

Unveiling the Complex Web of Expropriation: A Comprehensive Review

Discipline: Commerce

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Abstract

Land in India serves as a symbol of social identity, status, power, and riches in addition to being a source of food and subsistence. The legal framework for acquiring, possessing, and managing property for people and corporations is provided by the notion of property regime. However, the governments must use the eminent domain principle to take over vast swaths of land in order to acquire them for public purpose to preserve the momentum of growth and development. In India, the state primarily uses the Land Acquisition Act and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement (RFCTLARR) Act 2013 to exercise its eminent domain powers. Despite the fact that the Act contains mechanisms for offering financial compensation to the affected parties, the loss sustained as a result of the purchase cannot always be put into monetary terms. The purpose of the paper is to study the body of knowledge regarding India's laws governing land acquisition, eminent domain, and the concept of public purpose. The study also aims to identify the effects of expropriation that the impacted people have to deal with, and the resettlement and rehabilitation practices adopted by the government.

Keywords: *Land, Expropriation, Public Purpose, Eminent Domain, Resettlement, Rehabilitation*

1. Introduction

Every element of human existence, including the political, social, legal, emotional, and environmental facets, is impacted by land, which is an essential natural resource (Raha, 2021). No one wants to lose their property, even if it means losing their life, because everyone values it so highly. The importance of land and the innumerable violent wars that have been fought over it by monarchs, nation-state rulers, and many other parties, as well as by smaller organizations, families, and people at their own levels, have been demonstrated again and time again throughout history (Shokeen, 2021). Every person on the planet needs land in order to live and work.

The most important aspect of any human being's life is land, whether it be as a place of residence or a source of income. As a result, there is tremendous demand to possess property for both current and future generations worldwide. For future and increased output, it is the single limited resource that all other productive and developmental activities rely on (Shorey, 2017). Land is an essential resource for the physical, commercial, and financial growth of every country's infrastructure and industry (Muyombano, Espling, & Pilesjö, 2018). As the global economy grows rapidly, infrastructure is necessary to keep up the speed of growth and development.

In order to do this, a significant quantity of land would need to be purchased, and individuals would be forcibly removed from their sociocultural surroundings and deprived of their land, means of subsistence, and place of residence (Choudhary, 2009).

2. Problem Outline

This analysis examines the legal framework that governs property rights, acquisition, and management in the context of eminent domain used for "public purpose." It delves into the specifics of land expropriation in India. The study, which focuses on the Land Acquisition Act and the RFCTLARR Act of 2013, intends to highlight the shortcomings and difficulties in reimbursing impacted parties, recognizing that the losses sustained transcend just monetary assessment.

A comprehensive review of current information regarding India's laws pertaining to land acquisition, eminent domain, and public purpose is one of the key goals. Another is an examination of the concrete and intangible impacts that expropriation has on the people and communities that are affected. Furthermore, the review evaluates government resettlement and rehabilitation practices critically in an effort to provide nuanced insights that heighten awareness, contribute to informed discourse, and possibly direct policy improvements in addressing the country's complex land expropriation implications.

3. Study Framework

This study will conduct a systematic review of the existing literature to identify the effects of expropriation that the impacted people have to deal with, and the resettlement and rehabilitation practices adopted by the government. The three-step process—search, selection, and analysis—proposed by Grant and Booth (2009) has been used in this study to transparently and methodically assess scientific knowledge in the field of research.

