

DEVELOPING A MODEL TO IMPROVE LAND AVAILABILITY IN JHARKHAND FOR INDUSTRIAL GROWTH

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PREFACE

Jharkhand had a challenge of political instability in initial one and a half decade of its creation. One of the important aspect which is a cause as well as a result is the concentration of tribal population in the state who have lagged behind in the development process.

Since 2015, the state has seen a stable government. The government has initiated reforms like introduction of “Jharkhand Single Window Clearance Act 2015”, “Jharkhand Industrial Park Policy 2015” and “Jharkhand Private Land Direct Purchase Policy 2017” with the objective of promoting industrial development in the state.

However certain impediments remain as far as encouraging private investments are concerned, primary among them being availability of land. Apart from general contradictions which occur between central and state legislations, Jharkhand has to face additional difficulties because of pre-independence legislations like Chota Nagpur Tenancy Act 1908 and Santhal Pargana Tenancy Act 1949. Therefore the gap between laws and policies become more intense.

Under this context, this study has been taken up to “Develop a Model to Improve Land Availability in Jharkhand for Industrial Growth”. The model is being tested by conducting interviews from experts, having an experience of at least ten years in this subject.

1. Literature Survey

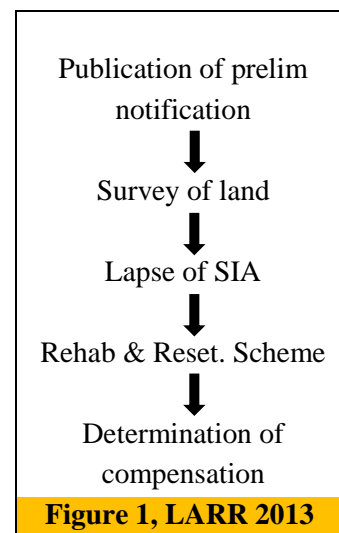
Relevant policies and legislations have been studied under five heads:

- a) Central government laws and policies on land acquisition and industrial promotion
- b) Jharkhand government laws and policies in similar context
- c) Laws and policies on the same in other states of India
- d) Laws and policies in other countries like Bangladesh, Pakistan, UK and others
- e) Case studies

a) Central Government Laws and Policies on Land Acquisition and Industrial Promotion

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (LARR 2013): It replaces the pre-independence legislation, Land acquisition Act 1894 (LAA 1894). It was formed in order to provide better compensation to the displaced people whose land have been acquired for various public and private projects. Key provisions of the Act are:

- Land acquisition can only happen if government takes it for its own use, PSUs or when private players take it for “public purposes”, Section 2 (1).
- Compensation to the land owners in urban and rural areas may be one and two times of the market value respectively.
- Social Impact Assessment (SIA) needs to be done for the land to be acquisitioned and is to be completed within six months.
- SIA includes checking viability of other sites for the same project.
- Consent of 70 and 80 per cent landowners may be there for land acquisition for PPP and private projects respectively¹.
- Section 81 of the Act talks about temporary occupation of waste or arable land, extendable to a maximum period of three years for public purposes. The District Collector would act as the nodal body in such occupations.
- Section 101 of the Act talks about “land banks”, where any piece of land left unutilized for a period of five years would be returned to governmental land bank. Land bank is defined as any governmental entity which deals with converting vacant government land into productive use². Lately this section has become controversial given that state governments have started using both public and private land to woo industries and investment³.



¹ <http://www.prsindia.org/billtrack/the-land-acquisition-rehabilitation-and-resettlement-bill-2011-1978/>

² <https://in.reuters.com/article/india-landrights-landbank-idINL5N1FO24G>

³ <https://thewire.in/banking/states-create-land-banks-private-investors-conflicts-erupt-across-india>

- Section 105 of the Act lays down exception for 13 Acts where rehabilitation and compensation package would not be considered under the LARR scheme. These laws include the National Highways Act 1956 and the Metro Railways Act 1978.
- Sub-section 3, to section 105, however talks about a leeway to that section where central government can issue a notification and land acquisition happening under the said 13 statutes would also be considered under LARR scheme. A controversy on the same sub-section erupted when the central government released a notification, but only after the one year had lapsed⁴.

