

The Land Acquisition Act, 1894: Colonial Beginnings, Unclear Since

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In March this year, a district court ordered a car as penalty for delayed compensation against land acquired by the state. Judgments such as these open the case for studying the Land Acquisition Act of 1894, and the overlapping state laws in India, which add up to affect the land rights of individuals.

Keywords: *land acquisition; overlapping laws; Haryana; land rights*

Earlier this month, *Times of India*¹ reported that a the Gurgaon district court pulled up a senior HUDA (Haryana Urban Development Authority) official, and ordered her vehicle be attached, as a penalty for not having delayed compensation to a Samaspur villager in the matter of a land acquisition case. The case was seven years old, and the court had directed HUDA to compensate the villager three years ago.

Car as compensation for land taken by the state. While this decision seems strange, it solicits a study into what might be the reasons behind it. To understand this absurdity that played itself out in the court, therefore, we revisit the history of the Land Acquisition Act, 1894². An Act that was

born in a different context, amended under various compulsions, and, continues to be in conflict with sundry other laws.

Land resources fall under the jurisdiction of the state government as per the State List of the Constitution. Despite changes in the land laws by the central government, its implementation at the state-level determines the success of a particular law in its working. Another significant issue with land remains, while the demand for land continues to increase its supply is fixed. In order to meet the rising demands, lands have to be acquired (acquired by the state under the powers of eminent domain), land-use pattern has to be changed and policies implemented. However, the gap between requirement and availability of land continues. This has led to the successive governments at the centre look into Land Acquisition Act, 1894 time and again to find solutions to this problem.

In the process of looking for solutions in the land acquisition law itself, we continue to overlook the aspect of applicability of law, state government's implementing the law and its current mandate, as well as, other land laws

¹<http://news.qubrex.com/2015/03/14/court-orders-huda-chiefs-car-seized-times-of-india-13-mar-2015>

²The Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Amendment) Bill 2015 is the latest change brought in by the BJP government to the erstwhile Land Acquisition Act. It removes the clause that 80 percent farmers must give their consent in matters of land acquisition by private authorities and 70 percent must consent to land acquisition for public-private partnership projects. In 2013, an amendment to the Land Acquisition Act, for the first time, focused on issues of rehabilitation and resettlement. Before this, rehabilitation and acquisition were seen as separate issues. However, the 2013 Act was seen to hinder industrial development as time required in settling issues of compensation, resettlement and rehabilitation increased. The present Act by doing away

with these aspects of the 2013 Act, is seen to making land acquisition favourable to the industries.

present in the state along with The Land Acquisition Act, 1894.

Similar other laws in the state ensure transfer of land, conversion of land, obtaining of license over land leading to state accumulating huge acres of land without its focusing on its existing resources. Thus, it poses a question of whether changing a specific law could overhaul the system of overlapping laws which has allowed misuse of land resources.

In order to understand the present situation let us look into the historical evolution of The Land Acquisition Act, 1894³, and find out the reasons of the present chaos. The Land Acquisition Act 1894, a colonial Act, emerged out of the need for land for developing railways. Railway was the first industrial development between 1869 and early 1880s: benefited the region for transport of cash crops and other crops for export; it was built for investments by private British companies. Economic development was made possible through availability of land for these companies for free, along with recruitment of local labourers for the company.⁴ Acquisition of land for industrial development made record of rights⁵ over

land ownership necessary for each estate. The processes involved in recording rights, led to conversion of communal ownership into individual property holding.⁶ While development of railways guarded the colonial interests of continuing its political rule against any opposition from the locals, “land” as a resource—its acquisition and conversion of communal land into private property under individual ownership—was a point of clash between existing communities and the colonial state.

Despite these changes (introduction of land administration through record of rights over land) made by the colonial state towards utilisation of land resources, the crisis of non-availability of land prevailed. Since issues of land are state specific, here we focus on Haryana. During the colonial rule in Haryana development of agriculture was not the primary concern of the colonial rulers and was only a spill-over consequence of demands from European market in agricultural products. And the requirement of agricultural products led starting of irrigation work in the region of Haryana.⁷ Above everything else, necessity to improve transportation became a fillip for investment in railways in the colonial period for movement of goods in different parts of the country, especially from the interiors to the port cities for export of goods to England. In order to execute the plan for building railways, any kind of factor market imperfections, especially in land, had to be removed. Removing imperfections meant only ensuring the process of acquisition become easier, however overlooking the social implications and continuing chaos of overlapping laws in land.

Similar to the colonial state, whose developmental programme overlooked several nuances influencing land relations of individual,

³http://www.prsindia.org/uploads/media/Land%20Acquisition/bill167_20080311167_The_Land_Acquisition_Act__1894.pdf (accessed on 19.03.2015).

⁴Laxman D. Satya, 'British Imperial Railways in Nineteenth Century South Asia', *Economic and Political Weekly*, Vol.43, No.47 (Nov. 22-28, 2008), pp.69-77.

⁵Record-of-rights and documents included there—The record-of-rights for an estate shall include the following documents, namely:(a) statements showing, so far as may be practicable:- (i) the persons who are landowners, tenants or assignees of land revenue in the estate or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attached thereto; (iii) the rent, land revenue, rates ceases of other payments due from and each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate

(d) such other documents as the Financial Commissioner may, with the previous sanction of the State Government prescribe. See Punjab Revenue Act, 1887).

⁶I.D. Derbyshire, 'Economic Changes and Railways in North India, 1860-1914', *Modern Asian Studies*, Vol.21, No.3 (1987), pp.521-545.

⁷*Ibid.*, p.523.

post-colonial Haryana following the same path, allowed development in the midst of chaos of overlapping laws. In 1975, the state government of Haryana came up with the Haryana Development and Regulation of Urban Areas Act, 1975⁸, this Act allowed HUDA to acquire land for developmental purposes, similar rights were allowed to other private developers, individuals were also granted license to acquire land for developmental purposes. This process initiated by the state government led to licensee giving away the lands granted by the Department of Town and Country Planning Haryana to some third party — usually private developers —violating section 3 (4) of Haryana (The Punjab) Village Common Lands (Regulation) Act, 1961. Approval of the government has allowed illegal conversion of lands allotted for different purposes to be used by private developers.

Simultaneous use of different laws to suit the objective of acquisition of land has often opened up opportunities for the state to foreclose options with the owner to safeguard his/her interests.

In comparison to the history of land acquisition, the changing context of the political scene led to amendment of certain sections of the 1894 Act. The parties contesting elections or demanding electoral support to win elections would have otherwise failed to garner political mileage. And in order to sustain themselves, political parties have increased their focus on The Land Acquisition Act of 1894. Instead of hammering the sections present in The Land Acquisition Act, 1894, there is a dire need to bring uniformity in similar other laws at the state level, which will not trivialise the case of an appellant fighting a legal suit to reclaim his/her land with the court deciding to compensate the loss of a land with a car.

⁸Department of Town and Country Planning-Haryana
<http://tcparyana.gov.in/> (accessed on 15.3.2015).