

Land Acquisition



The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

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**Conference on “Development and
Community Displacement, Legal and Social
implications of Compulsory Land
Acquisition”**

by

**Lahore High Court Bar Association” in
collaboration with “Centre for Law and
Social Policy (CLASP)”**

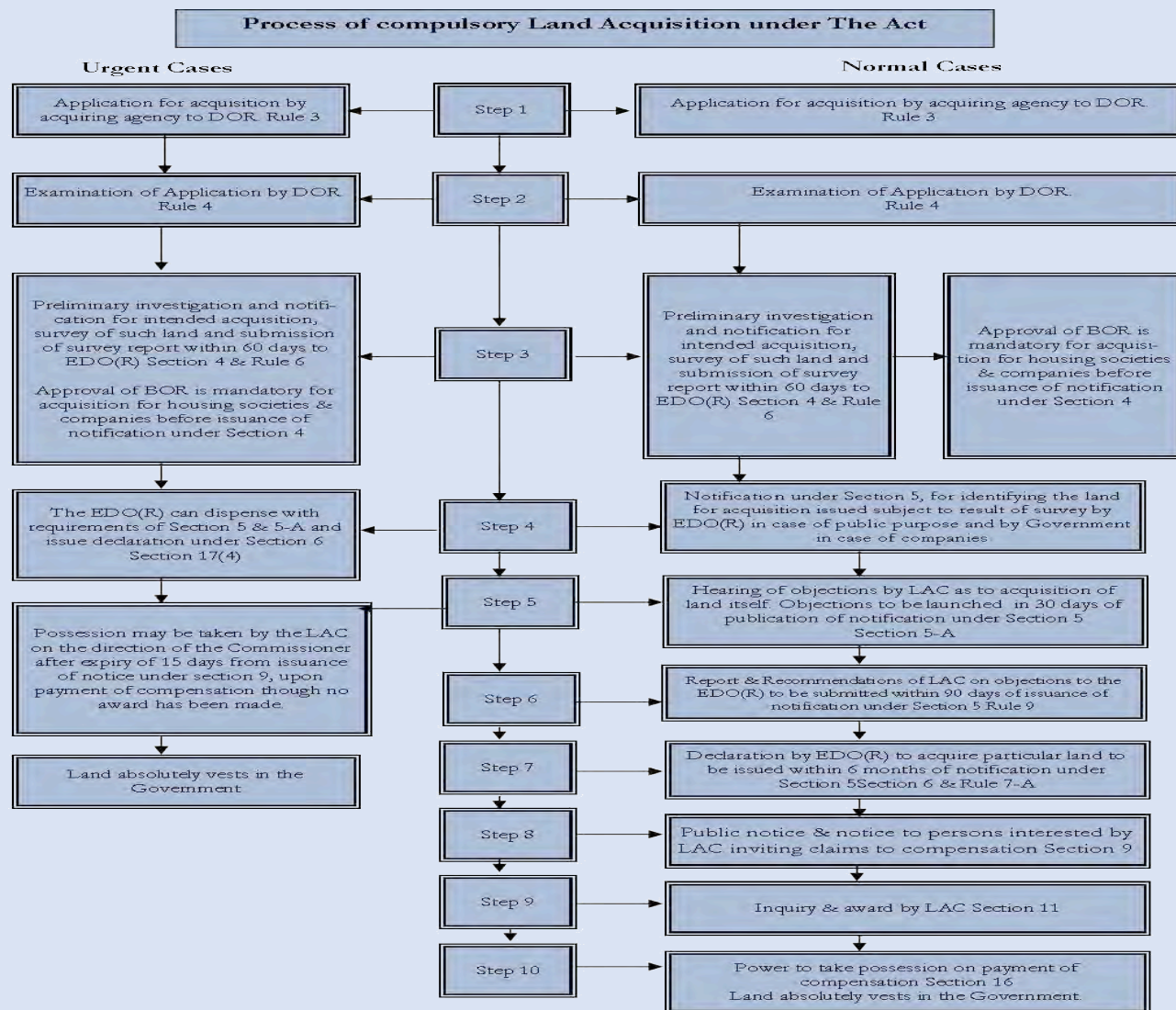


What is Land Acquisition?

