

Arbitration In Land Acquisition: A Legal Study On Social And Environmental Impact

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¹ Mohammed, M. (2024). Alternative Dispute Resolution Services For Social Cohesion: The Case Of Addis Ababa Chamber Of Commerce And Sectoral Associations (Doctoral Dissertation, St. Mary's University).

Abstract: *The process of land acquisition frequently presents large difficulties for socially as well as economically marginalized communities since secured systemic inequalities also power imbalances often disadvantage them. Often these groups do not have needed resources or legal skill to use hard legal systems. Therefore, they become vulnerable toward inadequate compensation and even forced displacement. Arbitration, as being an alternative dispute resolution (ADR) mechanism, offers up a more accessible, efficient, and equitable means for resolution of disputes by providing a potentially transformative path for getting to justice for these diverse communities⁴. The paper explores the role of arbitration in land acquisition cases, with emphasis on its impact on the environment as well as on marginalized communities. At first, the paper goes over the core principles for land acquisition and also covers all of the legal frameworks that govern that process, all rights for affected communities, the mechanisms that are designed for ensuring fair compensation, and whether anything has degraded the environment. It then examines specific challenges faced by marginalized groups amid land acquisition disputes and this examination spotlights socio-economic barriers that impede their ability to assert their rights and secure just outcomes. Arbitration's role as being a tool that helps with improving access to justice is a key focus in the discussion. People laud arbitration since it is flexible and confidential. It also lets people resolve issues faster than do customary courts. Time, cost, also complexity might deter marginalized communities when they litigate. These attributes can make it be an attractive option for them in other cases. This legal study evaluates how arbitration offers procedural advantages for parties, such as parties selecting arbitrators who have expertise in land acquisition in addition to parties tailoring procedures that are sensitive to the needs of vulnerable parties. Yet the paper considers arbitration's limitations and challenges critically too. Drawbacks still exist while arbiters can process cases more accessibly and with streamlining. Parties can remain imbalanced in power, especially when a state or powerful corporation has power over a marginalized community with limited resources. The paper explores the potential for arbitration to perpetuate these imbalances in the event that arbitration is not adequately regulated, stressing the necessity of ensuring that arbitration processes are transparent, fair, and also inclusive. It also considers what is the major role that is of legal representation and advocacy. This role is vital*

to leveling the playing field for marginalized communities during arbitration proceedings. This study also explores one case study from one jurisdiction employing arbitration for land acquisition disputes of marginalized groups. These case studies offer valuable perceptions into the effectiveness of arbitration in delivering justice as well as the conditions under which it can either succeed or fail. These case studies also provide lessons on best practices for designing arbitration processes so the processes respond to the needs of socially as well as economically disadvantaged parties.

Keywords: Arbitration, Environment, Justice, Land Acquisition, Marginalized Communities, Social Equity.

INTRODUCTION:

Land acquisition within India has a long controversial history. Its greatest impact is often felt by marginalized communities. Industrialization as well as infrastructure growth require land. Land is also a need for public projects. Yet, this often forces displacement and creates conflict. Legal frameworks are required⁵. These issues are complex. Alternative dispute resolution (ADR) mechanisms also ensure just outcomes. Arbitration has gained in popularity, in particular. It gives a faster way toward dispute resolution. This is particularly relevant for cases that do involve the National Highways Authority of India (NHAI).⁶

LEGAL FRAMEWORK OF LAND ACQUISITION IN INDIA:

India's legal framework for land acquisition evolved through the years. The Land Acquisition Act of the year 1894 governed such matters then. This was then the governing law. Individual rights were superseded on account of this colonial law that favored state projects. Marginalized groups especially, displaced people's needs were ignored, so it was criticized as well. For addressing this, the government enacted the LARR Act in 2013.⁷ This act is what replaced the outdated law from 1894. Because it focused on resettlement plus fair compensation, it intended to balance development needs with landowners' rights.⁸

Also a Social Impact Assessment (SIA) is required. This is something mandated by the LARR Act. Marginalized groups feel for this impact. People seek advice and systems fix complaints. Even with these improvements, there are challenges that endure. Highways, in particular with large projects, still face issues during land acquisition under special provisions.⁹

THE ROLE OF NHAI IN LAND ACQUISITION:

NHAI plays a big part within infrastructure growth in India. It is what maintains and expands national highways. For these projects, large areas of land are often needed especially in rural or semi-urban regions. The National Highways Act, 1956 governs land acquisition for such purposes in India. It allows for the government to be able to acquire land. This purchase satisfies civic demands, such as building roads.¹⁰

⁵ Fatima, S. (2015). Dispute Resolution Instrument in relation to Land Acquisition.