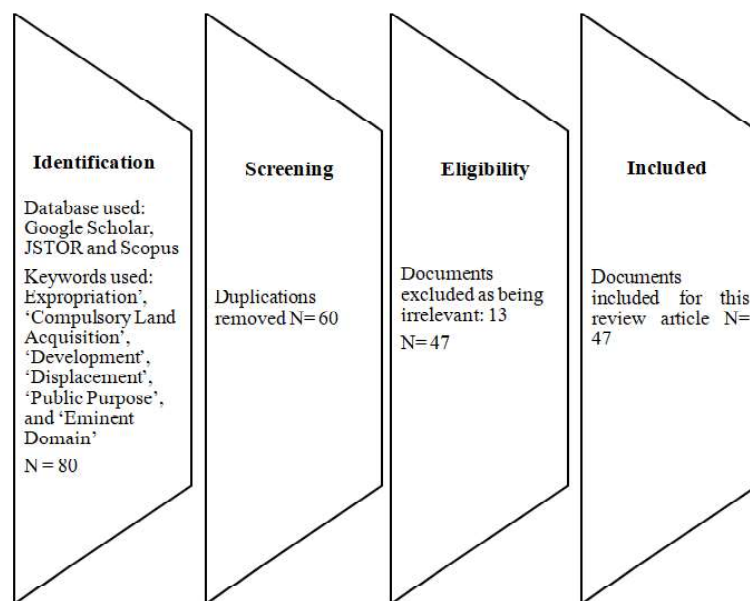


Figure 1 Research Flowchart

This study reviewed articles from reputable journals to ensure publication quality (Wallace & Wray, 2016; Xia et al., 2018), using multiple trusted databases such as Google Scholar, Scopus, and JSTOR to gather comprehensive data for a systematic review (Goopio & Cheung, 2021). A keyword-based search—using terms like ‘Expropriation’, ‘Compulsory Land Acquisition’, ‘Development’, ‘Displacement’, ‘Public Purpose’, and ‘Eminent Domain’—yielded 150 publications. After removing duplicates, 100 articles remained. Following Lu and Stepchenkova’s (2015) method, titles and abstracts were screened for relevance and quality, resulting in 80 studies for detailed analysis. These were examined using content analysis to identify key issues and assess government resettlement and rehabilitation practices. Thematic analysis was then applied to classify emerging patterns (Farouk et al., 2021). Each author conducted the

process independently to avoid bias, with theme naming based on individual interpretation.

4. Results and Discussion

4.1. Development Induced Displacement

Development is a given in developing countries like India. Among the numerous developmental initiatives being carried out are megaprojects such as power plants, roadways, railroads, and infrastructure upgrades (Kang & Sung, 2018). These projects require a substantial quantity of land to be built. When vast tracts of land are bought from private owners, populations are uprooted (Agrawal, 2020). Displaced people miss out on many things, some of which are vital to their lives, like homes, productive resources, culture, livelihoods, and surroundings that suit their skills and habits, as well as social networks and a sense of community.

People have been displaced not merely from their homes but also from their homelands, to which they may have been bonded by ancestry (Mary Liya, 2014).

Displacement brought on by development totally breaks the connection between people and their land, upsetting history, culture, connected memories, and enduring communal bonds (Challa, 2013). Any societal change may be beneficial to certain groups while being detrimental to others. Development aims to benefit society, but in the process, it uproots people and deprives them of a number of essentials, such as homes, productive assets, culture, livelihoods, environments that are suitable for their skills and practices, community networks, and a sense of belonging (Sharma, 2016). The rate of displacement is not decreasing. According to Hirsh et al. (2020), the planning process actually assumes that displacement is unavoidable. There is an effort to portray it as a chance to enhance the living conditions of the displaced and to defend it as a necessary expense of growth. The state's failure to rehabilitate the displaced and prevent them from becoming the sacrificial lambs of the development process, the creation of internal refugees, and the poverty of the displaced are all dismissed as regrettable byproducts of economic growth (Prabal & Hafizur, 2018). Conveniently, the initial deprivation of the displaced has been exploited to imply that development could only be advantageous to them. A first step toward better legislation is a reevaluation of the human costs of development initiatives. To provide victims and potential forgets of mass displacement concrete rights and to limit state power in this area, legal change is crucial (Shim, 2015).

4.2. Eminent Domain

Industrial and infrastructure projects have two options for acquiring land: they can use the market route (i.e., by negotiating with the landowners) or they can use the

government's eminent domain rights. Eminent domain is the state's inherent right to acquire a citizen's private property in exchange for fair financial compensation (Lee, Kim, & Huh, 2021). The financial compensation is typically given at standard market rates. Governments around the world, including those in India, have this power and use it (Mohanty, 2009). Eminent domain, also known as expropriation, refers to the state's authority to appropriate private property for public use (Muyombano, Espling, & Pilesjö, 2018). This power grants governments the right to compulsorily acquire land, with compensation, to serve the public interest (Deininger, 2003). The doctrine of eminent domain is rooted in the principle that the state or sovereign holds ultimate authority over all property within its jurisdiction, allowing it to take private property for public purposes (Singh, 2016).