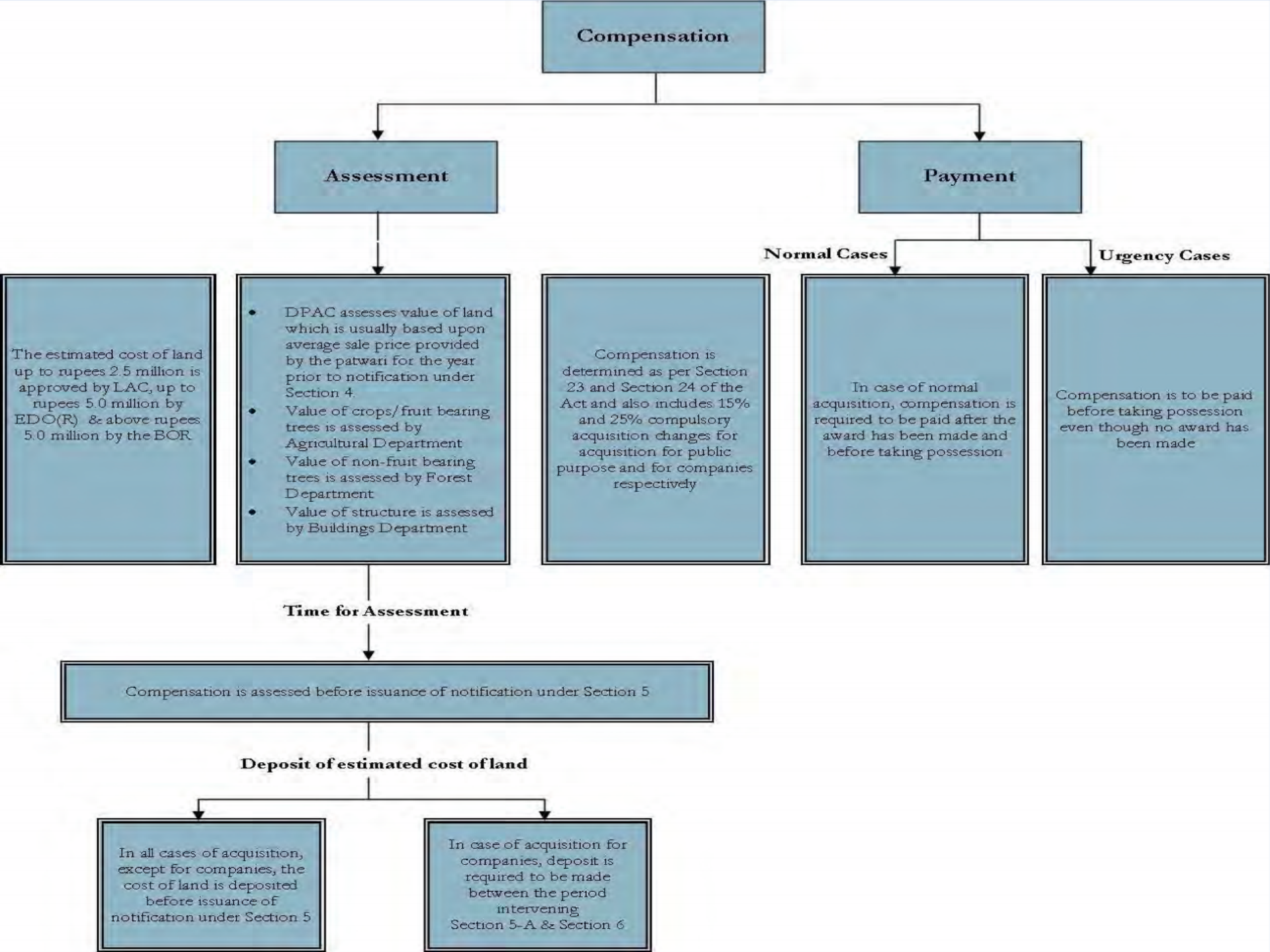
- Land acquisition is the process by which the government acquires private property for public purpose.
- Land acquisition in Pakistan is governed by Land Acquisition Act of 1894 .