LARR (Amendment) Bill 2015. These amendments were introduced after the change of government to improve fallacies in the previous legislation. However due to mounting public pressure and opposition⁵, government had to withdraw these amendments. Key amendments proposed were:

- The Bill exempts five types of projects from the “consent” provision. These categories are namely defense, rural infrastructure, affordable housing, industrial corridors, and infrastructure.
- SIA is also not mandatory for these five projects.
- Exception granted to “irrigated Multi cropped land” under section 10 is revoked for these five categories.
- The Bill changes the term ‘private company’ to ‘private entity’. A ‘private entity includes a proprietorship, partnership, company, corporation, non-profit organization⁶.

National Monitoring Committee: Central government keeping in line with section 48 of the LARR Act 2013, formed the National Committee Report to look into issues like displacement and compensation under LARR schemes on 26th July, 2018. As per the press release, the committee would majorly look into displacement issues arising due to Polavaram project in Andhra Pradesh⁷. Mandate of the committee reemphasizes the importance of tribal land which would be acquired only in exceptional circumstances.

National Manufacturing Policy 2011: This is a policy made by the central government governing whole of the manufacturing sector in the country. Key provisions are:

- Objective of enhancing the share of manufacturing in GDP to 25% by 2021 and creating 100 million jobs.
- At least 30% of the total land area proposed for the NIMZ will be utilized for location of manufacturing units.

⁴ <https://www.dnaindia.com/india/report-government-issues-notification-on-land-law-as-congress-fumes-2119968>

⁵ <https://www.downtoearth.org.in/news/will-land-bill-cross-rajya-sabha-hurdle-48947>

⁶ [http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Summary%20LARR%20\(A\)%20Ordinance%202015.pdf](http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Summary%20LARR%20(A)%20Ordinance%202015.pdf)

⁷ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=181113>

- A techno-economic assessment will be carried out by the State government of the proposed land area for NIMZ.
- Status of land acquisition to be dealt by state government.
- Self-certification, third party certification and combination of forms to be encouraged.
- The State Government will constitute a Special Purpose Vehicle (SPV) which would facilitate the planning of NIMZ.
- Land allotment to be done on lease basis. Land will be used within the specified period of time for the specified purpose which would be indicated in the land allotment letter itself.
- The entire process of clearances by State authorities will be progressively made web-enabled.
- The Environmental Clearances for NIMZ units under the EIA Notification, 2006 shall be exempted from public hearing provided under the EIA Notification, 2006 in cases where such estates have undergone public hearing as a whole.
- The Central Government will bear the cost of master planning for the NIMZ.
- The Central Government will improve/provide external physical infrastructure linkages to the NIMZs.
- Under the Ministry of Finance 'Scheme for Support to Public Private Partnerships in Infrastructure' in the form of capital grant at the stage of project construction will be given as per the VGF guidelines.
- The Central Government will set up a Technology Acquisition and Development Fund for creation of a patent pool.
- The Central Government through its institutions and schemes will provide institutional infrastructure.
- The Central Government will provide a weighted standard deduction of 150% of the expenditure (other than land or building) incurred on Public Private Partnership (PPP) projects for skill development.

The Land Titling Bill 2011. An Act to provide for the establishment, administration and management of a system of conclusive property titles through registration of immovable properties and further to amend the relevant Acts as stated in the Schedule and matters connected therewith. Some key provisions are:

- Land Titling Authority shall be constituted.
- A survey for the preparation of records shall be conducted.
- District Land Titling Tribunal shall be constituted.
- State Land Titling Appellate Tribunal shall be constituted.

b) Jharkhand Government Laws and Policies in similar context

Jharkhand Private Land Direct Purchase policy 2017. This policy was launched in order to facilitate the buying and purchase of land in the state of Jharkhand⁸. Key provisions are:

- Both the interested parties can approach the deputy commissioner and express their interest in selling/buying the land.
- Land requiring body can inform the land owner if they are willing to give additional compensation to them, through deputy commissioner.
- Under this policy, the raiyat (s)/land owner (s) can become partners with the Agency of the Department of Industries, Mines and Geology in the development process by pooling their land – Section 10 (1).
- The policy directive is in direct contradiction to Section 49 (1) of Chotanagpur Tenancy Act 1908 which says only government can purchase land from tribals.
- Section 2 (1) of LARR, 2013 reiterates the same.

Jharkhand land acquisition 2013 amendment bill. Jharkhand government introduced this bill to amend some of the provisions in the central legislation. Key amendments are:

- SIA is being waived off for 10 purposes.
- Consent of gram sabha has to be taken.
- In Scheduled areas, PESA (Panchayats Extension to Scheduled Areas) Act shall be applicable.
- It provides for compensation to be given within six months.

