

# Development at the Cost of Rights: Evaluating Human Rights Protection for Evictees under Indian Land Acquisition Framework

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**Abstract**— This paper examines the human rights aspects of land acquisition in India, focusing on the protection of evictees under constitutional and statutory provisions. It highlights key rights such as the right to life and livelihood, equality, participation, shelter, and remedy. The study analyzes the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and how far it ensures fair treatment and rehabilitation of affected people. While the Act represents a progressive step toward rights-based development, gaps in implementation and enforcement continue to challenge its effectiveness. The paper concludes that a stronger, more participatory approach is essential to achieve a balance between development and human rights protection.

**Keywords**- Land Acquisition Law, Right to life, Human Rights of displaced people, Rights of Evictees, Right to Fair Compensation, Right to Land Index Terms.

## I. Introduction

According to the United Nations, human rights are "basic rights and freedoms that every person is entitled to, regardless of their nationality, gender, ethnic or national background, race, religion, language, or any other status." These rights are universal and equal, meaning that all individuals have the same rights simply by being human. In both domestic and international legal frameworks, these rights can be recognized as either natural or legal rights. The concept of "human rights" is a relatively recent development and includes three categories of rights.

- (i) Fundamental freedoms or traditional civil liberties
- (ii) Ethnic and religious rights, and
- (iii) Socio-economic rights.

Some constitutions have listed the first and second amendment rights and tried to establish judicial enforcement. Although the third category has not yet been enforceable in the constitution, some constitutions refer to it as "directive principles of state policy. We can summarize that human rights are the basic rights that every person has just by being human. No authority can create or take them away. The Constitution Bench of the Hon'ble Supreme Court observed that fundamental rights are a gift from the state to its citizens, which is a misconception. Individuals have essential human rights that exist independently of any Constitution because they are part of the human race.

## II. IDENTIFYING RIGHTS OF EVICTEES IN INTERNATIONAL DOCUMENTS

The International Law on Development-Induced Displacement must be thoroughly investigated in order to trace the rights of development-induced displacement victims. The most serious consequence of development-induced displacement is the widespread violation of victim's human rights. During displacement, these rights are commonly violated by denial of shelter, livelihood, communal resources, social security, and other necessities<sup>1</sup>. The Universal Declaration of Human Rights, as well as other special charters, declarations, agreements, or directives that defend these rights whenever the human rights of specific groups are violated, have shaped the development of human rights jurisprudence under international law today. Despite the fact

that the UDHR is regarded as an umbrella charter protecting all forms of human rights, many people believe that the rights of project-affected displaced people are not particularly addressed in the declaration<sup>2</sup>. Victims of development-induced displacement frequently raise objections to development programs that cause them to be displaced on the basis of their inherent right to land, shelter, livelihood, and environment. An analysis of the Universal Declaration of Human Rights (1948), shows that it supports these rights under Article 1, Article 3, Article 12, Article 13, Article 17, Article 21, Article 23, Article 25. These Articles confer many rights on all human beings such as Right to Equality, Freedom and Dignity. It also guarantees some important rights such as freedom of residence and travel within each state's border, right to possess property, right to work, right to equal pay for equal work<sup>3</sup>. Every individual is also given the right to just and favorable remuneration to ensure himself and his family have life with human dignity. It also guarantees social protection and the specific right to social security. The Universal Declaration of Human Rights recognizes the above-mentioned rights for all human beings in all circumstances and environments. These rights appear to defend the rights of victims of development-induced relocation, such as the right to shelter, livelihood, and social security. The victims of development-induced displacement are fighting not just the repercussions of development-induced displacement, but also the development paradigm itself, which causes displacement. It calls into question the core development model, which is founded on the political sanction that displacement is unavoidable and that development must be carried out at the expense of displacement. If a more thorough examination of the Universal Declaration of Human Rights is made from this perspective, certain additional rights for victims of development-induced relocation can be found there, albeit indirectly and using purposive interpretation mechanisms. The right to participate in the government of one's country is recognized in Article 21 of the Universal Declaration of Human Rights.

It recognizes the democratic right. Participating in governance entails the right to interact with affected parties before developing and finalizing a development plan. It also includes the right to participate in the decision-making process when a development module is implemented that has a negative impact on the affected groups. Right to participate in the formulation of a clear policy outlining the rights of those displaced and their right to partake in the advantages of such development, as well as the right to employment, alternative livelihood, alternative habitat, and social security.

As a result, it serves as a foundation for the rights of project participants without defining their unique rights. Furthermore, the perspective involved is that of the indigenous groups, who not only belong but also survive and prosper only in the formal and legal sense of the term, but in the traditional sense they have complete control over the natural resources in their habitat and cannot survive when uprooted from there. The Universal Declaration of Human Rights, in general, protects these rights, but these specific rights such as the right to self-determination or the rights of indigenous groups.