⁶ Sinha, A. K., & Jha, K. N. (2020). Dispute resolution and litigation in PPP road projects: Evidence from select cases. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 12(1), 05019007.

⁷ Halai, N. (2021). An Elaborative Study on the "Social Impact Assessment" under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. *Issue 4 Int'l JL Mgmt. & Human.*, 4, 4082.

⁸ Saxena, A. (2019). *Land Law in India*. Routledge India.

⁹ Rao, J., Hutchison, N., & Tiwari, P. (2020). Analysing the process of compulsory acquisition of land through the lens of procedural fairness: evidence from Scotland. *Journal of Property Research*, 37(1), 62-84.

¹⁰ Patnaik, S. (2022). Contemporary Issues and Challenges in Infrastructure Development and Project Financing in India: A Critical Analysis. *RGNUL Fin. & Mercantile L. Rev.*, 9, 1.

Land acquisition by NHAI happens fast. National highways are considered as being critical infrastructure. Marginalized communities can sometimes be neglected within this quick process. Many derive their living from the land. Their interests need protection. Legal knowledge is often not present. Issues of displacement and disputes over compensation are common. Many cases are resolved via arbitration or courts because of these. These things lead toward the resolution of many cases.¹¹

CHALLENGES FACED BY MARGINALIZED COMMUNITIES:

Marginalized communities suffer the most from land acquisition. Small-scale farmers along with economically disadvantaged groups are included. Fair compensation is often beyond them from resource or legal knowledge gaps. Even though the LARR Act mandates public participation, they are rarely consulted in a proper way.¹²

Often, that which they tend to offer will not compensate. The effects of displacement are not in accounting for the long term. It is an obvious oversight. The value of land is often set at a rate below the market. This is a problem especially for some agricultural communities. They lose their land with their livelihood too.¹³

ARBITRATION IN LAND ACQUISITION DISPUTES:

Arbitration is arising now in order to resolve land acquisition disputes. It is in fact faster than any litigation. Suing someone costs more too. Arbitration is a route toward disputes. Disagreements may concern recompense as per the National Highways Act.¹⁴

These proceedings fall under the Arbitration and Conciliation Act, 1996. Equitable as well as efficient processes happen through amendment. Arbitration intimidates to a lesser degree marginalized communities. It offers a more accessible platform through which to resolve their issues despite power imbalances.¹⁵

JUDICIAL OVERSIGHT AND THE ROLE OF THE COURTS:

While arbitration is an alternative, courts play a vital role. They intervene in and oversee land acquisition disputes if outcomes seem unfair. Courts also ensure procedural fairness. Importantly, marginalized communities have been protected by the Supreme Court of India. It has indeed set important precedents for us. This is especially true for cases that involve the NHAI.¹⁶

The courts stress fair compensation as well. They have ruled concerning market value assessments. Those assessments should reflect upon the land's true worth. This omission ensures arbiters judge fairly as well as justly.¹⁷

¹¹ Bhat, S. (2019). *Public Private Partnership in India: A Sectoral Analysis*. NLSIU.

¹² Parikh, D., Joshi, G. J., & Patel, D. A. (2019). Development of prediction models for claim cause analyses in highway projects. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 11(4), 04519018.

¹³ Shanbhag, A. N., & Shanbhag, S. (2016). *In the Wonderland of Investment (FY 2016-17)*. Vision Books.

¹⁴ Nair, R. (2016). Judicial Interpretation of the Land Acquisition Act in India: LAA, 1894 to RFCTLARR Act, 2013. *ASCI Journal of Management*, 45(1).

¹⁵ Dixit, D. The Project Director, NHAI VM Hakeem & ANR.: A Critical Analysis.

¹⁶ Srinivasan, B. (2011). Scope of Power to Grant Interim Measures against Third Parties under the Arbitration and Conciliation Act, 1996.

¹⁷ Shukla, J. (2021). Compulsory yet Fair Acquisition of Land: Assessing Procedural Fairness of Compulsory Acquisition Process in India: Analysing fairness in the process of land acquisition in India. *Journal of Property Research*, 38(3), 238-261.