Land Acquisition Act **1894**



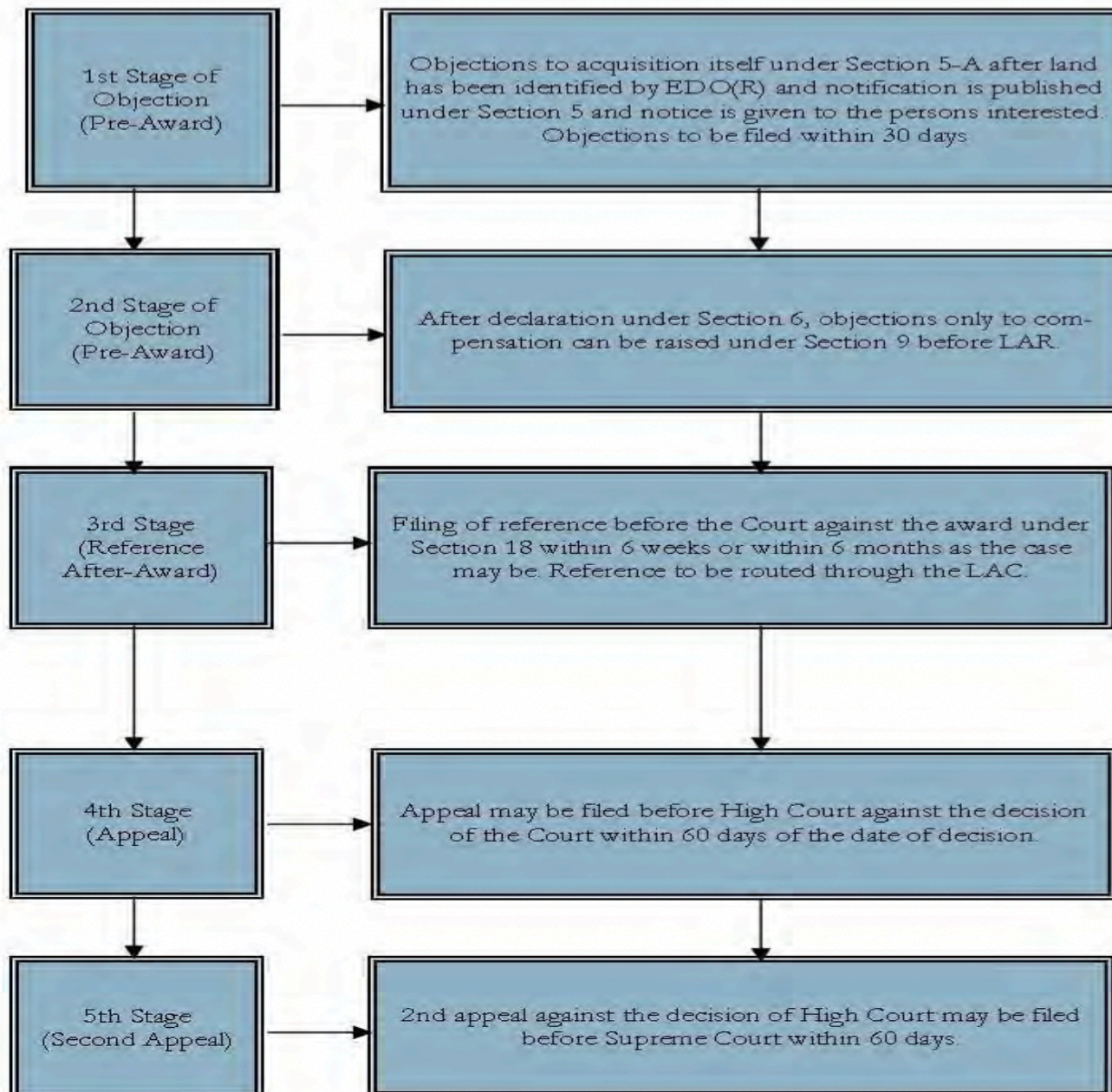


Figure—1



Process of Hearing of Objections and Remedies before Court

Normal Process



Constitutional & Other Processes



Key Problems with the Land Acquisition Act, 1894

- Under the 1894 Act, the government can acquire any land as it wishes to, in the name of "public purpose". The term "public purpose" is ambiguous and open to executive-discretion. So, poor peoples' land is acquired at throwaway prices on pretext of development projects.
- Sometimes such projects never started, and the same cheap land was resold at higher price to real estate developers, without building anything for "public purpose".

Contd.

- **No safeguards:** There is no real appeal mechanism to stop the process of the acquisition. A hearing (under section 5A) is prescribed but this is not a discussion or negotiation. The views expressed are not required to be taken on board by the officer conducting the hearing.
- **Silent on resettlement and rehabilitation of those displaced:** There are absolutely no provisions in the 1894 law relating to the resettlement and rehabilitation of those displaced by the acquisition.
- **Urgency clause:** This is the most criticised section of the Law. The clause never truly defines what constitutes an urgent need and leaves it to the discretion of the acquiring authority.

Key Problems with the Land Acquisition Act, 1894

- **Low rates of compensation:** The rates paid for the land acquired are the prevailing circle rates in the area which are notorious for being outdated and hence not even remotely indicative of the actual rates prevailing in the area.
- **Litigation:** Even where acquisition has been carried out the same has been challenged in litigations on the grounds mentioned above. This results in the stalling of legitimate infrastructure projects.

The shortcomings of the Act and the difficulties encountered in implementing the Act. The main issues identified are:

!. The Act fails to define public purpose which is a condition precedent to acquire land. This is one of the core reasons for misuse of the Act, particularly, in the case of Housing Societies/Colonies who manage to acquire land with commercial objectives under the garb of public purpose. Further, acquisition for companies may not be strictly for public purpose, but just useful for public. The Act also does not contain any provision prohibiting the change of public purpose for which the land was acquired.

2.The Act falls short in defining urgency. Unguided discretion has been conferred upon the Executive District Officer Revenue (EDO(R)) to decide whether an urgent situation exists. This leads to misuse of the urgency provisions and the discretion thereunder. In case of acquisition of land under the urgency provisions, persons interested have no right of hearing.

3.No time period is prescribed for the proceedings between each stage of the acquisition up to the making of an award and payment of compensation. This results in significant delays and loss to the persons interested.

4.The Act does not contain any provisions for restoration of land to the previous owners. In case the project for which acquisition has taken place is cancelled, the land continues to vest in the Government to the detriment of the persons whose land was acquired.

5.Under the Act, the evaluation of land for compensation is determined on the date of issuance of first notification according to average rate prevailing prior to the year before issuance of such notification. However, the Federal Shariat Court (FSC) has declared that the land value should be determined at the time the Government takes possession and ordered that the Act should be suitably amended. Therefore, the manner in which land is valued under the Act is contrary to the judgment of the FSC.

