



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## Land Acquisition Act In India: The Journey of Understanding Development And Redressal.

**Dr. Hemalatha Bhat**  
Assistant Professor of Sociology,  
Tamil Nadu National Law University (TNNLU),  
Tiruchirapalli,  
Tamil Nadu – 620 027

### Abstract

India's Journey from the colonial law of the Land Acquisition Act (LAA) enacted in 1894, to the enactment of Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013, has been an experience of understanding the development, displacement and redressal discourses of the multiple stakeholders including the Tribal communities. The process of Land acquisition in India was based on the LAA of 1894, which interpreted and aimed to utilize the forests and land resources for 'public good' and did not recognize the customary rights of tillers. It prescribed mere cash compensation to those who owned land titles through the legitimacy of the State. The Socio-anthropological discourse on the resources including land, cattle, mountains, hills and water bodies intertwined with the communities of the respective regions, was not provided any attention until the Sardar Sarovar Project (SSP) (initiated in 1961) built on Narmada River, in the state of Gujarat, which led to one of the first socio- environmental movements namely the Save Narmada Movement.

The Development model incorporated in the economic policies in the first few decades of the post-independence period, focused largely on 'land' as a phenomenal economic utility tied to the dynamic market needs, and the relationships of the human communities with natural resources was not perceived as a natural customary right of people, by the political class, bureaucracy and the judiciary. Further, under the benign impact of globalization and liberalization from 1991, stress increased at the fault lines of the tribal belt, where large scale industrial projects and investments have been projected as economic and institutional necessities. The legal tangles with all possible complexities was experienced with the LAA of 1894, as it stipulated only individual landowners entitled for compensation in case of displacement, and all other customary owners of the land are classified as 'encroachers'. Also, it took an utilitarian approach with all the public resources such as bio-diversity parks, other natural resources, and land without titles, and ignored the anthropological and

sociological realities of common land, water bodies, common land, grazing lands, mountains and hills, agrarian lands, stone quarries etc. as integrated part of socio-economic and religious lifeline of several communities including the Tribes of India.

Some of the prominent socio-environmental movements namely the Save Narmada Movement against Sardar Sarovar Project (SSP) in Gujarat, the anti-Coco-Cola struggle in Kerala, contributed to the establishment of discourses in understanding the multidimensional, inherent and integrated relationships between land and communities, against the linear version of development necessitating displacements. The legal battles of various stakeholders associated with these socio-environmental movements, provided the impetus to change the LAA of 1894 and enact the LARR in 2013.

The present paper focuses on the various aspects of historical and socio-legal journey from LAA of 1894 to the establishment LARR Act 2013 in the backdrop of Save Narmada Movement of Gujarat and anti-Coco-Cola struggle of Kerala that collectively helped the Indian academics, political class and importantly the judiciary in redefining the community-land relationships and resources. With the enactment of LARR Act of 2013, the possibilities of a dialogues between the stakeholders, land owners and the land acquirers has begun, as the LARR Act of 2013, has clearly provided the space at least in procedures Resettlement and Rehabilitation (R&R), Fair Compensation, Transparency, Consent, Social Impact Assessment and dispute resolution, which was not available earlier.

But the LARR Act of 2013 also has witnessed several deficits in terms of operational reality such as Land use changes, delays in compensation, inadequate compensation etc., which provides the opportunity for the stakeholders, academicians, legal fraternity and the political class to revisit and improvise the provisions of LARR Act of 2013 further, and also solve the operational challenges.

\*\*\*\*\*

*Index Terms: Development, Displacements, Land Acquisition Act, Land Acquisition Process, Social Movements.*

## INTRODUCTION

India's Independence from the British Rule in 1947 and the adoption of Parliamentary form of Democracy, is a journey aimed towards framing and executing Laws at the Parliament, and also in the respective legislative assemblies of the states, to address the interests and priorities of people of India and their Land. It also includes the herculean task to identify, change or abolish/repeal the colonial Laws that were either British Company centric (British East Indian Company) or British Crown centric, and also those that do not reflect the Indians' interests, priorities, assets and management of land its resources.

