

Land Acquisition, Rehabilitation & Resettlement Law, Policy and the volatile quest for harmony

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Abstract

The present article explores key issues in the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation, and Resettlement Act, 2013, peruse with amendment carried out by the central legislature. The LARR Act has to be read in the context of supporting contestation and changing following twist, the spate of a decision by the Supreme Court in the run-up to the ratifying and the need for 'balancing' multiple viewpoints. In such context twin categories federal and legal, become high-flying. The nature of the LARR Act's reaction to both will discover its persistent continuation and importance. The present article examines legal dimensions of issues such as 'Eminent Domain' and 'Public Purpose', Rehabilitation, and Resettlement policy, compensation, safeguards for affected families and other germane practice. The present research inquires larger legal and political questions regarding land acquisition within constitutional debates pertaining to the LARR Act's implication for federalism and detail analysis of recent scenarios, and particular, possible consequences of the enactment for future urbanization patterns in India.

Keywords: LARR Act, federalism, Supreme Court, urbanization, centralized and court balance

Laws on the land acquisition are an expression of how a nation sights the implementation of the monarch right of eminent domain¹.

Why harmony shall be maintained?

The LARR Act, 2013 enacted at political responsibility of the federal state for shifting the dimension of India. The Act experiences considerable transforms: political, financial, societal, ecological, and geographical.

A democracy which depends on the agriculture attempt to hit upon space for rebellious voices, including civil society, marginalized class of people, tribal community, as well as to the coalition partners of the then central government. The most controversial term in the 'Act' whether in the present Act or Colonial Act is 'Public Purpose' because the private sector has much influence in the 21st century compared to the 20th century. There is no uniformity in the State policy for acquisition and therefore, the influence of private entities become much greater in the last two decades. A part of the State functionary bodies, the center and states are having ruckus on decentralized federalism, as the constitution of India is neither federal nor unitary.

The subject of land utilization is under the state list at entry eighteenth in the constitution of India. Progressively the debates in relation to the land acquisition excessively have shifted from centre to stats. A recent controversy created in a high-speed railway project, where the State of Gujarat acquired the land for the newly declared corridor, while the acquisition of land is within the Navsari, Valsad, Bharuch, Surat, Vadodara, Anand, Kheda, and Ahmedabad districts. Therefore, such acquisition shall be in accordance with the central government and could not do by the State Government. 59 agriculturists are knocking the door of

¹ Jairam Ramesh And Khan Muhammad Ali: Legislating for justice; the making of the 2013 land acquisition law, Oxford university press, 1st edition of 2015.

the Supreme Court of India, issues notice to respective parties. Farmers raised the plea that acquisition is illegal, while the entire project is of the worth of Rs. 1.08 lakh crores approximately, which supposed to complete before 2023.¹

A search for harmony has been the leitmotif in the political process of enacting the LARR Act that finally replaced the majestic endorsement of 1894. However, the Act was amended in 1962, 1967, and 1984. The Supreme Court of India has protracted that 'no executive action can interfere with the rights of the citizens unless the action is backed by an existing provision of law'². The enactment of the new legislation was quite difficult due to politically the law is sensitive and most of the regional political parties are having a fear that if, the law enacted the then ruling party in federal will take benefit in the upcoming elections of State like Bihar, West Bengal, Delhi, and Tamil Nadu. Therefore, they are continuously opposing the bill inside the house as well outside the house also. Bhartiya Kishan Union had filed the PIL before the Supreme Court of India, in which the court issued the notices but later on, the matters are disposed of without any concurrent order or judgment³.

Subsequent to the amendment to the Act, which is considered as 'bye passed the heart of the Act' or major surgery to the Act of 2013. For that, vital reason the question invites the attention of large number of lawyers, NGO, affected persons and academicians that dose the LARR Act, after amendment, continuous to provide an internally consistent lawful construction; and how the projects of ensuring the harmony to unpredictable complex problems may arise in different territory to the affected people⁴.

Does the Law cross the borders of the Constitution in the context of enacting it? Alternatively, can we say this is colourable legislation?

Under the Indian constitution, the land is covered under the State list⁵, it means only the States having the powers to enact the law on the subject or land and matters in the relation of it. The founding fathers of the constitution laid out a quasi-federal composition of the constitution, which enlighten all the parliamentary business. The autonomy of the legislative is a crucial part of the present structure and barring a few specified circumstances,⁶ the design must be taken care of with respect by the parliament and it's administrative.