Over time, the exercise of eminent domain has been conditioned on compensating the affected property owners, ensuring that private land can only be appropriated upon providing recompense (Umamaheswari & Latha, 2018). Essentially, the doctrine asserts that the state, as the sovereign power, possesses the authority to appropriate private land for public use, subject to compensation (Kumar, 2017). However, the use of eminent domain has often led to resistance from landowners, particularly when compensation is perceived as inadequate, and when land acquisition results in involuntary displacement, adversely affecting livelihoods (Indian Infrastructure Report, 2009). The specific application of eminent domain laws varies across countries and within jurisdictions over time. In the Indian context, such laws generally encompass two components: a specified minimum compensation for acquired land, and a provision that once a certain portion of the required land has been acquired, remaining landowners must sell at the established price (Chowdhary & Chowdhary, 2016).

The underlying principle of state acquisition of private property is based on the legal maxims *salus populi est supreme lex* (the welfare of the people is the supreme law) and *necessitas publica major est quam privata* (public necessity is greater than private necessity) (Kumar, 2017).

4.3. Public Purpose

"A purpose that is an object or aim in which the general interest of the community, as opposed to the particular interest of individuals, is directly and vitally concerned" is a requirement of the public purpose as defined by Judge Mr. Justice Batchelor. Accordingly, the most convincing public justification for land acquisition in India seems to be the creation of jobs in order to reduce poverty (Sinha, 2016). The government cannot rely solely on real estate markets to guarantee that real estate is purchased when and where it is required for the greater benefit in the public interest. The owner of the relevant real estate might not be interested in engaging in any form of deal.

The legal system gives the state or local community the authority to use the expropriation process in certain situations when there are no other options available in order to support and accomplish the intended public benefit (Šumrada et al., 2013). The law listed a few specific instances of public purpose, including town or rural planning, housing the impoverished and landless, “carrying out any educational, housing, health or slum clearance schemes sponsored by Government,” and providing land for a government-owned corporation (Hoda, 2018). However, it is a bitter reality that when the government design and carry out railway, airport, or other development projects, a new segment of society known as “the evacuated” is created (Chengodan, 2022).

4.4. Land Acquisition Act

Land acquisition is, consequently, concerned with justice- absolute, distributive and re-distributive: all at a time and over the time! The gains for the gainers and losses for the losers are gigantic. This gainer-loser gap tends to widen over time with each instance of motivated land acquisition (Khan & Alam, 2015). Land acquisition in India denotes to the process by which the union or a state government in India obtains private land for the drive of industrialization, development of infrastructural amenities or urbanization of the secluded land, and provides recompense to the affected land owners and their reintegration and relocation (Umamaheswari & Latha, 2018). There have been a few unique rules that have remained utilized by both Union and state governments to get land from private people. A noteworthy bundle of them keeps existing (Kumar, 2019). Land acquisition Act 1894 governed the process of land acquisition till 2013 but on 1 January 2014, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force which now governs the land acquisition process in India and it has redefined the definition of public purpose and restricted its scope, earlier definition of the term “public purpose” was very wide and because of this wide scope for interpretation government abused the power of eminent domain for acquisition of land for public purpose (anjana, 2018). According to Singh (2016), the Land Acquisition Act of 1894 is the primary tool used by the Indian government to exercise its eminent domain authority. The Act outlines the procedures that must be followed by the state when purchasing land for a business or for itself. Due to its scarcity, land has historically been claimed by a number of different power structures (Arora, 2017). As a result, a set of rules offered a practical way to resolve these conflicts. Regretfully, a group of colonial minds—British people—who had little regard for the indigenous people created it. Those who were losing their land for the sake of the greater good were not adequately compensated by the ensuing law (Saxena, 2018). People discovered that their land was being taken away in what they believed to be a very cruel method. The law under discussion was enacted in 1894.

was most recently modified in 1984. Even after 117 years, not much has changed (Nandal, 2014). Mandatory land acquisition was regulated by the “Land Acquisition Act, 1894,” which was more than 129 years old, until the passage of “The Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.” In a completely different political, social, and economic environment, this Act was passed. However, despite independence, the Indian government hasn’t significantly altered its acquisition policy to take into account modern demands and ideals. Since there have been several agitations, some of which have even turned violent and resulting in numerous fatalities, the Land Acquisition Act of 1884 has had social, legal, cultural, economic, and political repercussions (Kumar, 2018). Either Part II or Part VII of the 1894 Act may be used to purchase land. The discussion that follows demonstrates how the procedures outlined in these two sections differ somewhat. The latter is used for non-government enterprises, but the former is utilized when the acquiring entity is the federal government, state governments, or businesses that are either fully or partially owned or controlled by the state (Gogoi, 2018).

