

## **Social Impact Assessment of Projects involving Land Acquisition in India: Implications of RFCTLARR Act, 2013**

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### **Abstract**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 has brought about a paradigm shift in land acquisition process in India. Acquisition of land in a developing economy like India is essential for infrastructure development, urbanization and industrialization which have a multiplier effect on economic development. Development projects though important in the long run, create significant changes in the daily lives of local population. Land acquisition for such projects displaces many and causes loss of livelihoods in the short run, which also creates resistance. The imperfect nature of land market also creates additional bottlenecks for efficient land transfer. The RFCTLARR Act 2013 proposes for Social Impact Assessment (SIA) study to map and estimate costs and benefits to the people affected through the acquisition. While discussing the specific issues in land acquisition and identifying challenges in carrying out SIA study in Bihar, the present paper proposes conducting SIA in a comprehensive and participatory way to assess the impact, make people aware and minimize resistance. The article argues for integration of Rehabilitation and Resettlement plan with National Skill Development Mission to capacitate the affected people for new sets of livelihood options.

**Keywords:** Land Acquisition, RFCTLARR Act 2013, Social Impact Assessment

### **Introduction**

In 21<sup>st</sup> century land has emerged as a critical resource with respect to managing economic development, rapid urban expansion and industrialization; ensure food security as well as addressing the issue of sustainable development and climate change. Apart from economic considerations, people attach significant social and cultural values to it. Further, accessibility to land is not only economically important to the people; it also leads to a host of other benefits (Singh, 2014). The post-liberalization era has ushered new challenges to states with respect to infrastructure development as well as attracting investments for industrialization. Be it

industrial development or infrastructural development, land, in all cases appears to be a critical issue.

For a developing state like Bihar, the problem has multiple impacts on implementation of development projects and attracting industrial investment. The unique characteristics of land, which is physically limited, immovable and cannot be produced and reproduced, has made pricing of land a critical exercise, especially in an imperfect land market like India. On the other hand, any development project brings with itself promise of prosperity, employment opportunities and better connectivity which have multiplier effects on economic development of the region. But alongside these positives, the displacement of vulnerable groups, loss of livelihoods for a certain section of society and disruption in daily socio-cultural activities also take place. Most of these negative consequences emerge from land being acquired from local population to set up plants, construct roads and bridges etc.

Post The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, there has been a change in paradigm of land acquisition especially in the context of compensation, rehabilitation and resettlement issues. Social Impact Assessment of projects has become critically important and determining factor for land acquisition. Following Samanta (2015), the present paper tries to assess the land market challenges, in the context of Bihar, which have appeared as constraint for efficient land transaction and as bottlenecks for development projects and industrial investments. The RFCTLARR Act has created avenues to minimize conflicts related to land acquisition through the provision of Social Impact Assessment (SIA) study of each project before acquisition for public purpose. The SIA study can question the justification provided for public purpose, suggest alternative mechanism and can even recommend dropping the whole acquisition process. Given the importance of SIA study for land acquisition, the present paper attempts to explore the conceptual background, issues and challenges involved in conducting such a study in India in adherence to the RFCTLARR Act, 2013.

### **Land Market Challenges**

Land markets are mechanisms that, provided there are appropriate institutional checks and balances, allocate ownership and use rights in a manner that allows land and its associated assets to be used in the most economical way. Given secure land rights, land markets can increase the incentive for people to invest and for financial institutions to lend, since land can be used as collateral as well as being the basis for production. An efficient and effective land market can improve the performance of a nation's economy and increase prosperity (Robert, Dale, & McLaren, 2007). Unlike other factors of production, labour and capital; land has several distinguishable features. It is also argued that the demand for land is function of economic growth and industrialization and urbanization in India cannot become broad based unless they are equipped with satisfactory solution for allocating land use that maximizes aggregate welfare (Bhattacharjee, Sinha, & Dutta, 2014). The market of land is argued to suffer from the problems of market failure which makes it difficult or impossible to price the land (Cheshire & Vermeulen). Economic theory suggests that a well-functioning land market is critical to achieve an efficient allocation of resources and support financial systems. They are expected to be of

particular importance in situations where: (i) differences in endowments of different agents are large, for example, high levels of landlessness coexist with large land concentration so that where land rental can help to redistribute land towards poorer sections of the population; (ii) the broader economy is undergoing rapid structural change and renting out land can allow landowners to participate in the non-farm economy without closing off the possibility of returning to rural areas; and (iii) credit market imperfections and other restrictions rooted in custom or policy impose limits on economic agents' ability to adjust through land sales markets (The World Bank, 2007).