Nevertheless, the item 'acquisition and requisition' of the property was places in the third list of the seventh schedule known as Concurrent list (mean both State, as well as Parliament, can make legislation).⁷ This is because many of the projects which are carried out by the federal government i.e. Railway, National Highways, Atomic energy projects or some Sea projects.

¹<https://www.livelaw.in/news-updates/bullet-train-project-sc-issues-notice-on-farmers-plea-against-land-acquisition-151757>

² Bishambhar Dayal Chandra Mohan vs State of U.P. (1982) 1 SCC 39; AIR 1982 SC 33

³ Bhartiya Kishan Union vs. Union of India, Writ Petition Civil 375 of 2015.

⁴ Amlanjyoti Goswami: Land Acquisition, Rehabilitation and Resettlement: Law, Politics and the Elusive Search for Balance, Journal of Land and Rural Studies, Sage Publications volume 4(1) pages 3-22

⁵ Entry 18, List II, Seventh Schedule to the Constitution of India. 18 Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agriculture land; improvement and agriculture loans; colonization and Entry 45 of List II, Seventh Schedule to the constitution of India. 45 Land revenue, including assessment and collection of revenue, the maintenance of land records, survey for revenue purpose and records of rights, and alienation of revenues, Entry 49 List II of the Indian Constitution. 49 Taxes on land and buildings.

⁶ Article 249, 250 and 252 of the Indian Constitution.

⁷ Entry 42, List III, Seventh Schedule to the Indian Constitution.

Nevertheless, that would be adequate to vest the centre with the law-making authority qua land acquisition. How could the centre rationalize legislating on rehabilitation and resettlement?

To remedy this, two entries in the Seventh Schedule of the Constitution have relied upon i.e. Entry no. 97 in the Union List Any other matter not enumerated in List II or List III, including any tax not mentioned in either of those lists and Entry 42 of the Concurrent list Acquisition and Requisition of property¹.

The former referred to as an expandable authority, allows the centre to make laws on any subject not specifically refer to either in List II or List III. In view of the fact that Rehabilitation and Resettlement arising out of dislodgment caused by land acquisition were not found anywhere in those lists, it becomes a reason that the federal government could legitimately invoke the authority.

For the latter entry, the then government relied on the settled principle expressed by the Supreme Court of India in cases such as *Chaturbhai M. Patel vs The Union of India*² in which observations made by the court:

It must inevitably happen from time to time that legislation, though purporting to deal with a subject in one list, touches also on a subject in another list, and the different provisions of the enactment may be so closely intertwined that blind adherence to a strictly verbal interpretation would result in a large number of statutes being declared invalid because the legislature enacting them may appear to have legislated in a forbidden sphere.

The above interpretation has been followed widely. Justice M. Hidayatullah held it is equally well settled that the power to legislate on a topic of legislation carries within the power to legislate on an ancillary matter, which can be said to be reasonably included in the power given.³

Entrusting on the precedents above, the new legislation includes a provision on Rehabilitation and Resettlement (which also extended to the private purchase). The reason behind this is that acquisition of property without rehabilitation and resettlement of dispossessed persons would cause gross injustice, also it definitely makes a huge impact on the food security of citizens in the near future. Another reason is there was a national policy of rehabilitation and resettlement enacted by the central government in the year of 2007, which was accepted by the respective States.

Section 107 of the Act states: 'Nothing shall prevent the state from enacting any law to enhance or add to the entitlements enumerated under this Act, which confers higher compensation than payable under this Act or make provisions for rehabilitation and resettlement, which is more beneficial than provided under this Act.' The then parliamentarians throw the ball into the court of States, which allowed the States to do better, and not shoddier.

Similarly, Section 108 of the Act, extends the benefit upon the states to enact better policy according to their geographical, economical and social conditions, so the people could preserve their heritage, culture and they could be easily settled down at a new place, therefore the section empowers state as follow:

Where a State law or policy framed by the Government of a State provides for higher compensation than calculated under the LARR Act for the acquisition of the land. The affected persons or his family may at their option opt to avail such higher compensation, rehabilitation, and resettlement under such state law or such policy instead of the LARR Act.

