

IMPACT OF LAND ACQUISITION ACT, 2013 – EMPIRICAL STUDY ON MALLANNA SAGAR PROJECT –TELANGANA STATE

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ABSTRACT

This article critically explores the legal issues confronting internally displaced people within the context of the Land Acquisition Act of 2013 comparing with the Act No 21 of 2017 (Telangana LAA), with a focused examination on the Mallanna Sagar project in Telangana. Through an in-depth analysis. It aims to shed light on the complexities surrounding land acquisition, assessing the impact on displaced individuals and evaluating the effectiveness of existing legal frameworks in safeguarding their rights. The study delves into the nuances of the Mallanna Sagar Project, investigating potential discrepancies between legal provisions and their practical implementation, thereby contributing to comprehensive understanding the challenges faced in internally displaced populations in the realm of land acquisition law.

INTRODUCTION:

In the context of land acquisition, the complex interplay between project development and human rights protection has become increasingly important. This article critically addresses the legal challenges faced by internally displaced individuals (IDPs) under the conditions of the Land Acquisition Act of 2013 and the Telangana State Land Acquisition (Consent Award, Voluntary Acquisition, and Lump Sum Payment towards Rehabilitation and Resettlement) Rules, 2017 (Act No. 21 of 2017), with a focus on the Mallanna Sagar Project in Telangana. The impact of population shifts and relocations on affected individuals. Emphasises the necessity of the current legal frameworks as nations attempt to build their infrastructure.

Prior to evaluating the legislation of the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement, Act 2013” (Ac. No. 30. of 2013) and “Telangana State Land Acquisition (Consent Award, Voluntary Acquisition, and Lump Sum Payment towards Rehabilitation and Resettlement) Rules, 2017 (Act No. 21 of 2017)”, this author has concentrated on the evolution of the “Eminent Domain concept and principle of public purpose,” such as the public purpose recognised by the judiciary while delivering various landmark judgements. The researcher also verified precedents and the laws declared by the Indian Judiciary in different situations and further dichotomized the doctrine of eminent domain and the concept of public purpose. The Indian judiciary adheres to precedents and the idea of public purpose while also drawing comparisons with the judiciaries of other nations.

The term ‘eminent domain’ refers to the power of the sovereign to take property for public use without the consent of owners of lands. Eminent domain is the legal theory that underpins



the authority to seize private property or any land. According to the principle of eminent domain doctrine, every sovereign in the world can take any action as long as it serves the public good. According to this concept, even the state has discretion of power; for paying just compensation policy, the sovereigns may purchase private lands as long as it can be proven beyond a reasonable doubt that the land would be used for public purposes. This theory has been contested twice (roughly speaking) in the history of contemporary India: first, when land reform was introduced, and again, when banks were nationalised. Society revolves around the concepts of eminent domain and the right to property.

Right to Property under Indian Constitution:

The author has examined Articles 19 and 31 of the Indian Constitution initially stipulated that the right to property, which includes land, is a legal right under the government alone. Every citizen has the right to own, possess, and dispose of property, as guaranteed by Article 19. According to Article 31, "no person shall be deprived of his property save by authority of law." Additionally, it said that anyone whose property was taken for public needs would receive compensation (sometimes subject to a wide range of meanings). Removing the right to property from the list of fundamental rights and adding Article 300-A—which states that "no person shall be deprived of his property save by authority of law"—to the Constitution marked the 44th Amendment's effective date as of 10.6.1979. The amendment made sure that the right to property is now a constitutional or legal right and a statutory one rather than a fundamental one. In the event that this right is violated, the aggrieved party may seek redress in the High Court under Article 226 of the Indian Constitution rather than in the Supreme Court under Article 32 of the Constitution.