In the last seven decades of this parliamentary form of democracy, we observe that the Indian Constitution has been amended close to about 100 times, and approximately 800 Central Laws have been enacted. A considerable time has been spent by the Legislative and the Executive bodies of our country, to comprehend,

process and enact new Laws or bring about meaningful changes to the existing Laws, in order to find and fill the gaps in the Laws and also in its execution. The Land Acquisition Act (LAA) of 1894 governed the land acquisition process in India that was inherited from the British for whom the 'land' was only an economic commodity to be bought and harnessed for financial returns, through huge investments in industrial infrastructure under the garb of 'public purpose'.

The colonial regime's unconditional access, power and rights over the land, water and forests of India, ensured a sustained supply of raw materials for its heavy industrial establishments in the west, and strengthened the institution of market, through a series of regulation from 1824 onwards.<sup>1</sup> The foremost agenda in the euro-centric program of diversification and implementation of irrigation-technology, concentrating on transfer of large quantities of water to meet the water supply of the commercial crops, textile machinery, locomotives and railway stations began as early as 1892\*. Under the condition of irrigation marvel and achievement of agricultural surplus, the colonial regime exercised its control over water, land and forests of India. This process of 'Agriculture Involution'\* pursued by the British replaced the existing indigenous irrigation science, soil topography, land fertility and socio-economic order with military-civil-engineering departments directed by motive of commercialization of land and agriculture surpluses. With the invention of dynamo in 1831 and earth moving equipments in 1930s\* in France, dam building for hydro-electric power generation became a necessity for the British to facilitate power supply to ordinance factories in order to engage in world wars. Although power generation and water irrigation could not be always achieved conjunctively in the same project of mega dams, the British continued to project dams as temples of modernization as their sole aim was to supply power to industries, generate huge revenue through sale of water and electricity. The privatization of hydropower dams in the beginning of 20<sup>th</sup> century threw open the vast agricultural lands, forests and water of India, for the private companies to acquire and build series of dams, and the new 'Development Science' justified its mega structures in the name of 'national interests' against livelihood of millions of people who share a sustainable relationship with natural resources<sup>2</sup>.

<sup>1</sup> 'Walter Fernandes', "Land Acquisition (Amendment) Bill, 1998- Rights of Project Affected People Ignored", *EPW*, Vol22, No.42/43 (Oct 17-30), 1998, pp.2703

\* By 1892, the British constructed 43,800 miles of canals and distributaries in India irrigating 13.4 million acres. The mechanization of lift irrigation was introduced as early as 1930s in northern part of India. For further details see 'Satyagit Singh', "Taming the Waters: The Political Economy of Large Dams in India", Oxford University Press, New Delhi, 1997 pp.36

\* Clifford Geertz coined the term Agriculture Involution' It was purposely practised by the colonial regimes in south Asian countries. The process restructured the whole agrarian property relations by dividing the rural peasantry and commercialized the agriculture. The divide in the peasantry created a class difference among them benefiting the large peasants through irrigation and leaving the small peasants in indebtedness. For further details see 'Satyagit Singh', "Taming the Waters: The Political Economy of Large Dams in India", Oxford University Press, New Delhi, 1997 pp.46-47

\* These inventions laid the foundations for the design of Hydro-electric power and the first electrical water power-plant was set up in Darjeeling in 1897 generating 400 KW of electricity. Other stations developed at Srinagar, 1908, Musoorie, 1909, Shimla 1913 and Naini Tal 1922. The first mega project of Krishnaraj-Sagar hydro-electric station was completed in 1940. For further details see 'Satyagit Singh', "Taming the Waters: The Political Economy of Large Dams in India", Oxford University Press, New Delhi, 1997, pp.49-51.

<sup>2</sup> The TATA Hydro-Electric Power Supply Company was first set up in 1910 with an agreement to supply hydro- electric power to Bombay. The first dam was constructed at Lonavala without paying any compensation to the oustees. For further details see 'Satyagit Singh', "Taming the Waters: The Political Economy of Large Dams in India", Oxford University Press, New Delhi, 1997, pp.51

The post independent industrial requirements of electricity continued to increase and multi-purpose projects were pursued on a big scale which is well pronounced since the first five year plan of our country in 1951. Centralized planning, easy management of huge revenues, civil-engineering expertise based on coal mines and textile mills of Britain carried forward by the post colonial Indian State continued to dictate the land, water and forest management of our country, without even a second thought about the environmental degradation along with the changing socio-economic and political economy of modernization projects.