Moreover, under the present legislation States are empowered to their own statistical tiers for R & R to be prompted, which makes an impact on the private sector. Such provisions are allowed the State Government

¹ Jairam Ramesh And Khan Muhammad Ali: Legislating for justice; the making of the 2013 land acquisition law, Oxford university press, 1st edition of 2015, page 5-6.

² AIR 1960 SC 424

³ The State of Rajasthan vs. Shri G. Cahwla and Dr. Pohumal, AIR 1959 SC 544

to enact the policy as per their wish, therefore, it could be said that the then central government leaves the room for vote politics intentionally.

The amendment, which brought by the present government during its first term, and by way of that amendment the clauses related to SIA have been relaxed on the name of urgency, are also indigestible. If, we take one example that presently multistate land is acquired by the State of Gujarat, Maharashtra for the high-speed railway project. The Government relaxed the SIA in the present project on the name of urgency but establishing a railway project which even not touching the international border and where there is no threat of war, how could be urgent. Such an act of Government is beneficial to the companies who are involved in the project and such policy is adversely affected to the persons whose property would be acquired.

Judicial Harmony

The present Act is also criticized by the judiciary regarding its some of the provisions, which are vital to the present Act, but it seems arbitrary prima facie, first criticism from the judiciary is on the 'arbitrariness' as the Act stretching the definition of Article 300-A. Another aspect is the acquisition officer and arbitrator having a conflict of duty and interest. Second, the term public purpose which is not defined in a precious manner, and ambiguous as in the colonial Act, abuse of urgency clause, as it allowed States to relaxed the social impact assessment procedure. Thirdly, it criticized the Rehabilitation and Resettlement policy. The colonial law was heavily criticized and therefore, a number of times the judiciary passed some strictures in its judgment about the vacuum and lacuna of the law, especially on Rehabilitation and Resettlement and social impact of displaced persons.

Towards Basic Structure?

The determination of the term 'public purpose' by the executives, were noticeable distinction from the recent announcement by Apex Court.¹ The theory of Eminent Domain requires two elements one is a public purpose and second is Compensation, if these two were satisfied then the legality and validity of the acquisition had held fine. The right to property was initially the fundamental right of citizens under Article 31 of the Constitution. which later on repealed and placed it at Article 300-A. Hence, such an amendment makes fundamental right as a legal right, therefore the challenge to the acquisition of private property could be held bad in the eye of law on the ground of fundamental right of property. After such an amendment, the State can acquire any property by paying compensation. The doctrine of basic structure is a broad compendium of rudiments considering most vital to an efficient egalitarianism, an inclusive doctrine of which fundamental rights are a part of it.²

Article 300-A states that 'no person shall be deprived of his property save by authority of law'. The debate on the term authority of law continues and argument on the interpretation is whether it means just, fair, and reasonable or it simply as the enacted law. The law is also criticized for arbitrariness, and many a time it violates Article 14 of the Constitution. However, courts are restraining themselves to enter the brushed from the perspective of fundamental rights. The theory of Eminent Domain, which recognized by the Constitution of India, therefore, the acquirement by State, will prolong and oblige so long as the indispensable course of action is in accordance with the law.

The law, in a twirl, has to be 'reasonable'. If the action of authority is arbitrary against in accordance with the doctrine of the basic structure, then the court will interfere. Nevertheless, the protection of judiciary in terms of judicial scrutiny to the affected person in the context of the reasonableness of action whether 'minimum rationality' or 'austere surveillance' or transitional are yet unresolved though the new Act enforced and enacted.

¹ R.L.Arora vs State of U.P. and others (1964) 6 SCR 784

² His Holiness Keshvanandan Bharathi, Sripadagalvaru vs State of Kerala, (1973) 4 SCC 225, Minarva Mills vs. Union of India, (1980) 3 SCC 625

Public Purpose and Purpose of Acquisition

Supreme Court of India, at the beginning of the decade, reiterated the essentialities and vital elements of acquisition. Speaking on behalf of the constitution bench in the case of *K.T. Plantation vs. State of Karnataka*¹ Justice K.S. Radhakrishnan, “for example a political party in power with a massive mandate enacts a law to acquire the property of the political party in opposition not for a public purpose, with or without compensation.” The court further held that in such a situation would not be saved from a challenge for the constitutional court. However, the rule of law has been never adopted but it has been characterized as a basic structure of our constitution, which cannot even be abrogated by the parliament itself, in fact, it binds the lawmakers. To deprive a person of his property may cause serious injury in relation to foreign investment even. Whenever a foreign investor invests, the investor and its properties are subject to the host State laws and international treaties or agreements. Moreover, even if courts are considered that foreign investors are not having fundamental rights, then let them know the rule of law, which prevails in this country. Therefore, the public purpose is an essential condition for acquisition, even the purpose must be cleared and the acquired property could only be utilized only for the purpose for which it is acquired. The court dismissing the appeals filed by the appellant gives direction to the authorities that disburse the amount of compensation and take possession of the properties under the relevant provisions of the Act. Court also made a clarification that the amount of compensation is subject to the outcome of the litigations pending before the concern courts.