The Constitution, Seventeenth Amendment Act, 1964 mandates that the state provide market value compensation for any land, building, or structure that is acquired. This requirement is consistent with previous rulings that established the fundamental nature of property rights, such as 1954 AIR 170 and 1954 SCR 558, which established that the term "compensation" used in Article 31(2) implied full compensation, which is the property's market value at the time of acquisition. The legislature has to "ensure that what is determined as payable must be compensation, that is, a just equivalent of what the owner has been deprived of." The fundamental right to property has been abolished because it is incompatible with the objectives of "justice," social, economic, and political, as well as "equality of status and of opportunity" and the establishment of "a socialist democratic republic, as contemplated by the Constitution," according to a ruling made by Justice O Chinnappa Reddy in the State of Maharashtra v Chandrabhan Tale, 1983 AIR 803 and 1983 SCR (33) 327 case on July 7, 1983. It makes no sense to replace the old understanding of property with a new one that would preserve the semblance of the Laissez-Faire theory and establish a new oligarchy in the name of efficiency. There are numerous dimensions to efficiency, and there is yet no perfect test to meet the diverse requirements of a developing society like ours.



Justice O. Chinnappa Reddy developed the notion of efficiency along with the requirement of infallibility.

Role of United Nations:

In order to comprehend the extent of property rights, which are global, it is important to be aware of the conceptual and doctrinal gaps pertaining to internally displaced individuals (IDPs) in relation to UN guidelines. The researcher has used a methodical approach to comprehend the scope of the study. The UN has developed a number of guidelines and principles concerning IDPs, and a careful examination of these papers is necessary to comprehend any doctrinal or conceptual absence. The guiding concepts of internal displacement are one of numerous concepts that the researcher has recognised as being important to displaced people.

The author has carefully reviewed all of the definitions, tenets, and regulations pertaining to the protection and help of internally displaced people. The author also carefully examines conceptual frameworks within the rules and compares them with other pertinent international treaties, human rights conventions, and land laws, such as the refugee conventions. The researcher has studied case studies from around the globe and undergone legal analysis to comprehend the legal ramifications of the conceptual and doctrinal issues.

Now development is an important concept across the world. For the development, land is an essential requirement for the developmental project. In many cases, global governments require private lands, and the documentary process is something different from the practical process of acquisition. This entire thesis is a study of land acquisition laws, the land acquisition process, and modes of compensating the affected people while excluding the causes of internal conflicts, violations, floods, earthquakes, starvation, nuclear-planned establishments, and environmental causes.

Union Legislation Act of 2013:

The Land Acquisition Act of 2013 is the primary piece of law governing the land acquisition process in India. However, a more thorough analysis of this legal framework's real-world implications is required, especially in light of the rights and welfare of internally displaced persons. The state government was chosen due to the "Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump Sum Payment, Towards Rehabilitation and Resettlement Rules), 2017," which is now causing problems. "Whenever the huge area of land is going to be acquired, as per the statutory provisions, no-irrigational lands shall be acquired," as per Section 10 of the Act of 2013. In Section 10(1) that "Whenever multi-crop, irrigated lands are acquired, then an equivalent waste land shall be developed for agriculture purposes and for resettlement." It was mentioned in Chapter-III, Section 10, Act 30 of 2013, and Special Provisions to safeguard food security



- a. "Save as otherwise provided in sub-section (2), no irrigated multi-cropped land shall be acquired under this Act.
- b. "Such Land may be acquired subject to the condition that it is being done under exceptional circumstances, as demonstrable last resort, where the acquisition of the land referred to in sub-section (1) shall, in aggregate for all projects in a district or state, in no case exceed such limits as may be notified by the appropriate Government considering the relevant State specific factors and circumstances."
- c. "Whenever multi-crop irrigated land is acquired under sub-section (2) an equivalent area of culturable waste land shall be developed for agricultural purposes or an amount equivalent to the value of the land acquired shall be deposited with the appropriate Government for investment in agriculture for enhancing food security."
- d. "In a case not failing under sub-section (1), the acquisition of the agricultural land in aggregate for all projects in a district or State, shall in the case of projects that are linear in nature such as those relating to railways, highways major district roads, irrigation canals, power lines and the like."