### III. Statutory and Constitutional Provisions Relating to Land Acquisition in India

The constitutional rights of evictees in India are based on the fundamental rights and human dignity outlined in the Constitution of India. While the Constitution does not directly state a "right against eviction," the courts have interpreted several provisions, especially Articles 14, 19(1)(e), 21, and 300A, to shield individuals from unfair displacement and to guarantee fairness, equality, and due process in land acquisition and rehabilitation. The Supreme Court has broadly interpreted the right to life under Article 21 to include the right to a livelihood, shelter, and a decent standard of living, as confirmed in key cases like *Olga Tellis v. Bombay Municipal Corporation* (1985) and *Chameli Singh v. State of U.P.* (1996). These interpretations acknowledge that forcing eviction without proper compensation or resettlement undermines the human dignity protected by the Constitution. Moreover, Article 14 protects evictees from unfair or arbitrary actions by the state, while Article 300A states that no one can be deprived of their property except through legal authority, ensuring that acquisition follows the proper legal process. Together, these constitutional provisions create a foundation for protecting the legal and human rights of evictees, balancing the state's development goals with the fundamental rights of citizens.

The key legislation for land acquisition in India is the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013)<sup>4</sup>. This law replaced the colonial Land Acquisition Act of 1894<sup>5</sup>. The 2013 Act was created to guarantee fair compensation, transparency, and appropriate rehabilitation for families displaced by development projects. It requires a Social Impact Assessment (SIA), consent from affected families in private and public-private partnership projects, and rehabilitation and resettlement (R&R) benefits for both landowners and those who lose their livelihoods. The law also specifies that land acquisition must serve a clear public purpose and that any unused acquired land should be returned to the original owners. The 2013 Act marks a move from mandatory acquisition to a rights-based approach, focusing on humane displacement, social justice, and inclusive development.

### IV. Human Rights Perspective on Land Acquisition and Displacement in India

#### 4.1. *The Right to Land*

Within the international bill of human rights, including the Universal Declaration of Human Rights (UDHR) and the two binding Covenants, the ICCPR and ICESCR, several articles are directly related to land rights<sup>6</sup>. The UDHR and ICESCR protect the right to an adequate standard of living, while the UDHR and ICCPR protect privacy and property rights. The right to adequate housing is particularly important, and land plays a critical role in fulfilling that right. For many people and entire communities, having access to land is often essential for achieving adequate housing. The topic of land is addressed in Article 17 of the Universal Declaration of Human Rights, Article 21 of the American Convention on Human Rights, and Article 14 of the African Charter on Human and Peoples Rights. These articles state that everyone has a right to their property, which can only be restricted by law for the public good. Article 21(2) guarantees that those who

have been displaced have the right to be compensated and restored. It ensures that property owners can live in their homes peacefully and cannot be evicted without cause. It also recognizes and protects the lands of indigenous communities. The right to land in India is a constitutional and legal right protected under Article 300A of the Constitution. This article states that no person shall be deprived of their property except by law. Although the right to property is no longer a fundamental right after the 44th Amendment in 1978, it still serves as an important safeguard against arbitrary acquisition. The Supreme Court has broadened the scope of Article 21 (Right to Life) to include the right to livelihood and shelter, linking access to land with human dignity, as demonstrated in the *Olga Tellis v. Bombay Municipal Corporation* case in 1985.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) recognizes land rights as a vital part of livelihood and human dignity. While the Act does not explicitly grant a fundamental right to land, it provides clear legal protection to make sure no one is deprived of land without proper process.

#### ***4.2. Right to participation***

The Right to Participation is recognized as a fundamental human right under international human rights principles<sup>7</sup>. It is firmly included in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Act ensures that affected people and local communities take part in every stage of the land acquisition process, from planning and consultation to rehabilitation and resettlement. Under Section 4(1), the government must consult the relevant Panchayat, Municipality, or Municipal Corporation. They are required to conduct a Social Impact Assessment (SIA) with their involvement before any land is acquired. Additionally, Section 41(3) specifically protects the rights of Scheduled Tribes. It requires prior consent from the Gram Sabha or Panchayats before acquiring land in Scheduled Areas. This reflects a commitment to participatory democracy and respect for indigenous self-governance. The consent requirement under Section 2(2) also ensures that at least 70% of affected families in public-private partnership (PPP) projects and 80% in private projects agree before the acquisition can move forward.

#### ***4.3. Right to be Heard***

The Right to be Heard is recognized as a fundamental human right under Indian law. It is reflected in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013). This right ensures that individuals and communities affected by land acquisition have a fair chance to express their concerns, objections, and suggestions before authorities make any final decisions<sup>8</sup>. It embodies the principles of natural justice and participatory governance. No person should lose property or livelihood without due process and consultation. Section 5 provides public hearings in the affected area, allowing local people to share their views and objections about the proposed acquisition. The Act also requires under Section 7(4) that the SIA Expert Group includes representatives from decentralized institutions. This ensures that community voices are part of the

decision-making process. Under Section 15 of the LARR Act, 2013, anyone interested in the land proposed for acquisition can object within 60 days from the notification date under Section 11(1). The Collector must give a personal hearing to all objectors and consider their views before submitting a report to the appropriate government. This process promotes transparency, accountability, and public participation in land acquisition. Therefore, the Right to be Heard under the Land Acquisition Act is more than just a legal requirement; it is a safeguard for human rights. It ensures that affected individuals have a meaningful voice in decisions that significantly affect their lives and communities.