Latest prosperity on public purpose

The judiciary had taken different views and determine the term public purpose in various manners therefore there are many interpretations available as precedent; however, those are subject to the facts of each case.

Nevertheless, the Supreme Court of India in its recent pronouncement of *Radhey Shyam (dead) through legal heirs and others vs. State of U.P. and others*²

It must be accepted that in construing public purpose, a broad view has to be taken and the focal must be for ensuring of benefits extends to a maximum number of people. Any attempt made by the State to acquired property by encouraging public propose, which benefited to particular group of people or to provide any particular interest at the cost of the larger section of people and if, the act defeated the public purpose, which was introduced pre-constitution, in such circumstances court need to enforce it in application with fundamental rights enshrined in chapter III of the Constitution of India. The court needs to strike balance among the competing principles and overhanging shadow of socio-economic realism in India.

If we examine the *K.T. Plantation* case, as in such the Apex Court could ask deeper questions in the context of public purpose, a suitable case present itself Where court observed that State acquired the large scale of land on the name of public purpose and letter on transfer to the private entrepreneurs who have utilized the land by putting multi-storied apartments and commercial malls and for setting up industrial parks. In such a case, judicial scrutiny will play a crucial role and courts cannot afford such act of executives as an umpire, therefore, definitely take actions against such illusive act to protect citizen's rights.

While Supreme Court notably consider that some time State acquired the land by the issuance of notification and in the issued notification the purpose if different and letter on they change the purpose of utilization and transfer lands in the private hands and by their such concealment, the original owners are deprived of enjoying property rights. Hence, the purpose shall not be changed once it declared by way of notification.³

Misuse of the ‘Urgency Clause’

The term urgency has always criticized by academicians, jurists and judiciary since the law of acquisition came in force. The authority many a time issued notification u/s 17 (1) or 17(4) of the old Act, or u/s 40

¹ AIR 2011 SC 3430, equivalent citation (2011) 9 SCC 1

² Civil Appeal no. 3261 of 2011 arising out of SLP No. 601 of 2009

³ M/s Royal Orchid Hotels Pvt. Ltd. Vs G. Jayarama Reddy and others, (2011) 10 SCC 608

special powers can be used under urgent circumstances. But, the Supreme Court in the case of *Devendra Tyagi vs. the State of U.P.*,¹ held that the acquisition for residential, commercial, industrial or institutional purposes can be treated as an acquisition for public purposes. Nonetheless, any of them could not seem as urgent, the reason is that to construct a residential colony, commercial complexes or industrial parks or large institutions it will take a long time or can say few years. Therefore, private property cannot be acquired for such purposes by bringing into play an urgency clause. Even in a most recent case from the State of Gujarat reach to the Utmost Court, where the plea was taken that it is almost more than 3 years of notification but the compensation was not given by the calculation of central provisions, therefore, Supreme Court issued notices to the concerned parties to the Case.²

Does the new-fangled Act deal with such apprehensions?

Firstly, we examine the term public purpose, what is considered as public purpose in the new Act?

First, it is undisputed that no scientific or precious definition laid down under the new Act.

Second, a project for industrial corridors or mining activities, national highways, foreign investments which beneficiary to the large scale of the general public, national manufacturing zones like SEZ,

Third, it is expanded and included newer uses of land, land required for housing construction or for rehabilitation and resettlement projects or for the general public, etc are public purposes. Once the essential element of public purpose is satisfied then all other provisions of the Act would apply i.e. R & R, Compensation, Solatium Compensation, assessment of social impact, etc.

At the same the Act also has some provisions for private companies, they can also acquire the land through the government for public utilities, which covered under the domain of public purpose.