Thereby all the earlier enactments and all National Policies replaced by the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" (Act No 30 of 2013). This legislation aims to ensure the process to acquire the lands with Consultation with institutions like, Local Self-Government and Grama Sabhas,' this legislation further directs the acquisition authority that 'no award under section 11 has been made then all proceedings under the provisions of Act 30 of 2013.'It further directs that according to section 10 of the Act, 'no irrigated multi-cropped land shall be acquired and sub-sec (1 to 04) of the section 10 of Act, 2013 provides 'special provisions for safe guard food security. These provisions are directive nature, no irrigated multi-cropped shall not acquired and if such lands are acquired subject to under any exceptional circumstances, it should be last resort and this provision further directs the acquisition authorities that 'whenever multi-cropped lands are acquired then an equivalent area of cultivable waste land be develop for agricultural purposes or an amount of equivalent to the value of the land acquired shall be deposited with appropriate government."

New comprehensive laws pertaining to rehabilitation, resettlement, and property purchase. There is a clear definition of the public purpose in infrastructure; special measures have been taken to guarantee food security; the minimum compensation for land loss has been established; and the minimum rehabilitation and resettlement entitlement has been established. The Act's provisions regarding land acquisition, rehabilitation, and resettlement will be applicable when the government purchases land for public sector, private enterprise, or public-private partnership projects. If land is being acquired for private companies or public-private partnership projects, consent from 80% or 70% of the landowners is required, respectively. The Act exempts 13 Central Acts listed in the fourth schedule from its provisions.

- The urgency clause's use is restricted;
 - Scheduled tribes and scheduled castes are given special treatment.
 - The Act's expanded role for local self-government.
 - The collector's role in determining the public purpose has been diminished. All government-aided land acquisitions must undergo a social impact assessment.
- Companies and the government are subject to a strict and comprehensive penalty regime. States are granted flexibility on a variety of topics.

The "Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump Sum Payment, Towards Rehabilitation and Resettlement Rules), 2017," (Act No. 21 of 2017), seeks to swiftly obtain without following the proper procedures for a social impact assessment and without a detailed report, as required by Act No. 30 of 2013. As per Act of 2017, the impacted parties receive the following awards:

250 Sq.yds Plot + Construction Cost Rs. 5,04,000/-;

Two-bedroom (2BHK) within 250 Sq. Yds;

For lively hood package Rs. 7,00,000/-; and

For 18 + package Plot with extent of 250 Sq. Yds;

Land Package as Rs 7,00,000/- including solatium to the displaced families.

Under the package, there are two options: the first is a 2BHK in 250 square feet, and the second is a 250 square feet plus construction option that requires a cash payment of Rs 5,04,000. In order to provide beneficiaries with plots, the government created plans with infrastructure that included roads, underground drainage systems, connections for drinking water, greenery, and other amenities. It also promised to provide parks, schools, hospitals, crematoriums, and other facilities in addition to houses of worship.

The author has further focuses on the difficulties associated with rehabilitation cum resettlement arising from the internal displacement or dislocation of internally displaced people (IDPs), a major human rights concern in our country. The ancestral dwellings of many who were uprooted as a result of this disruption were lost. The eviction process actually comprised coercive techniques, fraudulent acquisition methods, and involuntary evictions, which left IDPs with horrific effects, despite the legislation calling for taking land peacefully and through consent processes. This displacement is not the result of any natural event, such as an earthquake, tsunami, hurricane, or flood; rather, but it is a man-made product. As a result of this man-made displacement, the political government has seized land through development; modern development is the main cause of displacement.

It is important to note that of all signatories to the Guiding Principles of United Nations¹ has an obligation to protect, preserve and take appropriate measures to preserve the



International National Principles and schemes of the Federal States of India and the Union Governments in accordance with their signatures on the resolution.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2016 (Act No 21 of 2017 amending Act 30 of 2013 and adding Section 31A to Act 30 of 2013 with retrospective effect from (01-01-2014) proceeded for acquisition. Subsequently Act No 21 of 2017 was passed by the State of Telangana; Sec 31a states that;

31A:- Payment of Lump sum amount by State Government-Notwithstanding anything in this Act, whenever the land is to be acquired for any projects as notified in section 10A, it shall be competent for the State Government to pay such lump sum amount as may be prescribed in the rules in lieu of Rehabilitation and Resettlement.”