6. Under the Act, the persons interested have potent rights available to them to raise objections to the acquisition itself or to compensation and measurement of land. However, the persons interested are not meaningfully involved in any proceedings from commencement of acquisition proceedings till the award. The provisions for hearing are treated only as a formality.

7. The Act provides for the right to information to the persons interested. However, the mode of service of notices as provided under the Act is not strictly observed which results in important information not reaching the persons interested in time.

8. The Act and the 1983 Rules provide for checks and balances to protect the rights of persons interested whereby the Land Acquisition Collector (LAC) and the Collector of the District report to the EDO(R) and the entire process is supervised by the BOR. However, such checks and balances are loosely implemented. This view is fortified by excessive litigation against acquisition before the courts.

9. The analysis of the 1983 Rules shows that several rules of the 1983 Rules go beyond the scope of the Act. While some rules of 1983 Rules prescribing timelines have been struck down by the Supreme Court being ultra vires of the Act, the others may come under scrutiny for the same reasons in the future.

Recommendations for revisions to the Act

I. The Act does not recognize the concept of resettlement and rehabilitation. The Act needs to be materially amended and the concept of resettlement and rehabilitation needs to be defined and incorporated in the Act.

II. The meaning and concept of compensation, its evaluation and the scope of compensation is materially different in the Act and the Policy. Compensation under the Act is restricted to payment in terms of money and there is no provision for grant of land for land (resettlement) as one of the means of compensation. This needs to be incorporated in the Act. Additional factors such as restoration of livelihood, assessment of social impacts, potential adverse economic, social or environmental impacts, opportunities to share benefits, etc., also need to be added in the Act.

III. The Act needs to recognize the rights of squatters as eligible for compensation.

IV. The Act does not address or recognize the rights of indigenous people. The Act needs to be revised to recognize such rights

V. The purchase of land by negotiations should be laid down as a condition precedent before proceeding with the acquisition under the Act. The acquisition should only be resorted to when it is properly documented and proved that the land cannot be acquired through private negotiations.

VI. The acquisition of land for public purpose needs to be specifically limited for essential needs only of the Government Departments, local authorities, statutory bodies or companies with management/control of the Government for the purposes of development.

VII. Private housing schemes and companies other than the statutory bodies or companies with management/control of the Government should be excluded from the purview of the Act.

VIII. The Act needs to be amended in order to lay down the circumstances and parameters to establish and evaluate whether any situation of urgency exists.

IX. The Act needs to be amended to prescribe timelines for each stage of acquisition. Further, the Act should be amended to prescribe timelines for decision of cases before the referee courts.

X. All the persons interested should be meaningfully involved in the process of evaluating the land and determining the compensation before the Collector of the District and the District Price Assessment Committee.

XI. The acquiring authority should be required to give reasons for starting the process of acquisition under the Act, as well as reasons for acquisition under urgency provisions provided in the Act. These reasons should be communicated to the persons interested.

XII. The Act should be amended so that the value of land is determined in accordance with the market value as on the date of dispossession instead of date of notification under Section 4. Potential value of land to be acquired should be taken into account according to the principles laid down by the superior courts as well as the Policy. The procedure for payment of compensation is missing in the Act and the 1983 Rules. Such procedure should be included in the Act or the 1983 Rules.

XIII. The Act should specifically provide as to what properties cannot be acquired. A reference to this affect is found in the 1983 Rules but the provisions of the 1983 Rules remain ineffective unless provided by the Act itself.

XIV. Provision should also be made to permit the Government to reverse acquisition after the property has vested in it.

XV. The checks and balances provided by the Act have been entrusted to within the same hierarchy from the Member BOR down to the patwari. It is, therefore, imperative that a duly empowered regulatory authority independent of the Revenue Department be constituted by appropriate legislation to check the process of acquisition at every stage.

XVI. For effective and smooth implementation of the acquisition process, it is essential to employ qualified and trained personnel.

XVII. The system of record keeping under the Land Revenue Act, 1967 should be computerized and efficiently updated as and when the changes take place.

XVIII. Present forms used for land revenue records are outdated and complex. Standardized forms should be made in simple Urdu language or any other local language, as may be needed.

XIX. Several rules of 1983 Rules are either inconsistent with or extend beyond the scope of the Act. These rules should be framed in line with the Act





(Proposed) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act



Land Acquisition Act 1894

- The LARR Act to remove the deficiencies of 1894 LA Act and includes Relief & Rehabilitation of Affected Families
- Broadly LA Act 1894 went through the Process of Preliminary Notifications–Objections-Final Notifications--Awards

Why A New Law?

- ❑ Public Concern: Heightened Concern on Land Acquisition Issues, Absence of a National Law on Resettlement & Rehabilitation and compensation on loss of Livelihoods
- ❑ Outdated Law: Multiple Amendments have been made to the LA Act 1894
- ❑ Need For Balance: Addressing concerns of Farmers with those losing livelihood because of such Acquisition

Why a Combined Law?