The anthropological reality of land and people was not even part of any discourse and decision making process at that period of time. The simple yet profound fact that the Gross National Product (GNP) which stands for the industrial growth does not take into account the quantum of displacement, loss of forest lands, extensive usage of ground water, and degradation of other natural resources due to massive development projects, provides continuous space for the Indian State to review the modernization agenda and the meaning of 'public purpose'<sup>3</sup>. It is in this backdrop that students of sociology and anthropology, who have constantly engaged in the study of protest movements, conflict over water rights, changing peasantry and ecological impact of large dams, have also focused on the inherent flaws and colonial motive of various Laws/Acts that are still existing in Indian legal system. These Laws have to be rewritten and reoriented in order to accommodate the industrial requirements of land and water, but at the same time empower the direct owners (including ownership by customary rights) of the land and water resources to decide on the relief, rehabilitation and resettlement measures and the very necessity of mega projects.

The existing literature on the Land Acquisition process includes its impact on various social, political, economic and legal aspects. 'Mohammed Asif', (1999), has discussed about the democratizing the acquisition process and involving all the three stakeholders namely the Project Affected People (PAP), Land Acquiring bodies or institutions, and the State to evaluate and the cost- benefits of the mega projects and its impact on Socio-economic and ecological effects. 'Abhijit Guha', (2004), presents the case study of marginalization of peasants in West Medinapur district of West Bengal, who have lost their cultivable lands to the Industrial Development Corporation. He reveals that the dependence of even the then Left Front Govt (LFG) government of West Bengal on of Industrial Market was is very volatile in nature, has ultimately led to policy failure, as neither the PAP have received the compensation package for rehabilitation, nor the Industrial Corporation proceeded with the establishment of various industries due to fluctuations in demand for the finished products. 'Ambrose Pinto', (1998), has discussed the contradiction between the 74<sup>th</sup> amendment of the constitution that grants gram sabhas/panchayats to take statutory decisions regarding development plans, and the Land Acquisition (amendment) bill of 1988 which wrests the decision making process with the district collector. The colonial hang over of extensive beaucracy and ambiguous definition of 'public good' has not changes. 'Brian Lobo', (2002), and 'Shankar Gopalakrishnan', (2011), have pointed out the flaws of the

<sup>3</sup> The 'Industrialize or perish' plan which was quite meticulously adopted from the second five year plans in 1957 onwards, allocates more than 75% of the financial resources for the industrial growth which employs only 11% of the population. Agriculture and allied activities has been steadily pushed to lower rungs of priority. For further details: see- Ámita Baviskar', "In the Belly of the River", Oxford University Press, New Delhi, 1995, pp22 - 40

Indian Forest Rights Act 1927 which is not social welfare in its spirit as it does not recognize the customary rights of the tribal communities over the forests, whereas permits the State to sell the declared private forests to private companies for mega-projects, plantations and mines.

The available literature on the Land Acquisition process for mega projects in various Indian states, Land Acquisition act of 1894 and its amendments and also the Land Acquisition, Rehabilitation and Resettlement Act of 2013 reveal the various socio-economic, environmental and political consequences on various social categories in India. The protest movements driven by the ideology of 'ecological Marxism' until 1960s, shifted its focus on 'environmentalism' combined with human rights perspective, brought out the inherent caste, class and power dimensions of the Project Affected People (PAP) to the purview of the State, NGOs and civil societies<sup>4</sup>. This paper focuses on the two cases of protest movements that have revealed the socio-legal gaps in the Land Acquisition process and the idea of 'public purpose' and its implications. The paper also attempts to compares the Land Acquisition Act 1894 and the Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013.