Additionally, it should be mentioned that although Part II land purchase is only for “public purposes,” Part II acquisition can be for both “public purposes” and “non-public purposes,” but the latter is only available for very specific purposes (Nandal, 2014). They passed “The Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013” later that year. The Act’s main goals were to ensure that individuals impacted received just compensation, comprehensive R&R, sufficient protections for their welfare, and full transparency throughout the land acquisition process (Raghuram & Sunny, 2015).

In order to concentrate on overall growth, the process was to be made more compassionate, open, inclusive, and educational. Additionally, it was to ensure that the acquisition process through mandatory provision not only results in the development of the area’s infrastructure but also that the displaced families be included in the project so that the socioeconomic status of the people is enhanced in tandem with the development of the infrastructure, ultimately leading to the achievement of overall development (Shokeen, 2021).

4.5. Compensation

Neither the LA Act of 1894 nor Article 31(2) define “compensation.” Additionally, it is not defined in Article 300A of the Indian Constitution. “Something awarded to someone in recognition of loss, suffering, or injury” is what the term “compensation” indicates. This doesn’t have to be monetary. After the land is acquired, the displaced landowner should receive the appropriate compensation and receive the necessary

rehabilitation (Singh, 2023). In the majority of nations, the state uses compensation as its primary financial weapon to deal with expropriation, relocation, and displacement. Compensation is given almost magical qualities in official vocabulary, as though it could remedy all the negative effects of forced relocation, including uprooting, dispossession, mental distress, expropriation, and economic poverty.

However, in practice, compensation proves to be deceptive and ineffective, failing to bring about the healing miracles for which it is formally and poetically praised. Reconstruction is underfunded, and compensation is poor. The shocking reality is that many compensation-paying enterprises end up making people worse off rather than better off (Cernea, 2008). As part of larger development project expenditures, targeted investment funds must be directed to displaced people in order to adequately address damages compensation and accomplish policy goals in resettlement. Instead, then concentrating only on providing compensation, regardless of overall recovery, Cernea (2003) promotes a change from the traditional “economics of compensation” to an “economics of resettlement with development,” placing more emphasis on the sustainable reestablishment of impacted people.

Additional investment resources for resettlement with welfare improvement can be acquired in a number of ways, most notably by distributing project-generated benefits to displaced people fairly, according to Cernea (2003). However, the topic of compensation is intricate and frequently hotly debated. Many Resettlement Action Plans (RAPs) lack a comprehensive economic feasibility analysis capable of assessing whether the proposed rehabilitation measures, including the creation of alternative livelihoods, will facilitate economic recovery (Lee, Lee, & Nam, 2018).

As a result, initiatives that evict people from vital productive resources and upend their economic structures are rarely backed by sufficient financial and economic resources to rebuild the livelihoods they destroy (Cernea, 2008; Mahalingam & Vyas, 2011).

Resettlement and Rehabilitation (R & R)

The LAA, 1894 did not make rehabilitation and resettlement (R&R) as the right of the displaced, project affected people and communities. As a result, the displaced people and communities of developmental projects have to suffer impoverishments like livelihood crisis after being displaced from their ancestral land, change in means of livelihood, breaking away from community bonding etc. It becomes necessary, to make a proper assessment of their poor conditions by the state to frame a comprehensive R&R policy. Therefore, what is of utmost necessity, to resolve development induced displacements are the implementation of a comprehensive and adequate policy for R&R to provide proper livelihoods and a quality lifestyle for the sustenance of these

marginalised people and communities on the new resettlement sites (Gogoi, 2016). An effective Resettlement & Rehabilitation programme has to approach resettlement as the management of risk and focus on livelihood reconstruction. So, displacement implies an unequal redistribution of costs and benefits. Although these negative social effects are typically unavoidable, it is crucial to reduce them and provide alternative relocation sites by building housing, roads, drinking water, electricity, hospitals, and other infrastructure, as well as offering appropriate, remunerative economic rehabilitation support (Amin, Gul, & Hassan, 2021). This will allow the negatively impacted individuals to return to at least their previous levels of living standards (Prabal & Hafizur, 2018). Both the project managers and the impacted lot must carefully develop and carry out the displacement and rehabilitation management plan with an integrated monitoring system (Rao & Venkateswarlu, 2020).