- Land Acquisition (LA) and Rehabilitation & Resettlement (RR) are two sides of the same Coin
- RR follows LA Process
- Not having a Combined LA & RR Law results in neglect of RR work as the past experience has shown
- This Law is the first National Law on the subject of RR for affected and displaced families as a result of Land Acquisition

Scope of the New Law

- Both LA & RR Provisions apply when
- (i) Government acquires Land for its own use, hold and control
- (ii) Government acquires Land With the ultimate purpose to transfer it for use by Private Companies for stated Public Purpose and
- (iii) Government Acquires land for Public-Private-Partnership (PPP) Projects. For
- (ii) & (iii) above, Public Purpose once stated, can not be changed

Scope of the New Law

- (Continued):
- For Clause (ii), consent of 80% of Affected Families will be required
- For Clause (iii) Consent of 70% of the Affected Families will be required
- Only RR Provisions will apply when Private Companies purchase land for a Project where Area exceeds the threshold area fixed by the State Government (Section 2 of LARR Act)

Salient Features Of LARR Act

□ Definition of Public Purpose:

- (i) For Strategic Purpose related to Armed Forces, National Security, Defence, Police and Safety of the People
- (ii) For Infrastructure:- Except for Private Hospitals, Private Educational Institutions and Private Hotels

Salient Features Of LARR Act

□ Definition of Public Purpose (Continued):

- (b) Projects involving Agro-processing, Supply of inputs to Agriculture, Warehousing & Cold Storage Facilities, Agriculture Marketing Infrastructure, Allied Activities like Dairy, Fisheries & Meat Processing
- (c) Project for Industrial Corridors, Mining Activities, National Investment Zones, National Manufacturing Zones as designated in the Manufacturing Policy

Salient Features Of LARR Act

□ Definition of Public Purpose (Contd):

(d) Projects for Water Harvesting & Water Conservation Structures & Sanitation

(e) Projects for Government Administered and Government Aided Educational & Research Schemes or Institutions

(f) Projects for Sports, Health Care, Tourism, Transportation & Space Programmes

(g) Any infrastructure facility notified by Government after tabling the same in Parliament

Salient Features Of LARR Act

□ Definition Of Public Purpose (Contd):

(iii) Land for Project Affected Families

(iv) Land for Planned Development or improvement of village or urban sites or for residential purpose to weaker sections

(v) Land for persons residing in areas affected by natural calamities or Displaced

(Section 2 of LARR Act)

Salient Features Of LARR Act

□ Definition Of Public Purpose (Contd):

(iii) Land for Project Affected Families

(iv) Land for Planned Development or improvement of village or urban sites or for residential purpose to weaker sections

(v) Land for persons residing in areas affected by natural calamities or Displaced

(Section 2 of LARR Act)

Definition of Affected Families

- **Land Owners:** (i) Family or Companies whose land/other immovable properties have been acquired (ii) Those who have been assigned land under various schemes (iii) Right Holders under Different Laws
- **Livelihood Losers :** (i) Over Last Three years, a family whose livelihood was primarily dependent on land being acquired as Agriculture labourers, tenants or share croppers (ii) Over Last Three Years, families dependent on forests/water bodies for their livelihood including forest gatherers, hunters, fisher folk and boatmen (iii) Over Last Three Years, families in urban areas residing or depending primarily on the land being acquired for their livelihood

Criteria for invoking Urgency Clause

- ❑ Land Acquisition for National Defense and Security Purposes
- ❑ Resettlement & Rehabilitation Needs in the event of natural calamities such as Floods and Earthquakes
- ❑ In case there is double displacement of any individual, they will receive an additional compensation of up to 75% of the Compensation already provided under Law.

(Section 40 of LARR Act)

Safeguards for Food Security

- (1) Multi-Crop irrigated land will not be acquired except as a demonstrably last resort measure . In this case also more than the limit of land fixed by the State Government can not be acquired.
- (2) When multi-crop irrigated land is acquired, equivalent area of culturable waste land shall be developed for Agricultural Purposes or Amount equivalent to value of land acquired shall be deposited with appropriate Government for investment in agriculture.

Safeguards for Food Security

- (3) States are to fix limits on area of Agricultural Land that can be acquired in each District.
 - The Conditions (1) & (2) shall not apply in the case of linear projects such as Railways, Highways, Major District Roads, Power Lines and Irrigation Canals
- (Chapter III, Section 10 of the LARR Act)

Comprehensive Compensation Package

□ (A) Minimum Compensation for Land Acquisition (First Schedule):

(a) Market Value of Land: If Any, Specified in Stamp Act 1899 for Registration of Sale Deeds in the area where acquisition land is situated

(b) Average of the Sale Price for similar type of land situated in the immediate vicinity of Acquisition Land ascertained from 50% of sale deeds registered during preceding three years

Whichever is higher, Provided the market value so calculated for Rural Areas shall be multiplied by a factor of up to Two.