The land market can be divided in to two broad parts, namely (i) Land lease market, (ii) Land sales market.

#### **Land Lease market**

An effective land lease market is essential for economic activities. However, in India the participation in land lease market is found to be declining since 1970. In Bihar, households that reported leasing in land have declined from 40% to less than 10%. Stringent laws related to leasing of land and transfer of ownership is argued to be the reason behind this fall (The World Bank, 2007). In Bihar, most of the cases of land leases are oral lease and the land owner keep rotating the cultivator every year which make the sharecropper establish their right over land and make them vulnerable to accessing institutional of formal credit.

#### **Land Sales Market**

Unlike land lease market, where the land is mainly used for agricultural purposes, efficient land sales market is required to boost off-farm activities including infrastructure and industrial development.

#### **Constraints associated with effective land sales market**

*Lack of proper ownership record:* The record of the rights is prepared through proper survey and 'bujharat operation' which do field survey by visiting plots and do systematic verification of relevant facts connected with the preparation of records of rights and possession. The existing record of rights, In Bihar, are old as those were prepared during the district-wise Cadastral Survey, which was conducted during 1885 to 1922. Though, the state government took up revisional survey in 1960s, but it could not be completed for the whole state. In this regard, Special Survey and Settlement Act, 2011 was passed to conduct a quick survey with modern technology support. However, the progress of special survey also is not satisfactory. Due to all these gaps, the existing land records are not updated and have become obsolete.

*High Registration Charges:* The cost of registration is higher in Bihar compared to other states. Against the Government of India's stipulation of maximum 5 per cent of the stamp duty, registration office charges 6 per cent of stamp duty. Additional 2 per cent is charged in urban areas as ULB's fees.

*Inflated Valuation:* Due to fallacy in methodology of preparing Minimum Value Register (MVR) the land price get inflated every year.

The improper valuations of land and gap in information have made the land market especially in Bihar an imperfect one. These make the price of land high, for which it loses competitive characteristics.

This imperfect nature of land market has made it essential for Government intervention in the transaction to ensure right compensation and social justice. The Land Acquisition Act, 1894, has been replaced by the RFCTLARR Act, 2013. It is a response to protest by landowners over acquisition of land in different parts of the country. One of the most important features of the present Act is consideration of unrecorded interests of the persons whose livelihoods are affected in the acquired area, their interests shall be taken care of along with the recorded land holders. However, to map the loss of affected persons, irrespective of status of recorded rights, SIA has become mandatory for almost all cases of land acquisition under the aegis of RFCTLARR Act, 2013.

#### **Social impact assessment for Land Acquisition: The Legal Framework**

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 came into force since 1 January, 2014 to ensure, in consultation with institutions of local self-government and *Gram Sabhas* established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status and for matters connected therewith or incidental thereto.

As per the Section 4 of the said Act, it has become mandatory to conduct SIA before acquisition of land. As per the Act, the Social Impact Assessment study shall include all the following, namely

- a. Assessment as to whether the proposed acquisition serves public purpose
- b. Estimation of affected families and the number of families among them likely to be displaced
- c. Extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition
- d. Whether the extent of land proposed for acquisition is the absolute bare minimum extent needed for the project
- e. Whether land acquisition at an alternate place has been considered and found not feasible
- f. Study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project vis-a-vis benefits of the project

Provided that Environmental Impact Assessment study, if any, shall be carried out simultaneously and shall not be contingent upon the completion of the Social Impact Assessment study.

The SIA should take into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds. The said Act also proposes a Social Impact Management Plan, listing the ameliorative measures required to be undertaken for addressing the impact for a specific component referred above.

The Government shall take adequate measures to conduct 'public hearing' before SIA to include opinion of all stakeholders and shall ensure wide dissemination and publication of SIA report especially in the affected area. The process is definitely a time consuming affair and there are counter arguments regarding the dropping of provision of SIA in the recent ordinance to save time and expedite the project implementation (Sathe, 2015). Alternatively it is also argued that the SIA process involves local community in information sharing and decision making which includes affected parties in deciding on the indicators and measures of social effects, evaluating their relative importance and monitoring the effects during implementation. However, lack of these exercises may lead to acrimonious confrontation between developers and indigenous populations (Burdge, 2012). Keeping in mind the importance of land for economic development through infrastructure enhancement, urbanization or industrialization, the legal provision of SIA for land acquisition in the said Act is to minimize resistance through more participative approach. The SIA is also a novel effort to minimize the crisis of development-induced displacement through involvement of local people in decision making and has provision for preparation of rehabilitation and resettlement plan.