Effects of Expropriation

The government was able to purchase private lands according to the Land Acquisition Act of 1894. Despite numerous amendments, it is the only land acquisition law that has not fulfilled its intended function (Hassan, 2016). Displaced persons were only entitled to monetary compensation under the 1894 Act, which was still very little. Many people that are displaced come from the lowest areas and do not speak out against the abuse (Kumar, 2023). The ignorance of those involved in the property split has been another significant factor. Many business owners and supporters of the company gain additional advantages from this (Fatima, 2022). According to Kombe (2010), in order to review the current top-down approaches to compulsory land acquisition practices, institutionalize dialogue as a crucial land acquisition strategy, and establish dependable funding mechanisms for prompt and equitable compensation, policy and legislative reforms are required. Most significantly, obligatory land provision for resettling and putting displaced households back in their original positions, as well as a shift in mindset among public authorities, particularly professionals, are additional crucial factors (Sharma, 2022). The latter is especially true since “business as usual” procedures sometimes overlook how the urban property landscape has changed, particularly in relation to private property rights and the privatization of land (Kombe, 2010).

Land acquisition, particularly when it is a complete acquisition, breaks many ties and connections that are crucial for the formation of strong economic foundations as well as for the role it plays in character and personality development. The relocation disturbs people’s political, sociocultural, and economic life, and starting over is exceedingly costly. In light of this, Syagga & Olima (1996) suggested that in order to lessen the trauma associated with relocation, the social compensation component should be given more weight in future settlement programs. It’s also important to evaluate the

impacted individuals' social and cultural needs. Future land acquisition should take into account the remaining land's economic worth so that, in cases where the remaining portions are deemed uneconomic, the entire land should be purchased. However, the purchasing authority's ability to use the land will determine this (Syagga & Olima, 1996). Preventing poverty and enhancing resettlers' quality of life are the main objectives of any involuntary relocation process (Samal, 2017). Governments and technical organizations must plan for growth at the relocation and comprehend the economics of dispossession, poverty, and recovery in order to do this. Strong empirical data has demonstrated that these often-ignored and poorly understood hazards lead to severe impoverishment and cumulative deprivations (Panda, 2008).

It is clear from the consideration of project-related risks to individuals above that compensation for condemned assets alone will not be sufficient to reduce these risks. However, expropriation payouts remain the primary focus of almost all displacement strategies globally, rather than income re-establishment. Although expropriation laws offer compensation for properties that have been condemned, they neither promise nor seek to restore previous standards of living. Therefore, in contrast with existing practice, Cernea (1999) concluded that the intrinsic socio-economic hazards of resettlement can and must be brought under control only through an encompassing approach of conserving livelihoods and re-establishing revenue streams (Cernea, 1999).

5. Findings

The intricate relationship between land, identity, and power is a cornerstone in India, where land bears profound cultural, social, and economic significance. Serving as a symbol of social identity, status, and wealth, it becomes indispensable for sustenance, acting as both a source of food and livelihood. However, this centrality of land is challenged by the legal framework and the concept of eminent domain, where the government, under the Land Acquisition Act and RFCTLARR Act 2013, exercises its right to acquire land for public purposes. While mechanisms for financial compensation exist, the losses incurred during acquisition are not always quantifiable in monetary terms, adding layers of complexity. Development-induced displacement becomes a focal point, driven by projects like infrastructure and power plants, resulting in large-scale land acquisition and the consequential loss of homes, culture, and livelihoods. Such societal changes, while functional for some, prove dysfunctional for others, prompting critical examinations of eminent domain. Governments, endowed with the right of compulsory land acquisition, face resistance and disputes, particularly in India, where it is governed by the Land Acquisition Act. Challenges encompass insufficient compensation, involuntary displacement, and negative impacts on livelihoods.

The concept of public purpose emerges as a justifying force for these interventions, emphasizing objectives that serve the general interest of the community, such as poverty reduction through employment generation. The evolution of land acquisition laws in India, transitioning from the Land Acquisition Act of 1894 to the RFCTLARR Act of 2013, reflects a desire for a more humane, transparent, and inclusive process, focused on overall development. Compensation emerges as a significant issue, with the term lacking a clear definition in the legal framework and often viewed as impotent and misleading. Additionally, resettlement and rehabilitation (R&R) challenges arise, as the LAA 1894 did not establish R&R as a right for the displaced, resulting in livelihood crises and community disruptions. Current Resettlement Action Plans (RAPs) often lack economic feasibility analysis and struggle to restore livelihoods. The effects of expropriation under the 1894 Act highlight dissatisfaction among the displaced due to minimal compensation. Ignorance among stakeholders further contributes to mistreatment, necessitating policy and legislative reforms for fair compensation, dialogue, and funding mechanisms. Finally, understanding the socio-economic risks of resettlement emphasizes the inadequacy of compensation alone, emphasizing the need for income re-establishment and safeguarding livelihoods. These findings underscore the multifaceted challenges surrounding land acquisition and call for nuanced legal, policy, and procedural frameworks to comprehensively address the socio-economic impacts on affected communities.