Consent

The new-fangled has a new variety concept of ‘**consent**’ of the affected persons. Where the government acquires land for private companies for ‘public purpose’, 80 percent of the consent of affected families would be a prerequisite. In the same way subject to the exceptions proposed, in public-private partnership projects, consent would be required of a minimum of 70 percent of affected people. The process of obtaining the consent would be in accordance with rules laid down by the respective government of the State. The consent clause is an addition to the public purpose and not a substitute for it. Significantly, nevertheless, in the shield of eminent domain acquisition by State directly, (not for PPP), the clause of consent is relaxed. The last amendment proposed by NDA government creates exceptions where consent is not essential. The amendment takes away the spirit of the LARR Act, and it brings back to the dark era of colonial law.

Rehabilitation and Resettlement

The LARR Act, 2013 made Rehabilitation and Resettlement as of the right of displaced persons and not just a matter of policy, but as the amendment carried out in the Act by NDA government, after such the R and R become less significant than it was stipulated in original Act. Prior to this, States also had their own policies on the subject. The Maharashtra Resettlement of project displaced persons Act, 1976 is a very good example where the State government is keen about the resettlement and rehabilitation of the displaced persons by providing them all the amenities.³

¹ (2011) 12 SCC 572.

² <https://www.livelaw.in/news-updates/bullet-train-project-sc-issues-notice-on-farmers-plea-against-land-acquisition-151757>

³Coal India’s policy was issued on March 2008, available at <http://www.coalindia.in/Documents/PoliciesOnCILRR17062008.pdf>. Similarly, the policy of The National Thermal Power was revised in 2005 and available at http://www.ntpc.co.in/images/content/corporation_citizenship/NTPC_R&R-Policy_2005.pdf.

Following the 2003 policy on R&R, the federal government drafted a new policy on the subject in the year of 2007. There are many of the ideas of a policy including social impact assessment, which are stipulated in the Act for its proper implementation.¹

However, the problem with the policy is that it seems like guidelines and not law. Because there is no definite lawful method to execute the guiding principle. The Supreme Court of India, in the year of 2012 took a national policy of Forest of 1988 and lay down directions in the landmark judgment on forest clearance²

“The principles/guidelines mentioned in the National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980.”

The R&R award includes the amount, house site or amount for it or lands to be allotted, in some cases employment given to the member of the affected family. While the land is not available in nearby or the option of employment is also not available then such is not considered practicable. Even the amount declared by the State of Gujarat in a recent notification for R&R in Anand District is so skimpy. For the house in urban area rupees 1.5 Lakhs and for Rural area rupees 0.75 Lakhs, does it possible to purchase a house or built a house in the amount declared as R&R compensation? From this, it appears that the Government made a mockery and not serious to rehabilitate and resettle the affected persons.³

The need for R&R as a right is significant after multiple R&R policies as centre, where there are reports that about 60 million people have been dispossessed from their land due to development projects. Where many of the projects are not even initiated today even. It is also necessary for the rehabilitation and resettlement of those people whose agricultural land had acquired and taken away, otherwise soon in the country people would face the food problem, as cultivation will go down the production will definitely not going to be available.

A course of action as Protection

The abuse and misuse of the colonial law was the foundation of revamping the new Act of 2013. But after the amendment carried out by the last government by passes the vital vein of the Act.

The new Act has also become an issue of criticism at various juncture because of multiple bureaucratic procedures, seemingly to check abuse of process. There are authorities who have the power to enact the rules; therefore, it causes delay and in quest of payment. As multiple bureaucracies created, it may pause acquisition, because in India there is no time limit or no such rules, which can control the bureaucrats for the delay in their work or intentional, lingering in their official duty. Therefore, under the Act single authority need to establish which could be able to attend all the affairs of the Act? This makes a significant impact on people and the process will be completed in a shorter time than a present scenario.

Compensation

The acquisition, whether it was done under the colonial law or presently under the LARR Act, 2013, a formula of calculating compensation is still not as fair as people wish. Word compensation was not found in the 1894 Act, but from the Judgement of *State of West Bengal vs. Bela Banerjee and Ors*⁴ the Court observed;

¹The National Rehabilitation and Resettlement Policy 2007, dated 31.10.2007, available at <http://www.dolr.nic.in/NRRP2007.pdf>

² T.N. Godavarman Thirumulpas vs Union of India & ors (I.A. Nos 1868, 2091, 2225-2227, 2380, 2568, and 2937 in Writ Petition (C) 202 of 1995- Lafarge Umiam Mining Pvt. Ltd-Application)

³ Sandesh News Paper Dated 17.01.2020 Ahmedabad Edition page 8

⁴ 1954 SCR 558

“We accordingly hold that the latter part of provision (b) of Section 8 of the impugned Act which fixes the market value on December 31, 1964 (the date of notification) as the maximum compensation for lands acquired under Article 31(2) and is unconstitutional and void.”