### **THE LAND ACQUISITION ACT (LAA) OF 1894**

The LAA (1894) existed in India for almost twelve decades, guiding the colonial regime and post colonial State to acquire vast lands for railways, industries, dams, SEZs and other mega projects for 'public purpose'. This law set the procedures for acquiring and using of the land, and the compensation for the losers of the land through the legitimacy of the State. It is notable that the maximum amount of land acquisition in India for various projects was acquired by the State, invoking the LAA of 1894 until the enactment of Land Acquisition Rehabilitation and Resettlement (LARR) Act of 2013. The process outlined in the LAA of 1894 act had empowered the State to take over the huge tracts of lands/ which may be held and owned by any citizen individually or collectively by a group and also those lands/water bodies and forests which are not owned by individuals, but in reality are the perennial source of livelihoods of various communities. The LAA OF 1894 just specified that a preliminary notification to take over the land by the concerned district collector, and a 30 days period from the date of notification was available for the 'persons affected' to object or seek clarification on compensation, and the commencement of the process of Land Acquisition began with the notification. The district collector acted as the acquiring authority and had to declare that the land acquisition exercise is for public purpose and after the 30 days period of notification, freed the Government from all encumbrances and subsequently the Government held all rights and usage over the land acquired. Even if the 'persons affected' had objections to the acquisition of land, and if dissatisfied with the compensation provided, it became the sole responsibility of 'people affected' to approach courts for justice, and not the acquiring authority i.e., the district collector.

Hence the entire process specified by the LAA of 1894 was unilateral and beaucratic top-down approach, which empowered the district Collector as the agent of State playing a decisive role. It does not specify about

---

<sup>4</sup> ibid., pp 40



the Rehabilitation and Resettlement (R&R) package for the persons affected, and also about the replenishment of land/forests or water bodies that are acquired for the 'public purpose'<sup>5</sup>. Further, the customary right of the forest dwellers, peasant communities and other social categories depending on the forest/land and water bodies for livelihood was not taken into any consideration. Even the meager compensation that was floated by the State was only available for those who had the legitimate ownership of the lands through 'Pattas', and the rest were notionally perceived as 'encroachers' as per the LAA of 1894.

Going by the provisions of LAA 1894, the various Indian tribal communities which accounts up to 8% of the total population of our country, enjoying customary rights over forest and lands became 'encroachers', and even the modest estimates reveals that 60% of the displacees due to various industrial and dam projects happen to be the tribes in India<sup>6</sup>.

The Sardar Sarovar Project (SSP) in the Narmada Valley, Gujarat, was one of the first mega projects to provide the learning discourse on the legal tangles of land acquisition, rehabilitation and resettlement packages for the oustees, and the rights of the tribal communities, whose ownership of land and forest is community based. Although the Foundation for the Sardar Sarovar Project was laid in 1961, it progressed as a development scheme funded by World Bank in 1967, and the construction of the one main dam and other small and medium dams began actively in various phases from 1970s onwards. The states of Gujarat, Maharashtra, Madhya Pradesh and Rajasthan, were declared as the stakeholder states of this project in terms of water and electricity.

Except the state of Rajasthan, the states of Gujarat, Maharashtra and Madhya Pradesh, respectively, had to fulfill the process of land acquisition from numerous tribal and non-tribal communities/villages, to build the mega dam and numerous small and medium dams as part of the Sardar Sarovar Project (SSP). The Narmada Water Dispute Tribunal (NWDT) was created in 1969 to study the water sharing rights between the stakeholder states of the SSP, mark the height of the main dam and other small and medium dams, and other issues of the SSP and gave its verdict in 1979 outlining the sharing of water, height of the dam and also the number of villages' in detail to be acquired for dam site area. Although the guiding principles of the NWDT also provided resettlement policy and strategy of the displaced people, it did not assertively address the social and anthropological rights and views of tribal communities from all the respective stakeholder states. After a series of protest by various civil societies and tribal communities in Gujarat as Save Narmada Valley, the Government of Gujarat (GOG) was the first state in India to recognize the semi legal rights of the tribal community of the land and worked out the first Rehabilitation and Resettlement (R&R) package in 1987. This was slowly emulated by Maharashtra and Madhya Pradesh Governments to work out on R&R packages although the implementation of these packages faced several delays and challenges.