Comprehensive Compensation Package

- **(B) Valuation of Assets attached to land :**
Buildings/Trees/Wells/Crop will be valued by
Relevant Government Authority

Total Compensation= A+B

(C) Solatium : 100% of Total Compensation

(D) If Land is acquired for Urbanization, 20% of the Developed land will be reserved for Land Owning Project Affected Families. If they agree, then Cost of Land Acquisition +Development will get deducted from the Compensation Package

Comprehensive Compensation Package

- **(D) If land is acquired for Private Companies,** they may offer shares up to 25% of Compensation Amount to Project Affected Families . Subject to their agreeing, an Equivalent amount will be deducted from The Compensation Package.
- Multiplier Factor for Rural Areas will rise from 1 to 2 as we move away from urban locations into rural areas . Precise Slabs to be fixed by the State Governments.

Comprehensive Compensation Package

□ Illustrative Sliding Scale:

Distance from Rural Areas	Multiplier Factor
0-10	1.00
10-20	1.20
20-30	1.40
30-40	1.80
40-50	2.00

Minimum R & R Entitlements

□ **A Comprehensive R & R Package (Second Schedule)**

(A) Subsistence Allowance at Rs.3000/- per month per family for 12 months

(B) Project Affected Families shall be entitled to:-

- (1) If jobs are created in the Project, mandatory employment for one member per affected family, or
- (2) Rupees 5 Lakhs Per Family, or
- (3) Rs 2000/- Per month per family as annuity for 20 years with appropriate index for inflation

The Option of availing (1) or (2) or (3) shall be that of the Affected Family

Minimum R & R Entitlements

- **(C) If a house is lost in Rural Areas,** a Constructed House shall be provided as per Indira Awas Yojana specifications. If a House is lost in Urban Areas, a constructed house not less than 50 square metres plinth area shall be provided. If the Project Affected Family so desire, then equivalent cost of such a house may be provided.
- **(D) For Land Acquisition in Irrigation Project,** an acre of land in Command Area per family can be provided, if possible, subject to the same being adjusted in compensation

Minimum R & R Entitlements

- (E) Rs 50000/- for Transportation
- (F) A One Time Resettlement Allowance of Rs.50000/-
- Special Provision for SCs/STs in addition to R & R Package
- (i) Land to be given to each family in every project including Irrigation Projects
- (ii) One time Financial Assistance of Rs.50000/- per family

Special Provision for SCs/STs in addition to R & R Package

- (iii) Families settled outside District to get additional 25% R&R Benefits
- (iv) Payment of One third Compensation amount at the very outset
- (v) Preference in relocation & Resettlement in area in the same compact block
- (vi) Free Land for Community & Social Gatherings

Special Provision for SCs/STs in addition to R & R Package

- (Vii) Preparation of a Development Plan in case of Displacement
 - (viii) Continuation of reservation and other Schedule V & Schedule VI area Benefits from Displaced Area to Resettlement Area
- (Section 41 of the LARR Act)

Enhanced Role of Panchayati Raj Institutions

- Social Impact Assessment (SIA) has to be carried out in consultation with representatives of Local Government Institutions (LGI)
- SIA Reports are to be shared with LGI representatives in their local language along with Summary
- Expert Group to examine the SIA Report to have two members from LGIs
- If Affected Area involves more than one Municipality, Public Hearings to be conducted in every Municipality having more than 25% land to be acquired

Enhanced Role of Panchayati Raj Institutions

- Consent of Municipality shall be mandatory for acquisition
- The Rehabilitation & Resettlement Committee at Project Level has to have Chairpersons of the Maslaheen located in the Affected Areas or their Nominees as representatives

Special Provisions for Farmers

- Farm Land is to be acquired only if necessary and other unutilized lands are not available
- All farmers in rural areas to get up to 4 times the highest Sales Prices in a given area
- Strict restrictions on acquiring Multi-crop agricultural land as a last resort subject to Provincial Government fixed limit
- Prior consent of 70% land losers in acquiring land for PPP Projects and of 80% land losers in acquiring land for Private Companies. Consent includes consent for Compensation.

Special Provisions for Farmers

- Land not utilized for the Project can be returned to the original land owners if the Government so decides
- Share of Sale in Acquired Land : When acquired land is sold off to another Party, 40% of the increased land value has to be distributed among farmers
- All amounts accruing under the LARR Act is exempted from Income Tax & Stamp Duty.

Special Safeguards for Farmers

- Damage to Crops due to process of Acquisition including Preliminary Inspection has to be included in the Final Award
- In acquiring land for Urbanization, 20% of Developed Land will be reserved for offer to farmers in proportion to their area acquired at the price of cost of Acquisition + Development
- For Irrigation or Hydel Projects, affected families may be allowed Fishing Rights in the Reservoirs in a manner to be provided by Provincial Government

Reduced Role of the Collector

- Public Purpose: In LA Act 1894, Collector used to decide on Activity constituting Public Purpose. In LARR Act Public Purpose has been defined in detail. Collector has no discretion.
- Compensation for Displaced was earlier decided by Collector under LA Act 1894. Now the Formula for Compensation has been prescribed.

Reduced Role of the Collector

- Earlier Collector could decide when to take possession of land. Now possession can be taken only after all requirements relating to Payment of Compensation for Land & R & R have been discharged
- Earlier Collector used to decide on invoking urgency clause . Now the same is restricted to natural disasters and national defence.