### **Social Impact Assessment: The Conceptual Framework**

Social Impact Assessment (SIA) is analyzing, monitoring and managing the social consequences of development. The goal of impact assessment is to bring about a more ecologically, socio-culturally and economically sustainable and equitable environment. Impact assessment, therefore, promotes community development and empowerment, builds capacity and develops social capital (Vanclay, 2003). Moreover, SIA not just identifies and analyzes negative and harmful outcomes, but also focuses on maximizing the positive outcomes.

The purview of social impact extends beyond livelihood and financial security. It encompasses people's way of life – the way they live, work, play and interact with community; their cultural and religious beliefs; their interaction with political systems; their health and wellbeing; their interactions with environment; their personal and property rights; their fears and aspirations (Vanclay, 2003). Projects that cause involuntary resettlement, impact the daily lives of local communities as in the case of large scale dams and power projects as well as road and bridge

projects. Most adversely impacted groups are the vulnerable sections like landless labourers, daily wage earners, socially backward communities like Mahadalits, elderly persons and the ultra-poor (Mathur, 2011).

### **Core Values of Social Impact Assessment**

The SIA Community proposes some Core Values of SIA through International Principles for Social Impact Assessment (Vanclay, 2003), which are as follows:

- There are fundamental human rights that are shared equally across cultures, and by males and females alike
- There is a right to have those fundamental human rights protected by the rule of law, with justice applied equally and fairly to all, and available to all
- People have a right to live and work in an environment which is conducive to good health and to a good quality of life and which enables the development of human and social potential
- Social dimensions of the environment – specifically but not exclusively peace, the quality of social relationships, freedom from fear, and belongingness – are important aspects of people’s health and quality of life
- People have a right to be involved in the decision making about the planned interventions that will affect their lives
- Local knowledge and experience are valuable and can be used to enhance planned interventions

SIA seeks to assess, in advance, the social repercussions that are likely to follow from projects undertaken to promote development, such as dams, mines, industries, highways, ports, airports, urban development and power projects. Identifying potential impacts is an important part of the planning process (Mathur, 2011). SIA is a key component to successful policy development and project implementation. SIA process uses local knowledge in the decision process hence is more robust and reliable. The Public Involvement (PI) component of SIA makes it possible to enrich the knowledge based on local realities, which in turn helps in decision making.

### **SIA in the era of RFCTLARR Act 2013: Process, challenges and way forward**

Land acquisition and Environmental issues are one of the largest sources of delay in most infrastructure projects in India. A number of Airport, SEZ, IT Park, Chemical plant and other projects are stalled in the country due to issues in land acquisition. In most such cases, the local community and land owners lead the protest due to unfair compensation and large scale displacement without any alternative for rehabilitation and resettlement. The RFCTLARR Act 2013 has mandated that an SIA be carried out whenever either a new project or expansion of an existing project is undertaken. The Act clearly states that the SIA should be done by not just consulting *Gram Sabha* or representatives from the affected area but by reaching a consensus or getting the consent by majority of *Gram Sabha* members. For Public Private Partnership (PPP) projects, the level of consent of land owners required is 70% while it is 80% in the case of Private projects. At least 50% of the total members of *Gram Sabha* and one third of the total women members of *Gram Sabha* must be present in consent meetings.

The various aspects that can be studied in an SIA study for projects involving land acquisition, comprise, but not limited to:

- Attitude of local community towards the proposed project
- Unavoidable adverse effects like disruption in living and movement patterns, alteration in family structures, disruption of social networks, changes in public safety & health and changes in leisure activities
- Impact on Land, Livelihood and Income
- Anticipated changes in living costs, occupational choices and wage / income patterns
- Impact on physical resources – natural resources and common property resources
- Impact on private assets, public services and utilities – health, education, housing, electricity, water supply, roads, sanitation, waste management
- Impact on health-migration, vulnerable sections
- Effects on known cultural, historical, sacred and archaeological resources
- Impact on culture and social cohesion

In order to examine the above aspects, in-depth research needs to be done on the following variables in the affected area:

- Demographic profile – age, sex, caste, religion, literacy, health and nutritional status
- Poverty levels – Income, Expenditure, MPI
- Identification of vulnerable groups - Elderly, Women headed households, Differently abled persons
- Kinship pattern and women's role in family
- Social and cultural organisation
- Administrative organisation
- Political organisation
- Civil society organisations and movements
- Land-use and livelihood
- Local economic activities
- Factors that contribute to local livelihood
- Quality of Living Environment: Perceptions, Safety Issues