<sup>5</sup> See Úsha Ramanathan', "The Land Acquisition Act 1894 – Displacement and State Power", in India: Social Development Report, Edited by Hari Mohan Mathur, Oxford Publications, New Delhi, 2008, pp.27-29

<sup>6</sup> 'T K Oomen', "Protest Against Displacement by Development Projects: The India Case", India: Social Development Report, Oxford Publications, New Delhi, 2008, pp.76

The Save Narmada Movement continued its fight for the rights of tribal and non-tribal communities, whose land was acquired to be submerged/built in area for the dam, from the states of Gujarat, Maharashtra and Madhya Pradesh, steadily gained a steady national media attention and also judicial attention from 1987. This led to multiple opportunities for the academic, bureaucratic and political discussions and debates of Rehabilitation and Resettlement (R&R) packages as an inherent component of land acquisition process. The first achievement of collective movement of Save Narmada movement can be perceived in terms of amendment of LAA of 1894 in 1988. The amendment brought in key changes with regard to enhanced transparency in land acquisition process, consent of landowners for both public-private partnership projects and also the private projects, Social Impact Assessment (SIA), compensation timelines etc., Although the amendment did not completely address the holistic social-economic and political issues of land and its people, it achieved the first step of recognizing the customary rights of people with their land, and also altered the narrative of 'encroachers'. Secondly, it pushed for Rehabilitation and Resettlement as the duty of the State towards the customary land owners, against ideal of mere 'public purpose' which was not defined. After a long drawn legal battle and protests, the Sardar Sarovar Project construction reached its final stage of completion and the Sardar Sarovar Dam (SSD) – the main dam, was inaugurated in 2017<sup>7</sup>.

The case of anti-Coco-Cola struggle in Plachimada, Kerala, in the 2000s is an example of struggle against the transnational corporations in the Post liberal period in India. The Hindustan Coca-Cola Beverage (HCCB) is an Indian bottling entity of the Coca-Cola Pvt. Ltd. that set up its Plant, in Perumatty panchayat in Palakkad district of Kerala in 2000. The operation of this Plant led to serious pollution issues observed within a few months and the continuous extraction of ground water although with the permission of Perumatty panchayat led to genuine health and water concerns among the villagers. The tribal and other communities of the Perumatty panchayat held protests against the misuse of the natural resources, and with the formation of the Coca-Cola Virudha Janakeeya Samara Samithy (Anti-Coca-Cola Peoples Struggle Committee) the environmental movement gained momentum and due recognition.

In 2003, the Perumatty panchayat, revoked the license of the Plant and this was legally challenged by the Coca-Cola Pvt. Ltd questioning the knowledge, expertise and decision of a local Panchayat in statutory matters such as land allotment and license renewal and filed a petition in Kerala HC in Nov 2003. The Kerala High court finally upheld the Panchayat's order of canceling the license of the company, directed the Coca-Cola Pvt. Ltd. to find alternative sources of water for production, close all bore wells, and stop the extraction of ground water beyond 34 acres of land. This historical judgment held ground water as a public property and no private party can hold exclusive rights over the ground water and declared that the panchayat was very much in the constitutional limits to cancel licenses of private parties for public welfare<sup>8</sup>. Although the compensation towards the villagers who have been the victims of ground water pollution is still pending, the

<sup>7</sup> See 'Anil Patel', "Resettlement Politics and Tribal Interest", in *Dam and the Nation*, Ed by Jean Dreze, Meera Samson and Satyajit Singh, Oxford Publications, Delhi, 1997, pg. 7

<sup>8</sup> Ç R Bijoy', "Kerala's Plachimada Struggle – A Narrative on Water and Governance Rights", EPW, Vol 41, No.41, Oct 14, 2006, pp.4336-7

Plant is understood to be permanently closed, and the Supreme Court has dismissed all the petitions filed by the Coco-Cola Pvt. Ltd in 2017 upholding the water and land rights of the Permatty Panchayat.