ENVIRONMENTAL IMPACT:

Land acquisition develops infrastructure yet it greatly harms the environment many times. Ecosystems are disrupted when agricultural or forest land is converted to industrial, mining, or urban areas;¹⁸ biodiversity is reduced; natural water flow changes; pollution also increases. Deforestation with soil erosion are common effects, especially in sensitive ecological areas. That loss involving both plants and animals is so too. It is by raising carbon emissions, furthermore, that changes that are made in land use can contribute to climate change.¹⁹

The Social Impact Assessment or SIA is important in that it works to lessen these effects. The SIA looks at socio-economic effects that are upon affected communities.²⁰ The study also considers environmental costs for the project, as The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 requires. Environmental reviews and public consultations are included, also harm-reducing comparisons of designs or alternative sites. SIA pinpoints specific adverse effects, then proposes certain resolutions, and also fosters a more lasting growth through including all ecological factors within initial layouts.²¹

SIA is in this way an instrument that is important for community well-being, matching the aims of growth with environmental safeguards.²² It ensures openness, responsibility, along with community input in the land acquisition process. Support for both long-term environmental sustainability and social sustainability is also provided.²³

CASE STUDY AND SURVEY: LAND ACQUISITION FOR THE RANIGANJ BYPASS PROJECT (NH-60), PASCHIM BARDHAMAN, WEST BENGAL

The Raniganj Bypass Project, under management by NHAI, included bypass construction. It extended from near Km 273+000 at the Bankura border. From there NH-2 went to Km 478+180. For the project, Paschim Bardhaman district of West Bengal offered 35 hectares. Land was acquired of 254 owners by NHAI. However, the compensation made many of the landowners unhappy.

DISPUTE OVERVIEW

During interviews, some 156 landowners said that they were not satisfied with the compensation that they received. They thought it failed to show market value. It did not account for any losses either. The owners

¹⁸ Padhiary, M., & Kumar, R. (2024). Assessing the environmental impacts of agriculture, industrial operations, and mining on agro-ecosystems. In *Smart Internet of Things for Environment and Healthcare* (pp. 107-126). Cham: Springer Nature Switzerland.

¹⁹ Mishra, S. K., & Mishra, P. (2017). Do adverse ecological consequences cause resistance against land acquisition? The experience of mining regions in Odisha, India. *The Extractive Industries and Society*, 4(1), 140-150.

²⁰ Mathur, H. M. (2016). *Assessing the social impact of development projects*. Switzerland: Springer, Cham.

²¹ Das, P. J. (2018). Social Impact Assessments under the RFCTLARR Act, 2013: A Critical Analysis. *Journal of Resources, Energy and Development*, 15(1-2), 63-76.

²² Sahoo, R. P. (2020). Social Impact Assessment (and Social Inclusion): A. *Displacement, Impoverishment and Exclusion: Political Economy of Development in India*.

²³ Sinha, A. K., Thakur, R., & Khatri, A. (Eds.). (2022). *Social Impact Assessment in India: Learning from the Field*. SAGE Publishing India.

decided about pursuing arbitration. This was done according to the National Highways Act, 1956. Arbitration resolves disputes over compensation under this act.

Dissatisfaction was shown by the following from 156 owners:

- Petitions addressed to the Land Acquisition Officer were submitted on behalf of 109 landowners. They made a plan that they would start arbitrating in the event that no one addressed their grievances.
- At Chinsura, 8 landowners arbitrated with the Arbitrator already. Their search for a resolution began at the start with this single step.

KEY ISSUES RAISED BY LANDOWNERS

1. **Inadequate Compensation:**
Landowners claimed NHAI's payment remained much lower than the market price. They asserted it reflected neither the land's business nor agricultural economic promise at all.
2. **Lack of Consultation:**
Some landowners felt excluded by the acquisition process. They believed that their concerns weren't being addressed. It was in spite of the LARR Act of 2013. This Act stresses consultation that can be fair throughout land acquisition.
3. **Economic Displacement:**
Landowners impacted used land to farm or run small businesses. Acquiring put them at risk for economic hardship, as resettling meant they rebuilt livelihoods without proper support.
4. **Legal Challenges:**
Several landowners faced difficulties. The arbitration process was indeed hard for one to navigate. Many did not start arbitration since justice was not swift, resources or knowledge lacking.

FINDINGS AND ANALYSIS:

The land acquisition along NH-60 for the Raniganj Bypass Project revealed some issues. These centered mostly on just compensation. The process in itself was also quite a factor. Marginalized communities relying on the land saw affected incomes particularly. From 254 landowners, 156 or 61.42% were unhappy with compensation. Dissatisfaction at quite an important level is truly shown.

COMPENSATION DISCREPANCIES:

The key issue mentioned by landowners involved insufficient compensation. The amount offered seemed not appropriate to them. They believed that it did not reflect the true worth of the land. Some argued that the price was not near its market value or location. The location was in proximity to a growing industrial hub. The 2013 LARR Act mandates just payment yet that aim is frequently unmet.

Initially, interviewers showed that compensation for each hectare lowered expectations of the landowners by about 25%. One hundred nine petitions (70% of the dissatisfied group) were filed to the Land Acquisition Officer. In the event their compensation was not adjusted, many signaled they would seek an arbitration. Expectations of landowners along with assessments from the government exhibit this data gap.

