of land acquisition under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Officers) Act, 2006 (2 of 2007).
4. The family's primary source of livelihood for the three years prior to land acquisition is dependent on forests or watersheds and those who gather forest produce, hunters, fishermen, and ungulates, and such livelihood is in abnormal condition since land acquisition.
5. Land handed over to a member of the family by the State Government or the Central Government under any of its schemes and subject to acquisition of such land.
6. A family living on any land in urban areas for three or more years prior to land acquisition or whose primary source of subsistence livelihood during the three years prior to land acquisition has been in a condition of such acquisition includes. Land Acquisition Act, F (1984, 2013, 2014, and 2015).

#### **Public Purposes (E) (ZA)**

1. Land in rural areas, or expansion, planned development, or development of existing rural land.
2. Availability of land in rural or urban areas.
3. An opportunity to develop the land in a planned manner for the purpose of execution of the Government by a public scheme or any fund and thereafter in whole or in part by way of lease, grant or outright sale shall have the purpose of developing the land in the planned manner and purpose.
4. Grant of land to such corporation owned or controlled by the State;
5. Provisions for allotment of land for the purpose of housing for the poor or landless or persons living in areas prone to natural calamities or any persons in resettlement under the control of local bodies of Government or State Corporations or for the purpose of housing for such persons. Provisions for the grant of land for the purpose of housing for such persons displaced or affected due to ownership or schemes
6. For the purpose of carrying out any educational, housing, health, or sewage disposal scheme sponsored by the Government or any authority established by the Sarka or any Local Bodies or Societies Registration Act 1860 (21) or for the time being in the State. Provisions for

availability of land for projects undertaken by co-operative societies falling under the purview of the Societies Act registered under such Acts in force

7. Shall include provision of any complex or building for relocation of any public office,

8. But shall not include acquisition of land for companies. 1(a) of the Act, for uses relating to facilitating the operations of the Central paramilitary force or any work necessary for the national security or the defense of India or the State Police, the Army, the Air Force, the Navy, and the Union Armed Forces, including the security of the people.

**(B) Means for the benefits of essential amenities including the following**

1. All the functions and activities listed in the Central Government Notification dated 27th March, 2012 No. 13/6/2009- INF in the Department of Economic Affairs (Essential Amenities Division) except private hospitals, educational institutions, hotels.

2. Schemes involving agricultural processing, supply of agricultural inputs, warehousing of commodities, cold storage facilities, agri-purchasing facilities, and activities related to dairy, fish industries, and meat processing owned or owned by the appropriate government or agriculturist cooperative or an organization created under statutory provisions.

3. Planning for industrial corridors or mineral activities, capital and manufacturing sectors of the nation as named in the National Construction Policy.

4. Structures for water harvesting and water conservation, planning for sanitation.

5. For government-run, government-aided educational and research projects or institutions

6. Planning for sports, health care, tourism, transport or space programme.

7. Any necessary accommodation which may be notified in relation to this point by the Central Government and after such notification is tabled in the Parliament. c) Scheme for Scheme Affected Families. d) Construction of housing or scheme for such groups as may be specified from time to time by the appropriate Government. e) Planning for development or improvement of village sites or arrangement of land for the purpose of housing for weaker sections in urban areas. f) Scheme for housing purposes for the poor or landless or persons living in areas affected by natural calamities or displaced or affected by the execution of any scheme by any local authority or corporation owned or controlled by the Government. 2 (a) for private companies for public purposes as defined in sub-section (1) provided that the ownership of the land for a public purpose as defined in sub-section (1) continues to be vested in the Government, (b) for a public private partnership scheme, provided that in the case of private companies, (1) clause (c) of clause 3 of clause (80 per cent prior consent of the affected families for rehabilitation as defined in sub-clauses 1) and (5) 2. 70 per cent prior consent of the affected families as defined in sub-clauses (1) (5) of clause (1) of clause (5) in case of public and partnership projects in case of public and partnership projects to be obtained. Provided, obtaining consent shall be



carried out in conjunction with the social impact assessment referred to in Clause 4 of the Ordinance. No transfer shall be made by acquisition in the prescribed areas in contravention of any law relating to the transfer of land. 3. Provisions relating to rehabilitation and rehabilitation under this Act: In case of purchase of land by a private company, in accordance with the provisions of section 46, provided that such limits are equal or greater in rural areas or in urban areas as may be prescribed by the appropriate Government through private negotiation with the owner of the land. b) Shall apply where a private company requests the appropriate Government to acquire part of the area so designated for public purpose.

### **Social Impact Assessment**

Social impact assessment is explained in the second chapter of Land Acquisition Act 2013.