### **Land Acquisition, Rehabilitation and Resettlement (LARR) Act of 2013**

The case study of various protest movements highlights the active role of Indian academics, bureaucracy and the judiciary in assessment and evaluation of various petitions against the mega projects, and the negotiations for better Rehabilitation and Resettlement (R&R) packages. The recognition of customary rights of tribal communities, farmers, and others, R&R packages, transparency and fair compensation, mandatory SIA, land acquisition for market value, definition of 'public purpose' etc. finally culminated in the enactment of LARR in 2013. The 119 years of journey from the colonial Law of LAA of 1894, to the enactment of LARR in 2013 is the beginning of understanding that the natural resources specifically land and water as not only economic necessities, but also as socio-anthropological realities, and most importantly the process of involvement of all stakeholders in decision making process. Also, the active role of local self-government like panchayats enacted through 73<sup>rd</sup> and 74<sup>th</sup> amendments of our constitution provides the space for decision making process in terms of use and safety all natural resources. This is clearly observable in the anti-Coco Coal Protest of Kerala. We understand that important lessons have been learnt in post-colonial experimentation of Nation building though many of the socio-environmental movements like Save Narmada Movement in Gujarat anti-Coca-Cola Struggle in Kerala, and with the enactment of the LARR in 2013, it broadens the horizon of understanding people, their land, and the complex relationships with land and its uses.

### **CONCLUSION**

The Land Acquisition, Rehabilitation and Resettlement Act of 2013 definitely fairs better than the Land Acquisition Act of 1894, in terms of definition of 'persons affected' as it includes every social category like fisher folk, cattle grazers and others who depend on land and forests for various livelihood. The people-centric approach in this act lists and ensures various measures including market value for land acquired, survey of the customary ownership of lands of tribal communities and providing the same compensation, mandated Social Impact Assessment by experts, involvement of local self-governments, public hearings, time-bound measures to deliver compensation, and other features/measures. But the LARR Act of 2013 is not clear about the replenishment of public bodies like water bodies, forests and other resources that can be acquired for mega projects. Also the definition of 'Public purpose' as 'any work that is useful for general public, still gives the space for the State to acquire vast tracts of agricultural lands and may lease out to private Industrial hubs. The LARR Act of 2013 has its merits in terms of better R&R packages and democratic decentralized process, but is only 12 years old in operation and has to be assessed to understand its implications. There is also valid apprehension that some of the existing state laws and amendments of the laws related Land Acquisition and process should not dilute the purpose of LARR Act of 2013. One has to wait to see the success or lessons for future from the exercise of LARR Act 2013.



## References:

Ábhijit Guha', "Land Acquisition in a west Bengal District", *EPW*, Vol.39, No.42 (Oct.16-22, 2004), pp.4620-4623

'Ambrose Pinto', "Fillip to Land Transfer: Land Acquisition Bill 1988", *EPW*, Vol.33, No.49, (Dec 5-11, 1998), pp. 3107-3109

'Ámita Baviskar', "In the Belly of the River", *Oxford University Press*, New Delhi, 1995

'Brian Lobo', "Land Reforms: Turning the Clock Back", *EPW*, Vol.37, No.6, (Feb.9-15, 2002), pp.529-532

Ç R Bijoy', "Kerala's Plachimada Struggle – A Narrative on Water and Governance Rights", *EPW*, Vol 41, No.41, Oct 14, 2006

'Hari Mohan Mathur' (Ed), "India: Social Development Report", *Oxford Publications*, New Delhi, 2008

'Jean Dreze, Meera Samson and Satyajit Singh', (Ed), "The Dam and the Nation- Displacement and resettlement in the Narmada Valley", *Oxford Publications*, Delhi, 1997

'Manoranjan Mohanty', (Ed), "India: Social Development Report: The land Question and the Marginalized", *Oxford Publications*, New Delhi, 2011

'Mohammed Asif', "Land Acquisition Act: Need for an Alternative Paradigm", *EPW*, Vol.34, No.25 (Jun. 19-25, 1999), pp.1564-1566

'Namita Wahi', "Equity of Land Acquisitions", *The New Indian Express*, 30/11/11, pp.8

'Satyagit Singh', "Taming the Waters: The Political Economy of Large Dams in India", *Oxford University Press*, New Delhi, 1997

'Walter Fernandes', "Land Acquisition (Amendment) Bill, 1998- Rights of Project Affected People Ignored", *EPW*, Vol22, No.42/43 (Oct 17-30), 1998, pp.2703 – 2706

The Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013, published by Ministry of Law and Justice, in the Extraordinary Gazette of India, on 27<sup>th</sup> September 2013, New Delhi. (total No. of pages - 45)