In the same judgment, the court held that under the Entry 42 of List II of the Constitution word compensation is used by the founder fathers therefore, any amount as an award or nugatory amount or manner of compensation cannot be decided by the legislature. The affected people shall be compensated in de facto and not de jure.

Nevertheless, the principle of fair and most favourable compensation was discussed in the case of *Premchand vs The Collector of Calcutta*¹

What is market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it.

When government takes property from the private persons under the Statute, it is only right that those persons should obtain such a measure of compensation as is warranted by the price of similar property in the neighbourhood, without any special reference to be used to which it may be applied at the time when it is taken by the Government, or to the price which its owners may previously have given for it?

The bill of original Act of 2013 was proposed 8 times amount then market price of property in case where property acquired of rural area and 4 times of the value of the property if property belongs from urban area, however, the parliament rejected the proposal on the ground that it caused a heavy burden on the State treasury and after the debate the ratio laid down as below

Price $X \times 1 = X$

Then we take solatium equal to 100 percent of the amount and add it to the principle:

$X + X = 2X$ amount

In rural areas, calculation varies depending upon the multiplier fixed by the State Government.

If the market price is 'X' then it multiplier by State as $X \times 2 = 2X$ and added 100 percent solatium $2X + 2X = 4X$ therefore, the amount comes out to roughly two times in urban area and four times in rural area. However, it is noteworthy that prices in urban area are much more higher than rural area as the amenities and facilities are available easily and more than rural area.

The determination of the price is on the documents available with official records. Such as sale deed of adjoining lands or surrounding lands, but still the value ascertained by officials are not real value, because most of sale deed are executed on the basis of price to evade the stamp duty. Hence, they will be affected heavily where the land acquired by State as they cannot prove the actual price they paid for it.

While Kerala initially gives redeemable infrastructure bonds / transferable development bonds instead of cash; while Rajasthan explored the possibility through their bill to provide 25 percent of developed land in lieu of cash for urban development and housing purposes which is a very good idea; Gujarat has followed a town planning (TP) scheme model where the government gives plot or land after development and in situation where land may not be available then award in cash.

How does one can receive latent worth, generally the price paid by the proposed buyer to the proposed seller after considering the possibility of development of land and amenities surrounded the land? In its absence, it seems that barney about computation will endure: lack of satisfactory tenurial information, under-valuation of land for stamp duty purposes, information asymmetries, delays pushing cost of land up; lack of speedy implementation and so on. In R & R, the accountability of the State will be predominantly tested. There is no sufficient land especially to implementation of the 20 percent land-for-land provision. The market of land is

¹ I.L.R., 2 Cal 103.

overwhelmed with information and other asymmetries, including inadequately kept and dated land records which daunt truthful identification of 'affected families' as well as the scenery of the land, on which market value applied.¹

Waning in case of Non-utilisation

The new Act has contained with provision to revert the land to original owners or the land bank of the State, in case for non-utilisation for period five years from the date of acquisition. Such provision which incorporated in the Act under section 24(1) come into play but a crucial question left unanswered that what is reasonable time within which project shall be completed and if not then who will declare the land unutilized or limitation to make such declaration, in case if it kept unused for long period without declaration then who will be liable for loss to State and original owner, all these questions are yet to be resolved.

The judicial attention will invite where fertile, multi-cropped lands are otherwise acquired and for long land kept unused, then it becomes barren and after while if the land return to the owner it would cost so much to make it productive again.

The government of India marks 30 percent of India's landmass as "wasteland" and wants to open it up for industry and agriculture. Decisive natural environment are now under calamitous menace. There is oodles in a name. India's overall earth area is around 329 million hectares. Of this, the government classified 90 million hectares as waste land- that is, desolate land; an explanation that militates the fact that concerning 40 percent of our 1.3 billion inhabitants depends on this land for livelihood². In 10 years period to 2010-11, India lost 16,000 square kilometres of agriculture land which estimated as 0.8 percent of gross productive land in India. The National Remote Sensing Centre disclosed the facts on the basis of research conducted in Andhra Pradesh.³ It is only expedient that such lands rather than fertile multi-cropped lands be the primary focus for acquisition.