“Provided that the payment of such lumpsum amount in lieu of Rehabilitation and Resettlement as may be prescribed, shall not be abnormally at variance to the disadvantage of the effect families.”

This amendment deprives the land losers and the Telangana Judiciary also upheld in several judgements passed in relevant cases that “vide this provisions the state is depriving lawful compensation and Rehabilitation and Resettlement to violates Art 14 and Art 300-A of the Constitution of India² and the Act No 30 of 2013.

The Land Acquisition Act, 2013 is an Indian Legislation that governs the process of acquiring Land for public purposes. This Act was enacted to address issues related to compensation, rehabilitation and resettlement of affected person when the land is acquired for various projects. The author has further examined about the salient features of the Land Acquisition Act, 2013. If the land is acquired for private purposes then the statutory provisions directs that consent of a specified percentage of land owners (Usually 80% in the case of private projects) for projects. This legislation specifies the principles for determining compensation, which includes market value, solatium, additional compensation, rehabilitation and resettlement provisions and other entitlements for affected people.

During the process of land acquisition the social impact assessment is crucial related to certain projects, a social impact assessment is required to conduct to assess the potential impact on affected families and to suggest mitigation measures. This legislation further provided scheme for rehabilitation and resettlement process which involves providing alternative land, housing and livelihood assistance to those affected by the land acquisition. The Government is empowered while invoking the principle ‘eminent domain’ and it can be acquired for the purpose of public purposes. Even it acquires land for public purposes; the legislation provides review of acquisitions in accordance with the law. This legislation further



provides that compulsory employment to at least one member of each affected family and in case of multiple affected families. There is a Internal Rate of Return (In short IRR) formula of determining compensation, which takes into account factors such as the market value of the land, value of assets attached to the land and other relevant factors. There is a mandatory direction that “No Acquisition of Multi-Cropped Land,” according to this provision agricultural land and multi-cropped lands are prohibited to acquire. In further if the land is acquired in Scheduled areas, the consent of Grama Sabha is required before land acquisition can proceed.

The “Land Acquisition Act, 2013” is compared with the “Telangana State Amendment (Act No. 21 of 2017)”. As the Union legislation addresses issues related to fair compensation, the objective of the Telangana State Amendment legislation is the lump sum amount, examining rehabilitation and resettlement of affected persons. In the “Act of 2013”, the “Act of 2017” speaks about lump sum payments towards rehabilitation and resettlement. It is further examined that, in accordance with the “Act of 2013” and “Act No. 21 of 2017”, the fair compensation policy is absence, and the Telangana State has paid the lump sum amount. It is further examined that there is no study of social impact assessment according to “Act No. 21 of 2017” as a mandatory provision in the Act of 2013. According to the “Act of 2013”, the provision speaks about the “Fair Compensation, Rehabilitation, and Resettlement Policy”, but “Act. No. 21 of 2017” speaks of a single option to choose. It is absence that provides alternate lands to the victims, and the livelihood scheme is also not properly determined by the acquiring authority. The “Act of 2013” speaks about compulsory employment for at least one member of each affected family, and in the case of multiple affected families, at least one member of each family should be provided with a job. Compared with the implementation scheme under “Act No. 21 of 2017”, it bypasses this option.

It is pertinent to mention that according to “Act 31 of 2013” mandates that “no acquisition of multi-crop land,” agricultural lands are prohibited, further demonstrating that it should be the last resort of action, but under the Mallanna Sagar project, the state has chosen bypass methodology and further examined that in the absence of Grama Sabha consultation, it is a total failure.

