The Land Acquisition Act

(A Guide for Activists)
ABOUT US

The Society for Participatory Research in Asia (PRIA), New Delhi is a non-profit voluntary organization registered under the Indian Society's Act.

Participatory Research is a methodology based on the belief that knowledge is power and therefore contributes towards the empowerment of the oppressed and the poor. It promotes the involvement of the poor and their organizations and representatives in the creation and utilization of knowledge in their own collective interests. Thus, it attempts to challenge the monopoly over knowledge and its tools in the hands of the few.

PRIA works with local groups and activists involved in the education and organization-building efforts and struggles of the marginalized and underprivileged sections of society.

We provide support through research, training, evaluation, networking with groups on common issues and preparation and dissemination of learning materials.

This booklet has been prepared by KAVALJIT SINGH and RASHMI KATYAYAN
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THE LAND ACQUISITION ACT, 1894
INTRODUCTION

In India, there are two ways by which land may be acquired by the State. It may be acquired in the name of any laws related to land reforms, ceiling of holdings, etc. This is carried out under the provision of the Preamble to the Constitution which declares India to be a Socialist Republic, amongst other things and imposes on the Government the need to ensure social and economic justice.

The second manner of land acquisition is in exercise of the right of eminent domain, whereby the State is the final owner of land and therefore, can acquire it for 'public purposes' after paying full compensation calculated on market value. The whole process of such acquisition of land is confined to a central legislation namely, the Land Acquisition Act. Although land can also be acquired under various acts dealing with housing, town and country planning, etc., but the principles of a public purpose and compensation according to market value prevail in all such legislation.

The Land Acquisition Act was enacted by the Britishers in 1894. Almost after a century, the act was amended in 1984 and some of its norms related to the time, amount and procedures of compensation were liberalised.

The expression 'public purpose' includes the provision of land for residential, developmental and other activities sponsored by Government. While the expression 'Company' means—a company as defined in the Companies Act, 1956 or an industrial concern employing not less than 100 workmen
and a 'cooperative society' within the meaning of any law related to cooperative societies. However, the Act in essence remains unchanged and is applicable to the whole country except the State of Jammu and Kashmir. The main features of the Land Acquisition Act are following:

1. The Act only deals with compensation not rehabilitation of people whose lands have been acquired.

2. The Act only considers payment of compensation to those individuals who have legal ownership rights.

3. Under the Act, no compensation is payable to landless labourers, forest-land cultivators, forest produce collectors, artisans and shifting cultivators because they do not have any land recorded in the record of rights.

4. Under the Act, there is no special provision for tribal communities whose land belongs to the whole community rather than to individuals.

5. The Act does not include the rights of the villagers over the common lands.
STAGES OF LAND ACQUISITION

These are several stages through which the acquisition of land takes place. Following are the main stages:

Stage I

A notification of intention to acquire land will be issued under Section 4 of the Act. The intention for which land is required, public purpose or for a company, will be mentioned in the notification. Such notifications would be published in the official gazette and in 2 daily newspapers circulating in the area of which one would be in the regional language. The Collector will also cause a public notice of such notification at convenient places in the area.

Stage II

The second stage of land acquisition is the filling and hearing of objections from any person interested in any land, which has been notified under Section 4. Under Section 5 (a), any person who has any objection against such acquisition can object to the Collector in writing. Such objections should be raised within 30 days from the date of publication of notification 4. The Collector will give the objector an opportunity of being heard, and after making any further enquiry will submit the case to the Government. The decision of the Government on the objections is final.
Stage III

When the Government is satisfied that the land is needed for a public purpose, or for a company, it makes a declaration under Section 6. In the case of a company, the company will have executed an agreement with the Government. This declaration is conclusive evidence that the land is needed for a public purpose or for a company and permits the Government to proceed further with the actual acquisition of the land. This declaration will be made within one year from the date of publication of notice 4.

Stage IV

The fourth stage of land acquisition is a notice to be issued by the Collector, under Section 9, to all those persons who have an interest in the land, to the effect that the Government intend to take possession of the land and inviting claims to compensation for all interest in such land.

Stage V

In this stage, an enquiry will be conducted by the Collector, under Section 11, both against the measurement of each claimant's land and the notice issued under Section 9.

Therefore, the Collector will assess compensation, apportion it among the interested parties and make an 'Award'. The 'Award' will be made within two years from the date of publication of the declaration issued under Section 6. The 'Award' so filed becomes final, under Section 12 of the Act. Where any dispute arises as to apportionment the Collector may refer the matter to the decision of the Court, under Section 30.
Stage VI

After declaring an 'Award', the Collector can take possession of land under Section 16 of the Act. The lands then stand transferred to the Government or a company free from all encumbrances.

There is a short-cut available for taking possession of land. In case of urgency, the Collector may, immediately after the notification under Section 9, take possession of land under Section 17 without making an 'Award'. However, the Collector will tender a payment of 80 per cent of the estimated compensation to the concerned people.