Jharkhand CNT and SPT Amendment Bill 2016. Under this bill, Sections 21, 49(1) & (2), 71(A) of CNT Act and section 13 of SPT were to be amended. Agricultural land can be used for non-agricultural (commercial) purposes, without changing the ownership of land.

Jharkhand Industrial and Investment Promotion Policy 2016. This is the state policy for attracting business to Jharkhand. Key provisions are:

- Constitution of Jharkhand Investment Promotion Board with CM as its chief patron.
- Jharkhand Investment Centre to be setup in Delhi. It would coordinate with other states and central government whenever required.
- In case of land allotment by Industrial Area Development Authority (IADA), mega IT units will be allowed deferred payment of land value i.e. payment of land value by such units will be allowed in five equal installments spread over five years.
- Industrial units will enjoy 100% exemption / reimbursement of stamp duty and registration fee for land directly purchased from the raiyats / acquired through consent award (lessee of IADA / industrial parks will not be eligible for this benefits). This facility will be granted only for the first transaction for a particular plot of land.

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<http://www.jharkhand.gov.in/documents/10179/54877/Jharkhand%20Private%20Land%20Direct%20Purchase%20Policy%202017?version=1.0&t=1501841338000>

- State government's assistance in land acquisition / land purchase for mega and ultra-mega projects.
- District Industries Centre (DIC) has been established to promote industrialization specially Micro and Small industries of the state and to implement different programmers of the State and Central Government related with the growth of MSME, Large or Mega Industries.
- Jharkhand Industrial Infrastructure Development Corporation has been established to create, develop and maintain infrastructure facilities for systematic growth of industrial units in the State of Jharkhand.
- Performance of industries are evaluated every year and on the basis of objective evaluation criteria, suitable awards are given by the State Government for outstanding achievement.

Jharkhand Industrial Park Policy 2015. This policy seeks to establish sector specific industrial parks with the help of private capital⁹. Public Private Partnership (PPP) model shall also be explored for the same. Key features of the same are –

- Section 49 of CNT Act 1908 and section 53 of SPT Act 1949 read with Rule 12 of SPT Rules (Supplementary) 1950 allow establishment of private and PPP industrial parks in Chotanagpur and Santhal Pargana areas respectively.
- Private promoter industry has to keep at least 20 per cent equity partnership in the project.
- Assistance for infrastructural facilities in sector specific parks would be provided to the tune of 50 per cent of the cost put in it, subject to a maximum cap of 7 crores
- Proposal for setting private industrial park shall be processed in a time bound manner.
- Least availability of 50 acres of land is required to set up private industrial park and number of industrial units be at least 15.
- Sector specific industrial park have a minimum requirement of 10 acres and 5 industrial units.
- Government would not help in making available land for establishment of private industrial parks.
- The upper cap for government land to be used in private parks is 35 per cent.
- Land to industrial units in private parks would be provided on lease basis for a minimum of 30 years. This land can be mortgaged with banks to raise loans.
- Minimum 40 per cent of the developed land would be earmarked for MSMEs.
- 50 percent of the total cost, subject to maximum cap of 10 crores, incurred on development of infrastructure for private parks shall be provided.
- Release of grant would be in three installments.
- The commissioning of private park project shall be completed within three years of the notification.
- Public institutes would be eligible for Viability Gap Funding (VGF). VGF would be at maximum 10 crores and seven crores for general and sector specific park respectively. It would be released in two installments.

⁹ <http://momentumjharkhand.com/wp-content/uploads/2016/08/Jharkhand-Industrial-Park-Policy-2015.pdf>

JIADA Regulations (Amendment) 2016. The government issued them on 6th February 2017. One major provision of these amendments was that the reserve price of land for labour intensive industries like textiles, garment and footwear would be 50 per cent of the price fixed in industrial area. Such industries would also be eligible to pay premium in 10 equal installments (without interest) spread over a period of five years.