Benefits to Tenants & Sharecroppers

- All Tenants not owning any land but engaged in any form of tenancy or holding usufructory rights are covered under LARR Act
- Sharecroppers/Artisans working in the Affected Area three years prior to Acquisition and whose primary means of Livelihood are affected by Acquisition are covered under LARR Act
- They will receive R & R Benefits and a share in the Compensation to be provided

Infrastructural Amenities under R & R

- Schools & Playgrounds, Health Centres
- Roads & Electric Connections, Assured Sources of Safe Drinking Water for each Family as per Government Norms
- Places of Worship, Burial/Cremation Ground depending on the Castes/Communities
- Village Level Post Offices, with Savings Account Facilities, Fair Price Shops, Seed-cum-Fertilizer Storage Facilities as required

Retrospective Effect Clauses

- New Law will apply if no award under Section 11 of LA Act 1894 has been made
- When Award has been made, but individuals have not accepted Compensation or given up possession and proceedings pending for 5 years or more, new law will apply
- If majority of individuals in a given area have not got Compensation, New Law will apply.

Safeguards against indiscriminate acquisition

- Social Impact Assessment made mandatory except Irrigation Projects. Notification under Section 4 of LARR Act. To be concluded in 6 months
- Draft Notification under Section 11 of LARR Act to include Summary of SIA Report and Particulars of Administrator for R & R who prepares R & R Scheme

Safeguards against indiscriminate acquisition

- Draft Declaration under Section 19 of LARR Act to include Summary of R & R Package
- No Change of Purpose: No Change of Purpose specified in the Land Use Plan submitted at the time of Land Acquisition is allowed
- No Change of Ownership: No Change of Ownership without specific permission of Appropriate Government is allowed

Safeguards against indiscriminate acquisition

- Land not used within 5 years for intended purpose shall be transferred to the State Government's Land Bank or to the Original Land Owners
- Sharing of Appreciated Value: Upon every transfer of land without development, 40% of the appreciated land value shall be mandatorily shared with the original Land Owners

Transparency Provisions

□ Social Impact Assessment:

- (i) Local Government to be Consulted
- (ii) Summary of SIA Report notified with Draft Notification
- (iii) SIA Document made available for Public Scrutiny

□ R & R Scheme

- (i) Summary Notified along with Draft Declaration
- (ii) Made Available for Public Scrutiny

Transparency Provisions

- Awards passed individually
- Public Disclosure: All Documents to be mandatorily made available in the Public Domain and on the Website

Penalties : Stringent and Comprehensive Penalties
Regime for Companies & Government

- (i) Punishment for false information, mala fide action etc
- (ii) Penalty for contravention of Provisions of the Act

Awards

Collector Passes Two Types of Awards:

(i) Award for Land Acquisition : Award made in respect of family whose land is being acquired including Landless Tenants as well and containing details of LA Compensation as listed in the First Schedule

(ii) Award for R & R: Award made in respect of Every Affected family irrespective of whether they are land losers or not, containing details of R & R entitlements as listed in the Second Schedule

Timelines

- Compensation to be paid within a period of three months from the date of award
- Monetary R & R entitlements to be provided within a period of 6 months from the date of the award
- Infrastructure R & R entitlements will be provided within a period of 18 months from the date of the award

Timelines

- No involuntary displacement will take place without completion of R & R
- In Irrigation & Hydel Projects, R&R shall be completed 6 months prior to submergence

Impact of New Law on Existing Legislations related to LA (i) New law is not applicable to 13 Acts of Central Government in Fourth Schedule related to Highways, Railways etc

(ii) Within One Year, provisions of New Law will apply to Compensation & R & R by a Notification of Central Government

Flexibility given to State Governments

- Sliding Scale on the basis of which Compensation is to be Calculated (2-4 times of market value) left to discretion of State Government
- Provincial Government to fix Threshold for Multi-Crop Irrigated Lands
- Thresholds at which R & R provisions apply to Purchase of Land by Private Companies

Flexibility given to State Governments

- Provincial Government encouraged to adopt option of Lease instead of Acquisition
- Provincial Governments are also empowered by the LARR Act to provide for Benefits and Safeguards that go over and above the provisions of this Act

Land Acquisition Process

- Application for Acquisition by the Requiring Body-
- Notification for Preparation of SIA Study (Section 4) → SIA Study to be Completed within 6 months of Notification → Evaluation of SIA Report by Expert Group within 2 months of its Constitution (Section 7) → Negative Recommendation of Expert Group → Abandon Project (Section 7(4)) → If Positive Recommendation (Section 7(5)) → Government to Recommend Land Acquisition (Section 8(2)) → Preliminary Notification (PN) to be issued within 12 months of Section 7 Recommendation for Land Acquisition (Section 11) or SIA Report will lapse (Section 14) → Collector to update Land Records (Section 12(5)) → Preliminary Survey of Land to be carried out (Section 12) → Filing of Objections (Section 15) within 60 Days of PN → Preparation of R & R Scheme by ARR (Section 16) Publication of Draft R & R Scheme