1. Whenever the appropriate Government intends to apply for land for public purpose, the Panchayat, Municipality or Corporation under the jurisdiction of the affected land area shall, as the case may be, undertake a Social Impact Assessment Study with advice and permission at the village/ward level.
2. The officer empowered to notify land acquisition under sub-section (1) shall issue a notification in the local language newspapers of the affected area and shall publish on the website of the appropriate Government and shall complete the social impact assessment study within six months of the notification.
3. The report of the social study determination study shall be made available to the public in the manner prescribed under section 6.
4. (1) The social impact assessment study in sub-case shall include the following a) Opinion as to whether the proposed acquisition will serve the public purpose b) Estimate of the number of families affected and among them likely to be displaced. c) Area of artificial public and private lands, houses, new arrivals settlement areas and other common assets which may be created by the proposed acquisition; d) Whether the area of land proposed for acquisition is merely an arbitrary minimum area required for the project?; e) Has the land at an alternate location been considered and judged as not possible?
5. While undertaking a social impact assessment study under sub-section (1), the appropriate Government shall consider, among other things, the livelihood of the affected families, public and communal assets, properties, and typically essential amenities such as roads, public transport, drainage, sewage system, drinking water sources. Water sources for livestock, community ponds, grazing land, plantations, public facilities such as post offices, fair shops, food storage warehouses, power supply, health care facilities, schools or educational training facilities, anganwadis, children's gardens, places of worship, land for traditional tribal institutions and Consideration should be given to the potential impact of the project on various aspects of the cemetery and cremation grounds. It states that such area should be recommended



for acquisition by ascertaining that there will be least disturbance of peace and least adverse impact on affected persons for environmental science.

### **Communal public property**

Article 51(a)g of the Indian Constitution states that it is a fundamental duty to preserve, develop and show compassion for the natural environment, including forests, lakes, rivers, and wildlife. According to 51 A (i) it is the duty of everyone to preserve public property. Article 39(b) of the Directive states that the public assets of the community such as lakes, wells, cowsheds, pastures, ditches, riverbeds, etc., shall be distributed in such a manner as to best contribute to the common good. Article 39(c) states that economic system shall be managed without concentration of wealth and means of production in a manner that is not detrimental to the welfare of all. Article 48 Organization of Agriculture and Animal Husbandry and Article 48(a) of the Directive Principles on Community Welfare Programs describe the State's supervision of environmental protection and improvement, conservation of forests and wildlife. Article 48 directs that the State shall endeavor to organize agriculture and animal husbandry in a modern and scientific manner, and shall take measures to prohibit the slaughter of cows, calves, and other milch and draft cattle in order to preserve and improve special breeds of cattle. In the case of *MC Mehta v. Union of India* the Supreme Court enunciated two principles for environmental protection firstly the precautionary principle and the polluter pays principle (*Merunandan, Constitution of India*).

### **Conclusion:**

The research provides a historical overview of land acquisition in India, tracing its evolution from primitive and communal ownership to individual and state control. Land has always been a crucial resource for human civilization, and the concept of ownership and control over it has shaped societies and their progress. The advent of British colonial rule introduced significant changes to land use, leading to conflicts and resistance from indigenous communities.

The Land Acquisition Act of 1894, a century-old statute, was implemented during British India and served its purpose in that era. However, after India gained independence, the post-colonial government recognized the need for a new land acquisition policy that aligned with the values and needs of the nation. Consequently, the Rehabilitation and Land Acquisition Bill was introduced in 2007 to amend the outdated Land Acquisition Act of 1894, but it couldn't be passed and implemented due to political changes.

The Land Acquisition Act of 2013, also known as the "Fair Compensation and Transparency in Land Acquisition and Empowerment for Resettlement and Rehabilitation Act, 2013," replaced the previous legislation. It aimed to ensure fair compensation, transparency, and proper rehabilitation for those affected by land acquisition for public purposes and private projects.





The Act includes various important concepts related to land acquisition, such as land, landless, public purpose, rehabilitation area, scheduled areas, small farmer, family, company, social impact assessment, etc. It emphasizes the importance of social impact assessment to understand the consequences of land acquisition on affected families, communal assets, and the environment.

Furthermore, the research highlights the constitutional principles and directives related to the protection of public property, environmental preservation, and social welfare. These principles guide the government's responsibility to manage land acquisition in a manner that benefits the common good while preserving natural resources and communal assets.

In conclusion, the evolution of land acquisition in India reflects the changing social, economic, and political dynamics of the country. The Land Acquisition Act of 2013 represents a significant step towards fair and transparent land acquisition practices, focusing on the welfare of affected communities and the sustainable use of land and resources. However, the successful implementation of land acquisition laws depends on their proper execution, adherence to social impact assessment, and consideration of environmental and communal interests. By upholding these principles, India can achieve balanced development and inclusive growth while safeguarding the rights and well-being of its citizens and the environment.

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