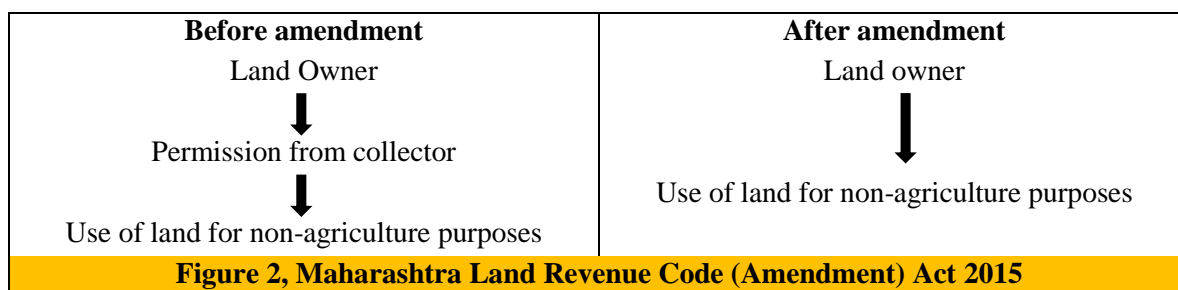
Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules-2015. These rules were promulgated in order to give clarity on land acquisition laws in the state. Key provisions are:

- Collector can issue a speaking order to waive off SIA.
- Under PESA 1996, consent of gram sabha is required, with the quorum of the meeting be one third. However if in first meeting the quorum is not present, the quorum would not remain necessary in subsequent meetings.
- Whatever is not defined, would be defined as per LARR 2013.

c) Laws and Policies on the same in other States of India

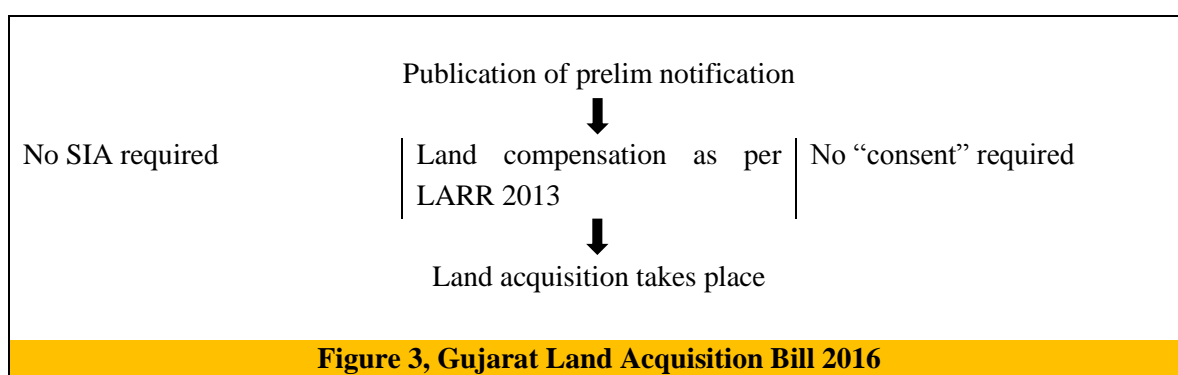
Maharashtra Land Revenue Code (Amendment) Act, 2015. This was introduced following a battle between Brihanmumbai Municipal Corporation (BMC) and the Revenue Department in order to increase ease of business ranking. Key provisions are:

- Sections 42 and 44 of the Maharashtra Land Revenue Code (MLRC), 1966, which require a landowner to obtain permissions from the Collector to convert and carry out a non-agriculture (NA) assessment of his land were deleted.
- Leased government land can be owned by private entities as per this bill.
- This waives off the responsibility to get the lease renewed again and again.
- The state government will be able to collect unearned income on transfer of leasehold plots on the same hand.



Gujarat Land Acquisition Bill 2016. Gujarat government passed this bill in order to clear amendments in the LARR Act 2013¹⁰. This was done in order to boost investment in the state. Key provisions are as follows:

- SIA is no more required.
- Compensation for urban and rural area land acquisition would be equal to and four times equal to market value respectively¹¹.
- Amendments suggested in LARR 2015 were included in this bill.



Right to Fair Compensation and Transparency in Land Acquisition and, Rehabilitation and Resettlement (Telangana Amendment) Bill, 2016. Telangana government introduced this bill in order to amend the LARR Act 2013 as per state’s requirement. Key provisions are:

- Section 2 (2) of the original (consent provision) was revoked.
- Chapter 2 (Sec 4-9, i.e. SIA) and Section 10 (irrigated multi-cropped land) have been revoked.
- Section 23 was amended so that no enquiry is required (depending on collector’s discretion).
- Section 24 was also amended in order to weaken the LARR Act 2013.
- Chapter IV-A was inserted named as “voluntary acquisition of land” where state government can take land for public purpose with the willing seller.