Land Acquisition Process

- (Contd.)Hearing of Objections Section 15(2)) →Collector to make Report and submit to Government along with his recommendations-->Public Hearing on R & R Scheme → ARR to submit Draft R & R Scheme to Collector (Section 16(6))→After Review, Collector submits Draft R & R Scheme along with his suggestions to Commissioner R & R (Section 17(2))→Publication of Approved R & R Scheme (Section 19(2))→ Declaration by Government along with Summary of R & R Scheme after deposit of Land Acquisition Cost by the Requiring Body (Section 19) within 12 months from PN or PN Rescinded

Land Acquisition Process

- (Contd.) Land to be marked out , measured & planned, if not already done under Section 1 (Section 20→Notice of Possession (Section 21)→Land Acquisition Award within 12 months of the Declaration or else Land Acquisition Proceedings lapses (Section 23)→ Compensation & Final Award to Land Owners (Sections 27 & 30)→ R & R Award (Section 31)→ Taking Possession of Acquired Land (Section 38)

Important provisions of the new law

1. COMPENSATION : Compensation in rural areas would be calculated by multiplying market value by two and adding assets attached to the land or building and adding a solatium. In urban areas it would be market value plus assets attached to the land and solatium.

ILLUSTRATION

Suppose the market value of a piece of land in rural area is 10,00,000.

Multiplying it by 2 ----- $10,00,000 \times 2 = 20,00,000$

Adding value of assets (2,00,000) attached to land ----- = 22,00,000

Adding 100% solatium, the final compensation =
44,00,000

A piece of land of market value 10,00,000 in urban area ----- Adding value of asset (2,00,000) attached to land ----- = 12,00,000 Adding 100% solatium , the final compensation = 24,00,000

Important provisions of the new law

- * Compensation for livelihood losers: In addition to those losing land, the Bill provides compensation to those who are dependent on the land being acquired for their livelihood. To qualify for benefits under this Act the time period has been reduced to three years of dependence (on the acquired land) from five
- * Fishing rights: In the case of irrigation or hydel projects, affected families may be allowed fishing rights in the reservoirs.
- * Share in appreciated land value: Where the acquired land is sold to a third party for a higher price, 40% of the appreciated land value (or profit) will be shared with the original owners.

Important provisions of the new law

- **CONSENT**: Consent of up to 80 per cent of people required for private projects. For PPP projects, the approval of 70 per cent of the same is mandatory
- **Multi-cropped, irrigated land** cannot be acquired unless it is for defence or emergency caused by natural calamity
- Land should be returned to *original owner* or the *State Land Bank* if not used in **five years** for the purpose for which it is acquired
- The government will not acquire land for private companies for private purpose

Important provisions of the new law

- **Exemption from income tax and stamp duty:** No income tax shall be levied and no stamp duty shall be charged on any amount that accrues to an individual as a result of the provisions of the new law.
- The Bill also proposes amenities like schools, health centres and civic infrastructure in places where project-affected people are resettled

Important provisions of the new law

- The urgency clause should be exercised in the rarest of rare cases like national defense or for resettlement purposes.
- The Social Impact Assessment (SIA) has to be carried out in consultation with the representatives of the Panchayati Raj Institutions (PRIs)
Reports prepared under the Social Impact Assessment are to be shared with these representatives.

Procedure for the Land Acquisition

1. INVESTIGATION PROCESS

❖ When a local authority or a company requires a land, an application is required to be made by it to the revenue authority, accompanied with a copy of the plan showing survey nos., purpose of acquisition and the reason for the particular site to be chosen and the provision made for the cost of the acquisition.

❖ After the government has been fully satisfied about the purpose, the least area needed, and other relevant facts as provided under land acquisition rules, it will issue a notification under Section 4 of the act that the particular land is required for public purpose.

2. Objection and Confirmation

- ❖ Objections are invited from all persons interested in land within thirty days from the date of notification.
- ❖ The objections will be valid on one or more of the following grounds:
 - * i. That the purpose for which the land is proposed for acquisition is not a public purpose.
 - * ii. That the land is not or less suitable than another piece of land for the said purpose.
 - * iii. That the area under acquisition is excessive.
 - * iv. That the acquisition will destroy or impair historical or artistic monuments or will desecrate religious buildings, graveyards and the like.

3. Claim and Award

- ❖ The collector will issue notices under Section 9 to all persons interested in the acquisition to file their claim reports.
- ❖ In determining the compensation the market value of the land is determined at the date of notification. The rise and fall in the value during the period of transaction and notification is taken into consideration.
- ❖ Compensation is also payable when:
 - * i. Part of the property is proposed for acquisition in such a manner that the remainder depreciates in value.
 - * ii. When the land notified for acquisition has standing crops or trees.
 - * iii. If the person interested has to change his place of residence or business then the excess rent payable for the new premises is also considered for compensation

- ❖ After necessary inquiries the collector declares his award showing true area of the land, total amount of compensation payable and apportionment of compensation if there are more than one owners or claimants.

4. Reference to Court

- ❖ Any person interested to whom the award is not satisfactory can submit a written application to the court.
- ❖ This application should be made within six weeks from the date of declaration of the award.