CONCLUSION: WHETHER THE HARMONY STANDS ?

The RFCLARR Act, 2013 veritable Noah's ark of manifold and every so often conflicting interests.

The first is the argue of secretive enterprises, inattentive with State's lack of ability to craft an enabling authoritarian environment for markets and property rights to function better. The other crucial, relying going on a right agenda, is discontented concerning forced displacement and concerned about the marginalized that have previously borne the substance of land. Environment and food security is also concerned issues. Caught between the two competing maelstroms, the Act, in annoyance to come together among competing imperatives, also squeeze in between the two. The recent amendment also create further complication and initiated legal battles as vital provisions bypasses from the Act.

The central query remains politically pertinent, depending on who is in power in particular State and potentially creating two frameworks: a national policy and at time contradictory to the State policy, such situation will ignited the judicial scrutiny on doctrine of pith and substance as well as colourable legislation or rules or policy. If, respective States enacted the law on LARR as states have power under entry 42 of List II, governor of the State gives his assent, that in turn dilute provision in regard of SIA, Consent and Food Security, etc. will attract Supreme Court of India to discussed and decide the issues, particularly in recent precedents.

The unfertile, barren and waste land shall be primary object for the establishment of industry rather than fertile and grass land. The concept of Emino Domain should also used as an alternative with consent of the

¹ Amlanjyoti Goswami: Land Acquisition, Rehabilitation and Resettlement: Law, Politics and the Elusive Search for Balance, Journal of Land and Rural Studies, Sage Publications volume 4(1) pages 3-22

² <http://peepli.org/stories/wastelands-of-india/>

³ https://economictimes.indiatimes.com/news/economy/agriculture/how-much-farmland-has-india-lost/articleshow/25607686.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

owners (without compensation) as the acquired land or property is developed and consolidated by the State, thereafter the state reconstitute the land and small parcels or plots shall be transferred to the owners after infrastructure and common area are developed. These are alternatives of TP Scheme which have been attempted on smaller parcels of land, especially in Gujarat and certain part of Maharashtra, and now a days in Delhi. Getting hold of land as a resourceful and politically viable method of acquisition, requires more extensive study crossways scales, provinces and chronologies and nature of manor.¹ It is most vital to made inquiry about:

1. All persons affected are covered, even though land labours, tenants and other whose livelihood is depends on the acquired property;
2. Some additional benefit shall be made available to the small land owners, compare to wealthy land owners;
3. The number of dependents on the land shall be considered at the time of acquisition and the same shall be keep in mind at the time of making award;
4. Territory of property / land are constantly acquiescent to pooling and if there are most favorable afar which pooling turn into politically unattainable;
5. The State need to frame a time line which would make entire process in minimum time and award shall be released earlier.
6. State shall frame such rules and guidelines which should not only be friendly to the interested people but it would be magnetic so, trust of the interested person could built up or gradually increased.
7. The resettlement and rehabilitation should be in terms of de facto and only de jure. At the same State shall ensure that if, case amount awarded for the R&R shall in accordance to to the market value and shall not be under quoted.

The law is only a torch light and it works within political masters wish and will, and people could implement and interpret it. The RFCTLARR, Act attempted to give protection with worth value of the property in real terms and at the same time it also attempted to ensure the R&R and SIA, so the State could enable to understand the actual difficulties of the affected families but due to the exceptions and amendment of 2015, the Act become less significant than it was. The debate upon urgency clause and public purpose remain unattended and goes on from time to time. Conflict between federal and province government over the key issues of R&R and exceptions, also power to make policy to province and federal government is continue and result into intervention of judiciary at every occasion.

The question of harmony nonetheless prevails and will continue. Paradoxically, even as the quest for harmony leftovers indefinable, it is extreme challenge to ensure the relevance of the Act. Guarantees to keep 'harmony' is whole course that depends upon the support of political masters is an anchorage by convincing interested persons to do some supporting compromises in accordance to the requirement of social equality. Sometimes this befalls less concerning the epistle of the law and supplementary about the political affairs and the function of the law inside such political perspective, where awareness regarding spirit substance as a great deal as the tinkering aspect.

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