Andhra Pradesh Industrial Investment Development Policy. Andhra Pradesh launched this policy in 2015 in order to enhance business in the state. The policy would be applicable for a period of five year. Key provisions in the policy are:

¹⁰ <https://www.thehindu.com/news/national/other-states/gujarat-passes-diluted-land-acquisition-bill/article8419242.ece>

¹¹ <http://www.thehindu.com/news/national/other-states/Gujarats-new-land-acquisition-Bill-approved-by-President/article14564139.ece>

- Sector specific industrial parks would be promoted. This include food Processing Parks, Textile Parks, Electronic Complexes, Visakhapatnam-Chennai Industrial Corridor and Chennai Bengaluru Industrial Corridor.
- SC/STs entrepreneurs would get rebate on stamp duty, land cost, power cost, VAT/SGST, loan taken, seed capital assistance, fixed capital investment, skill development cost.
- AP has a land bank of three lakh acres and is in a process of acquiring seven lakh more.
- GoAP will create an e-platform, for facilitating all necessary clearances for starting and operating an industry within 21 working days.
- ‘Spot approvals’ shall be given to where only a scrutiny of basic documents is required. This includes registration under Professional Tax, registration of Shops and Establishments, establishments deploying contractual workmen / interstate migrant workmen among others.
- Approval based on ‘self-certification’, where the industrialist self-certify if approval is not given in stipulated timeline. Jharkhand Single Window Clearance Act (JSWCA) also has similar provision.
- Assignment of Inspection by Private Technical an expert is allowed. Boiler Registration is one such instance. JSWCA also has similar provision.
- Parallel Processing of clearances would be pursued rather than stage-processing.
- Constitution of the same with CM as chairman and chief secretary as member convener.
- Andhra Pradesh State Skill Development Corporation to be setup for providing vocational training.
- Manpower information system would be maintained to provide relevant and timely labor information.
- Subsidies under Swachh Andhra would also be given.
- GoAP will encourage setting up of incubation centres in Smart Industrial Township (SIT), premier educational institutes, Mega Industrial parks and startup villages.
- GoAP will encourage setting up Industrial parks by the Private sector on a PPP basis. For all such parks, GoAP will provide external infrastructure on a case to case basis.
- NIMZ would be governed by central guidelines.
- SEZs would be governed by central guidelines.

MP IT Investment Policy 2012. Madhya Pradesh government has provided provisions under this policy to provide government land at subsidized cost. As per this policy, land would be made available at the rate of 25 per cent of the prevalent Collector guideline rate under a condition that investment would be made within a time period of three years.

The Rajasthan Urban Land (Certification of Titles) Bill, 2016. It provides for provision of titling of land in urban areas¹². Hitherto, transaction of land use to take place in urban areas, without changing the title. Key provisions are:

¹² https://www.epw.in/system/files/pdf/2016_51/34/Your_Title_Is_Not_Ready_Yet_0.pdf

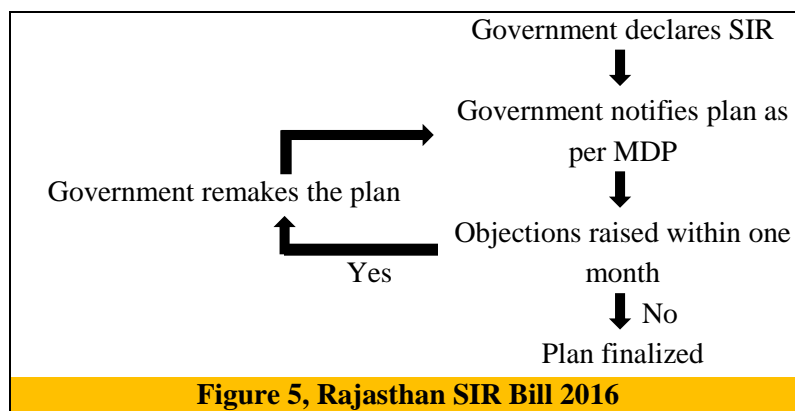
- After multiple such transactions, the transferee used to get into a dilemma about the actual title owner of the land. This bill aims to solve this dilemma.
- As per this law, the transferee can ask for a government survey where the government would verify the title as per government records. The cost of this survey is to be borne by the transferee and it would be 0.05% of the total cost of land.
- This would also ease tax collection on government's part.