#### **4.4. Right to Life and Livelihood**

The Right to Life and Livelihood is seen as a basic human right under Article 21 of the Constitution of India<sup>9</sup>. This article guarantees the right to live with dignity and security. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) protects this right. It ensures that no one is deprived of their land or livelihood without fair compensation and proper resettlement. Section 16 and 17 state that no person can be removed from their land until they receive compensation and the rehabilitation and resettlement arrangements are finished. Chapter V (Sections 31-42) specifically requires a rehabilitation and resettlement package so affected families can rebuild their lives and maintain their livelihoods after displacement. The Act also offers training, job opportunities, and support for infrastructure to help displaced people, especially vulnerable groups. By including these safeguards, the LARR Act acknowledges that losing land often leads to losing livelihood, particularly for farmers, tribal groups, and rural communities who rely on land for survival. Therefore, the Act puts into action the human right to life and livelihood by requiring fair, just, and inclusive processes in land acquisition.

#### **4.5. Right to Shelter**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) is an important protection that makes sure people and families displaced by land acquisition do not become homeless<sup>10</sup>. It recognizes shelter as a key part of the Right to Life under Article 21 of the Constitution of India. The Act requires that each affected family receives proper housing and resettlement facilities. According to Sections 31 to 42 of the Act, especially the parts about Rehabilitation and Resettlement (R&R), displaced persons must get a resettlement area with housing sites, basic infrastructure, and amenities like roads, water supply, sanitation, schools, and healthcare. For those who lose their homes in rural or urban areas, the Act guarantees either a house or financial help to build one. This legal recognition of the right to shelter supports the human right to live with dignity. It aligns with the constitutional aim of social justice and the idea that no development project should take away people's right to a secure home and a way to make a living.

#### **4.6. Right to Equality and Non-Discrimination**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) upholds the idea that all affected individuals must be treated fairly and without bias during land acquisition proceedings. This right, based on Articles 14 and 15 of the Constitution of India, ensures equality under the law and prohibits discrimination based on religion, caste, gender, or social status<sup>11</sup>. The Act offers special protections for vulnerable groups, particularly Scheduled Castes (SCs) and Scheduled Tribes (STs) in Sections 41 and 42, ensuring their rights to land, culture, and livelihood are supported through measures like prior consent, alternative land, and continued access to natural resources. Despite these protections, there are challenges in putting them into practice. Many marginalized groups still experience inequality in compensation, inadequate consultation, and delays in processes. Bureaucratic discretion and a lack of awareness among affected communities often result in unequal treatment, undermining the goals of fair participation and justice. Additionally, the Act's protections for women and landless laborers are not always enforced effectively.

#### **4.7. Right to Remedy**

The Right to Remedy under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) is a safeguard for human rights. It ensures that affected individuals have access to justice and legal options against wrongful or unfair land acquisition actions<sup>12 13</sup>. This right aligns with the broader principle that everyone should have an effective remedy when their rights are violated, consistent with Article 8 of the Universal Declaration of Human Rights and Article 21 of the Constitution of India, which guarantees the right to life and due process. Under the LARR Act, affected individuals have several legal options to challenge acquisition decisions, compensation awards, or rehabilitation measures. Section 64 grants the right to approach the Land Acquisition, Rehabilitation, and Resettlement Authority to seek new determination of compensation or contest decisions made by the Collector. Additionally, Sections 65 and 66 detail the process for appealing to the High Court against the Authority's decisions, ensuring judicial oversight and fairness. These provisions strengthen accountability and empower landowners and displaced individuals to demand transparency and justice. In practice, the right to remedy encounters challenges, such as delays in legal decisions, a lack of legal awareness among affected communities, and the financial strain of litigation. Many rural and tribal populations struggle to access formal legal systems effectively.

### **V. Conclusion**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013) marks an important step towards protecting human rights in land acquisition in India. It includes several essential rights that ensure affected individuals and communities are treated with respect. They should receive fair compensation, proper rehabilitation and have a voice in decisions that affect their

lives. The Act reflects constitutional protections found in Articles 14, 15, and 21 and supports international human rights principles that promote fairness, equality, and dignity in development. However, even with its progressive structure, the Act faces major challenges in implementation. Issues such as delays in compensation, bureaucratic inefficiency, and a lack of awareness among displaced people often undermine their goals of protecting human rights. Marginalized groups like women, landless laborers, and tribal communities still face inequality and exclusion in the process. Thus, while the LARR Act is an important legal tool that encourages a humane and inclusive approach to development, its success relies on transparent governance, strong accountability, and actively empowering communities to turn their ideals into real justice.

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