The demonstrators raised a unique plea for the “R & R” Packages” being released in compliance with the ‘Act of 2013.’ Displacement from ancestral homes and undeniably disconnect from their past culture, customs and traditions were major difficulties for affected people. The state government has chosen to move bypass roads into effect under ‘Chapter-II, III and IV of the LA, R& R Act, 2013’ in order to implement this programme. The Mallanna Sagar project can be used as an example of significant human rights violations as well as where the minimum standards were not observed when over ten thousand people were made homeless.



The affected people alleged before the Hon'ble Apex Court of Telangana that the government was forcibly evicted from their lands and hereditary habitations, especially in the midnights. While evicting them, the government used coercive tactics and forced them to sign 'consent awards' in which they were offered an arbitrary price for their lands in affected villages. According to G.O.Ms.No 123, the state government's compensation was inadequate. According to the said G.O., there is no separate scope for rehabilitation and resettlement benefits to which they are entitled under the 'Act of 2013', and they further alleged that while implementing the said G.O.Ms.No 123 of 2015, the provisions are violative in accordance with Art 14 and Article 300-A of the Indian Constitution. In their legal pleadings, which were submitted before the Hon'ble Apex Court, it is pleaded that 'section 23 of the Indian Contract Act, 1872' and 'Act No 30 of 2013' they have further alleged that the mechanism was coerced into signing consent awards; thereafter, the affected people were forcibly disposed of their lands and structures and meagre compensation was granted to them, contrary to "Act No 30 of 2013. This G.O and Act No 21 of 2017 was not applied to statutory rights to the categories of persons such as agricultural labourers, village artisans, Scheduled Tribes, Forest Dwellers and Assignees etc.,

Conclusion:

Tears fill everyone's eyes, enquired that wondering how many people have benefited by this package, they were answered that they lost hereditary habitations, agriculture and allied activities and leading simply lives. The "Act of 2013" provides that the Persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons. But this Telangana amendment does not seem to be like.

REFERENCES:

1. *Articles 19 and 31 are incorporated under Part-III of Indian Constitution and these articles guaranteed under Fundamental Rights which are enforceable under Art 32 & 226 of Indian Constitution.*
2. *See Resolution passed by UNO – Secretary-general in 1996, et al., E/CN.4-1996/52/Add.2.*
3. *Guiding Principles of United Nation- 1998, Several states were participated in passing resolution on Guide Lines and all the member states become obligatory to protect and implement the principles of guide lines at in their respective states and also formulate the policies according to the guide lines*
4. *(Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" (Act No 30 of 2013).) This is Union Legislation which enacted after long legal and social battle, prior to this Act No 60 of 1948 was enacted by interim Government post-independence. Nearly 6 decades taken time to enact replacing Act 1894 which was colonial law.*
5. ¹ *(The Telangana State Land Acquisition (Consent Award, Voluntary Acquisition adn Lump Sum Payment towards Rehabilitation and Resettlement) Rules 2017 (Act No 21 of 2017) Act 21 of 2017 was passed by the State of Telangana amending the Act 30 of 2013 retrospectively effect from 01-01-2014, through amending Act added sec.31A after sec 31 of Act 30 of 2013.*



6. *Articles 19 and 31 are incorporated under Part-III of Indian Constitution and these articles guaranteed under Fundamental Rights which are enforceable under Art 32 & 226 of Indian Constitution.*
7. *Article 300-A is inserted by 44th amendment, 1978 under Indian Constitution. Which speaks about “which no person shall be deprived of his property save by authority of Law.” This was Incorporated under 14th Amendment and ratified in 1868 of USA Constitution. Initially this principle used by federal Government for the purpose of constructing government buildings, other facilities like public utilities, highways and rail roads. Under this principle it was recognised that land losers must pay just compensation. The Judiciary of the USA has played a significant role in interpreting the principle.*
8. *See Resolution passed by UNO – Secretary-general in 1996, et al., E/CN.4-1996/52/Add.2*
9. *See report of UNCHR Report, Published by UNO – www.uno.org/unchr-reports*
10. *See colonial legislation, the Land Acquisition Act of 1894.*