Rajasthan Special Investment Region (SIR) Bill 2016. Rajasthan government made this law in order to encourage investment and business in the state. Key provisions of the legislation are:

- **Statement of Objects and Reasons:** With the intention to give impetus to all economic sectors, it is required to have organized development of various economic activities along with the provision of essential infrastructure. As such, a concept of SIR has been framed to attract investment, which shall be large sized regions covering vast areas in the State for industrial and other economic activities, with essential infrastructure and amenities to be provided by the State Government, government agencies or Government Companies or through public private partnership or private parties.
- The state government may, by notification in the Official Gazette, declare any area of land, including an industrial area, to be a special investment region.
- “Development”, with its grammatical variations, means the carrying out of building, engineering, mining or other operations in, or over, or under any land (including land under river, lake or any other water) or the making of any material change in any building or land or in the use of any building or land, and includes re-development and lay-out, and sub-division of any land and also the provision of public and civic facilities and projects and schemes for development of agriculture, horticulture, floriculture, forestry, dairy development, poultry farming, piggery, cattle breeding, fisheries and other similar activities.
- SIR would be out of jurisdiction of local authority.
- SIR would be regulated as per Master Development Plan (MDP). Regional Development Authority would publish a draft MDP and if objections are not raised to it, it shall be considered final.
- This Bill allows the state government to acquire land in the Delhi Mumbai Industrial Corridor.

- Section 28: Regional Development Authority may procure by purchase, lease, exchange, agreement or otherwise, including by way of land pooling, any private land required by the Regional Development Authority for carrying out its functions.



Rajasthan Land Pooling Scheme Bill 2016. This was introduced by the state of Rajasthan in order to club small pieces of land to facilitate infrastructure development. Key provisions are:

- Statement of Objects And Reasons: It is expedient to recognize the need for the development of public infrastructure through co-operative participation of land owners in accordance with three anchoring principles of Equity, Efficiency and Sustainability, to meet the demands of migration, rapid urbanization, and the aspirations of all residents for a better quality of life in their cities and neighborhoods.
- Various types and pieces of land, as per section 6, can be clubbed under this legislation.
- Land Pooling officer, as per section 21, is to be appointed. He would act as the nodal body for all the land pooling plans.
- Section 46: The owner of any property or right which is injuriously affected by the making of a land pooling scheme be entitled to be compensated in respect thereof by the appropriate authority or by any person benefited as the Land Pooling Officer may in each case determine.
- Provided that the value of such property or rights shall be deemed to be its market value sub-section (2) of section 5 without reference to improvements contemplated in the scheme, as the case may be.

Laws and Policies in other Countries like Bangladesh, Pakistan, UK and others

UK land acquisition policy. It is guided by numerous legislations namely Land Compensation Act 1961, The Compulsory Purchase Act 1965, The Land Compensation Act 1973, The Planning & Compulsory Purchase Act 1991 and The Planning & Compulsory Purchase Act 2004. Key provisions are:

- Compensation can be claimed under the ‘Open Market Value of Land Taken’, assuming that the Proposed Scheme does not exist.
- Severance and Injurious Affection, can be claimed, where part only of the claimant’s land holding is compulsorily acquired, he is entitled also to compensation for any depreciation in the value of his retained land that results from the construction and operation of the proposed Scheme.
- Disturbance compensation can be claimed, where the costs and losses incurred by the claimant as a result of being displaced from occupation of his or her property. This head of claim is generally only available to occupiers of property.
- Statutory Loss Payments can be claimed, where additional set payments to which the claimant is entitled under sections 29 and 33A-C of the Land Compensation Act 1973.
- Reasonable surveyor’s fees is normally paid by the acquiring authority where it was incurred in preparing and negotiating a compensation settlement together with solicitor’s fees for any conveyancing.
- Section 10 of the Compulsory Purchase Act 1965 provides the basis for a landowner to claim compensation for injurious affection.
- Part 1 of the Land Compensation Act 1973 provides the basis for a qualifying landowner to claim compensation for the depreciation in the value of his or her land due to a physical factor. “Physical factors” are defined as “noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land of any solid or liquid substance”.
- If there is any surplus land left after public work (in this case railways), it can be sold back to the interested parties at market price¹³.
- The government of UK finds the laws on land compensation complex. Therefore they advise the effected party to take professional advice from consultancies¹⁴.