Stage VII

The award made by the Collector under Section 11 is not decisive. Any person interested who has not accepted the award, may in writing within a certain time to the Collector, have the matter referred for the determination of the Court under Section 18. The Collector will refer the matter to a special Court.

Stage VIII

Section 23 and 24 of the Act deal with the criterion to be used by the Court and the Collector, while assessing compensation. Following are the major points to be considered while assessing compensation:

— the market value of the land on the date of publication of notification 4,
— damage caused to crops, etc. when taking over possession of land, or during measurement.
— damage to earnings or property while taking over a part of property.
— cost of change of residence or place of business as a result of acquisition.
— loss of profit between the date of publication of notice 6 and the actual time of taking possessions of land.

Stage IX

This stage deals with the payment of compensation. Section 32 of the Act says that after making an 'Award', the Collector will tender payment of compensation promptly.

In case of delay in the payment of compensation, interest ranging from 9 percent to 15 percent annum of the compensation will be paid. In the Scheduled Areas, the Commissioner of the Division heads a Committee which specifically decides on the quantum of compensation, mode of payment and rehabilitation for each project.
AREA OF INTERVENTION

Under the Land Acquisition Act, there are various areas in which there is a scope for the protection of the interests of affected people. These areas of intervention are discussed below:

**STEP-1**

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<tr>
<th>What the Act Says?</th>
<th>What can you do?</th>
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<tr>
<td>Under Section 4, a notification of intention to acquire land will be issued. The intention for which land is required (public purpose or for a company) will be adequately mentioned in the notification.</td>
<td>Quite often, the intention (public purpose or for a company) for which land is to be acquired is not mentioned in the notification 4. Therefore, you should see whether the intention is sufficiently dealt in the notification. Otherwise, you can file protest, among other objections, to the Collector in writing under Section 5A of the Act. Your objection should reach within 30 days from the date of publication of the notification 4. The Collector will give you an opportunity of being heard.</td>
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<td>The Government is now free to measure the lands it intends to acquire, if it so pleases you should be present, when and if it is done. The Government must serve notice before measurement.</td>
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<td><strong>STEP-II</strong></td>
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<td><strong>Section 6</strong>: After hearing objections raised under Section 5(a), the Government will issue a declaration under Section 6. This declaration permits the Government to proceed further with the actual acquisition of land. This declaration should be made within one year from the date of publication of notification 4.</td>
<td>If the declaration under Section 6 is issued after one year from the date of publication of notification 4, then this declaration becomes invalid. Thus the entire proceedings for the land acquisition will lapse. Therefore, you should see that the declaration is made within one year from the date of publication of notification.</td>
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**STEP-III**

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<td><strong>Section 9:</strong> A notice inviting claims to compensation will be issued by the Collector.</td>
<td>At the time of enquiry under Section 11, issues related to land customarily enjoyed but not held in title, the damage caused to the earning capacity if persons whose livelihood is dependent on common property resources, should be brought to the notice for inclusion in assessment of compensation. This is a moot point 4 of Section 23(1), which deals with the damage sustained in earning capacity and point 5 which deals with the damage caused by change of residence or place of business. These important points can be used to obtain better compensation.</td>
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<td><strong>Section 11:</strong> An enquiry will be conducted by the Collector against the measurement of each claimant's land and claims of compensation. Thereafter, the Collector will make an 'Award'.</td>
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| **Section 11-A**: The Collector should make an 'Award' within 2 years from the date of publication of declaration issued under Section 6. | (i) If no award is made within 2 years from the date of publication of declaration 6, the entire proceedings for land acquisition will lapse. Therefore, you should see that 'Award' is made within this period.  
(ii) **Section 18**: If the 'Award' is not acceptable to you, you can file grounds of objections before the Collector, requiring him to have the matter referred for the determination of the District Court (usually the special Sub-Judge) within whose jurisdiction the land is situated. If you were present or represented at the time of 'Award' you can file such grounds of objections before the Collector’s award. In other cases, you can file grounds of objections within 6 weeks of the receipt of notice issued under Section 12. |
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<td>(iii) <strong>Section 25</strong>: The amount of compensation awarded by the Court will not be less than the amount declared in the 'Award'.</td>
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**STEP-V**

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<td><strong>Section 30</strong>: If disputes arise as to the apportionment of the amount of compensation settled under Section 11, or as the persons to whom the same is payable. You should have the matter referred to Court, in the same way do in Step IV.</td>
<td>It has been seen in many cases that compensation is often delayed. Where the persons affected are poor and illiterates there is a substantial leakage through corruption. You must ensure that any interest which becomes due is paid.</td>
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<td><strong>Section 31</strong>: The Collector shall tender payment of the compensation promptly.</td>
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<td><strong>Section 34</strong>: In case of delay in the payment of compensation, interest ranging from 9 percent to 15 percent per annum shall become payable.</td>
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