Also, the following information needs to be collected in order to estimate the magnitude of the impact by land acquisition:

- Current nature / classification of land units
- Size of holdings, ownership patterns, land distribution, number of residential houses, and public and private infrastructure and assets
- Number of families and persons directly or indirectly affected by land acquisition through:
  - Loss of Residential facility
  - Loss of Livelihood
  - Loss of Agricultural opportunity

There are a number of challenges in conducting an SIA study. One of them is the involvement of multiple stakeholders, sometimes having conflicting interests. As land is a limited and mostly inherited resource, people attach a lot of economic and emotional significance to it. In the

situation of their land being acquired, many people fail to see the future benefits of the industrial projects and oppose the land acquisition process. Many a times, there is also an uncertainty about receiving proper compensation for the land being acquired, which leads to confusion and protests. Unavailability of updated land records is another major hurdle in conducting an SIA study. Most of the written records are decades old and have become obsolete in present times. Deciding title holder for the land in these cases appears to be a major hurdle and invites disputes. Another hurdle is to cater to the sharecroppers dependent upon the land to be acquired. They are mostly oral share croppers which makes it difficult to identify them properly and establish their rights for compensation.

The landless agricultural labourers working on the land or as petty businessmen, artisans etc. are another set of people whose livelihood would be at stake due to the acquisition. These people need to be identified carefully to protect their rights. As the new Act has created provision for compensation for all the people affected directly or indirectly, identification of these sets of people under SIA study and estimates of their loss from the acquisition as well as expected gain from the acquisition are two of the most challenging areas. In such a scenario, multiple focus group discussion with all the affected people, ensuring their participation and accounting for their concern along with a census survey approach to map vulnerability, loss and gain from the project are suggested in order to document the concerns of the people, accommodate them in decision making process, as well as identify legitimate claimants dependent on the land to be acquired. This process requires extensive awareness of the people through sharing information, which might reduce resistance in the acquisition process.

### **Rehabilitation and Resettlement Plan**

A major component of any SIA study is the development of a Rehabilitation and Resettlement (R&R) Plan. In case of resettlement of affected families in alternative villages, basic public amenities must be developed in those areas. These may include roads, drainage, sources of safe drinking water, drinking water for cattle, land for grazing, fair price shops, Panchayat buildings, post office, burial or cremation ground, Anganwadi, community centres, primary health centres, primary schools, playground etc. The R&R package specified in the Act offers choice of employment and monetary compensation. But generating large scale employment for displaced families can prove to be a great challenge.

Most of the industrial projects like Software parks etc. generate high skilled jobs which vulnerable sections of the society cannot fit into. At the maximum, they can get absorbed into jobs like housekeeping, security and other support functions in limited numbers in the industrial parks (Sathe, 2015). As far as generating alternative livelihoods are concerned, the rehabilitation plan can attempt to get the affected families connected to the National Skill Development Mission, a Govt. of India initiative that plans to get millions of Indian youth skilled over the next few years. This would help solve the problem of unemployment and loss of livelihoods among the resettled families. Some new initiatives like setting up small scale industries and starting farm based agricultural activities in the resettlement area can be started to generate meaningful employment for displaced families.

## **Conclusion**

Land, unlike some other natural resources, is ever dwindling, and is extremely critical for economic and infrastructure development especially in developing economies. The imperfect nature of the land market has made the situation more complex in the context of transaction of land. Though development projects bring prosperity, they also bring negative changes in the pattern of livelihoods and socio-cultural activities of the local community and the weaker sections get affected the most. Development-induced displacement also looms large as a crisis in the 21<sup>st</sup> century. All these may create resistance in acquisition and stall project implementation. The Social Impact Assessment as proposed in the RFCTLARR Act, 2013 is an attempt to address these bottlenecks in a participative way. Conducting SIA of land acquisition is a challenge as it involves multiple stakeholders with sometimes conflicting interests. However, conducting SIA in a comprehensive way by taking into account all affected individuals dependent on the land to be acquired can minimize the resistance and make the situation a win-win one. For this, making people aware about the positive and negative effects of land acquisition and involving them in decision making by following proper steps of SIA is critical. For the rehabilitation and resettlement plan the paper argues for integrating the plan with National Skill Development Mission to capacitate the affected people for new sets of livelihood options.

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