¹³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/672197/C6_-_Disposal_of_Surplus_Land_and_Over-Site_Development_v1.5.pdf

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11489/147645.pdf

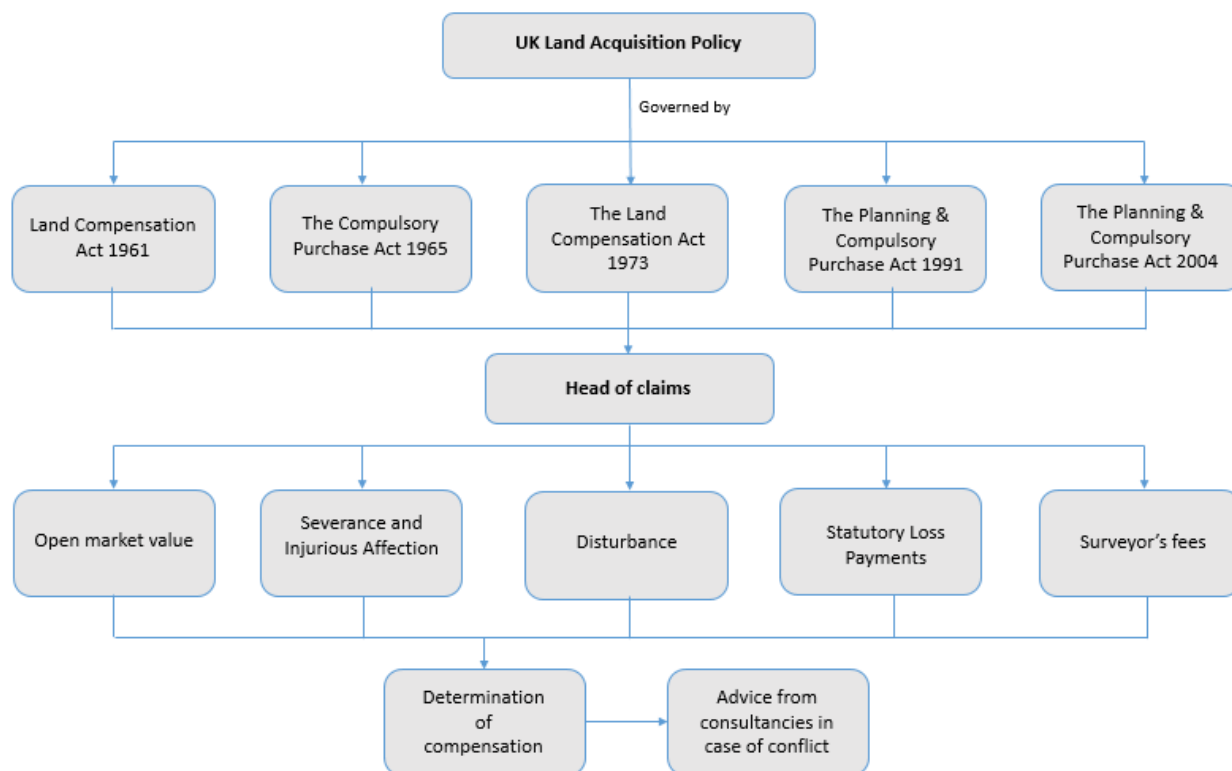


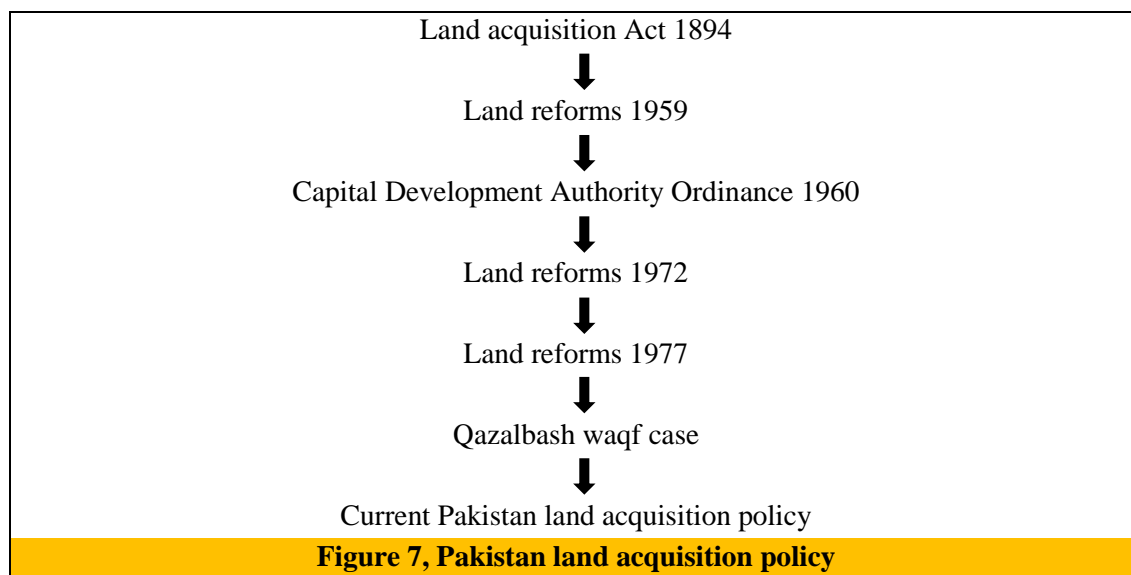
Figure 6, UK Land Acquisition Policy

Pakistan land acquisition policy. Central legislation governing land acquisition in Pakistan is Land Acquisition Act 1894. Some of the reforms, since then, are as follows:

- Land can be acquired under two laws¹⁵, Land acquisition Act 1894 and Capital development Authority Ordinance 1960.
- Factor for determination of compensation would be market value. In case of compulsory acquisition, additional compensation of 15% of the market value.
- Land reforms in 1959: Ceiling on individual holding of land of 500 acres of irrigated land and 1000 acres for unirrigated land (exception of being PIU of 36,000)
- Changes in 1972: Ceiling lowered down to 150 and 300 acres respectively (PIU was also lowered to 12,000). Jagirdaari (land given by the state to local influential) was abolished.
- Changes in 1977: Ceiling lowered down to 110 and 200 acres respectively (PIU was also lowered to 8,000)