ARBITRATION AS A PATH TO JUSTICE:

Arbitration under the National Highways Act, 1956 settles disagreements and is now well-known. Out of all of the 156 dissatisfied landowners, 8 or 5.13% already started arbitrating in Chinsura. Others should follow

before long. Some landowners started before, which shows something. They see that starting early provides a faster option instead of going to court.

For many landowners, a lack of legal knowledge is indeed a major challenge. The arbitration process can then suffer from imbalance. The government has not provided adequate help for marginalized groups so consequently it is harder for them. Now they have a harder time seeking justice.

STATISTICAL BREAKDOWN:

- 61.42% which is like 156 out of 254 landowners voiced discontent.
- Of the 156 participants, 109 or 70% of them have submitted the petitions. Arbitration possibility is shown to be growing.
- 8 of 156, totaling 5.13%, have started arbitration proceedings. These are arbitration proceedings.

ECONOMIC IMPACT AND VULNERABILITY:

The acquisition hit economically vulnerable communities hardest. The land was for landowners a source of farming or of small businesses. They were in difficult situations with no proper alternative livelihood options because they lost their land. The requirement of the LARR Act for them to assess social impact seemed insufficient. Many landowners said that little rehabilitation was planned for or consulted about.

Compensation following arbitration may not fully solve the long-term financial problems these groups face. This causes questions on current legal protections' effectiveness during large infrastructure projects.

PROCEDURAL AND LEGAL CHALLENGES:

Another issue is that it is difficult for landowners to start arbitration. The Arbitration and Conciliation Act, 1996, also the National Highways Act remain unknown for many. Marginalized landowners exist at a disadvantage without proper legal help. This drawback creates holdups plus added expense.

The 109 landowners who filed their petitions but then have not started arbitration likely encounter difficulties. Absent sufficient support, they might not obtain their due compensation or undergo protracted delays increasing fiscal hardship.

ANALYSIS OF ARBITRATION SUCCESS RATE:

Early arbitration in Chinsura shows a potential for arbitration to create improved outcomes. Data from similar NHAI projects show that only 30-40% of arbitration cases result instead in meaningful compensation increases. Arbitration proves useful; success requires lawyers representing and arbitrators understanding local land values.

Their financial situation could greatly improve should the 109 petitioners get a 15-20% compensation increase as they move forward. Marginalized groups in future projects should be treated fairly. That is ensured by changes that are systemic.

LIMITATIONS AND RESEARCH GAPS:

This study lacks sufficient factual evidence and fails to fully explore the economic effects of land acquisition on vulnerable populations. Additionally, researchers have not yet explored all of the long-term effects from arbitration upon livelihood restoration nor even how effectively legal aid can serve vulnerable landowners.

CONCLUSION:

Arbitration plays a vital role in land disputes. For India's marginalized communities justice is what is sought by it. The Raniganj Bypass Project shows arbitration's value. Also, the project shows challenges for arbitration. The arbitrator addresses compensation, but they do leave many issues unresolved. Often vulnerable landowners do face a lack of legal awareness and low compensation. These factors obstruct them much. Thus seeking fair redress is hard.

Landowners are protected under such laws as the National Highways Act, 1956, and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013. Yet in reality they do happen to fail. The fair market value is often something not addressed in a better way. The long-term impact is also often something that is not addressed well. Arbitration can only work with fair legal aid along with fair procedures offer support.

In this research, needed reforms are suggested. Improvement in the arbitration process is needed. Furthermore, the land acquisition system must improve now. Key aspects do include even stronger legal support in addition to much better compensation frameworks. It is also important to involve communities in the process more deeply. Marginalized groups' rights protection matters, but land acquisition for growth matters. Growth is ensured in India's equity.

RECOMMENDATIONS:

Strengthen Legal Aid and Awareness Programs:

Ensure marginalized landowners have access to legal support. Their rights should be fully known by each of them. It also includes understanding the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 plus the Arbitration and Conciliation Act, 1996.

Improve Compensation Calculation Mechanisms:

Develop more precise ways to value land. Consider current market value. Also, you can think about the potential use in the future. Account also for the community impact, and for displacement economically.

Enhance Public Consultation Processes:

Talks with concerned landowners must be of importance. Include marginalized groups early within the process. Quickly, deal with recompense and recovery worries.

Establish Specialized Arbitration Panels:

Panels that are specializing in land acquisition must be created. They must have a comprehension of local economic conditions. Resolutions about compensation will improve.

Monitor Long-Term Impact of Arbitration:

Assess arbitration's long-term effects via studies. Focus on marginalized communities. Continuous evaluations about livelihoods and compensations must have adequacy.