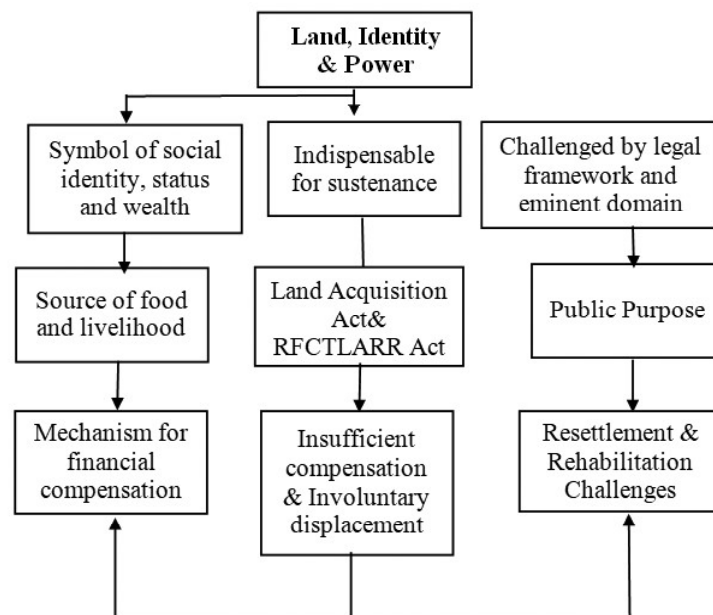


Figure 2 The Dynamics of Land, Power, and Displacement

6. Suggestions

- There is an urge for a holistic reassessment and updating of existing laws which involves proposing amendments for enhancing the transparency, fairness and protection of rights of the project affected people and communities.
- “Compensation” must be redefined and articulated within the legal framework, extending beyond the monetary terms. Exploring alternative compensation methods that account for the diverse nature of losses during land acquisition is advised. Thorough economic feasibility analyses are proposed to determine fair and adequate compensation, taking into consideration the multifaceted aspects of losses incurred.
- The establishment of R&R is an inherent right for displaced individuals and communities. The development and implementation of comprehensive R&R policies are recommended, concentrating on livelihood reconstruction, housing, education, healthcare, and overall community well-being. Incorporating economic feasibility analyses into R&R plans is stressed to ensure sustainability and effectiveness.
- The concept of “public purpose” needs to be scrutinized and redefined in alignment with community interest and welfare. Active participation and consultation with affected communities in decision-making processes are encouraged, emphasizing the incorporation of diverse perspectives that consider socio-economic and cultural aspects.
- There should be an open dialogue and constructive engagement between the government, project developers, and affected communities. Establishing effective conflict resolution mechanisms to address disputes arising from land acquisition, compensation, and resettlement is recommended.
- International collaboration shall be encouraged to learn from successful models in land acquisition, eminent domain, and resettlement. Engagement with global institutions and experts is proposed to draw insights for improving India’s approach to land-related issues.
- The authority may establish a mechanism for ongoing review and adaptation of land acquisition laws and policies based on evolving socio-economic and legal contexts. Regular assessments of the impact of reforms and adjustments to address emerging challenges and opportunities are advocated. Fostering a culture of learning and improvement in the governance of land acquisition and related practices is considered integral to the overall strategy.

7. Conclusion

This research has shed light on the complex relationship between legal frameworks, socioeconomic repercussions, and the lived experiences of those impacted by land expropriation in India. The data shows serious flaws in the way that relocation, compensation, and resettlement are managed, even if land acquisition is frequently justified in the name of development and public purpose. The RFCTLARR Act of 2013, which replaced the colonial-era Land Acquisition Act of 1894, represents a step forward in principle, but there are still issues in practice, especially with regard to guaranteeing just compensation, reestablishing livelihoods, and protecting the rights and dignity of displaced populations.

The research emphasizes the urgent need for a more open, inclusive, and fair land acquisition procedure that puts human welfare and national development objectives foremost. India may advance toward a development model which is not just progressive but just by integrating social impact evaluations and economic feasibility with community-centric policies and legislative changes.

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