- Court judgment in 1989 (Qazalbash Waqf case) – It said that no ceiling on holding of land by an individual can be put as per Islam. Compulsory surrender of property is illegal. Also Waqf property cannot be taken by state as it is dedicated to god. If there is a forceful acquisition, compensation would be provided on the market value.

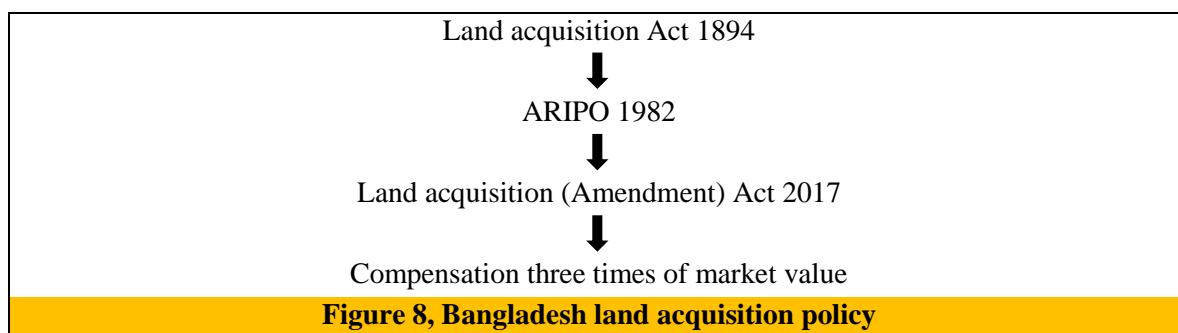
¹⁵

<http://www.ndma.gov.pk/Publications/A%20Guide%20on%20Land%20and%20Property%20Rights%20in%20Pakistan%202011.pdf>



Bangladesh land acquisition policy. It has been recently amended and would be guided by Land Acquisition Act (Amendment) Bill 2017¹⁶. Key provisions are:

- 2017 LAA amendment states that compensation would be three times the market value¹⁷.
- Market value is average value of transactions of the land in the previous year.
- Before this amendment, Acquisition and Requisition of Immovable Property Ordinance (ARIPO), 1982 use to govern land acquisition.



Malaysia land acquisition policy. The general rule is that the measure of compensation is to be based on the market value of the acquired land. Market value is the price that would be paid by a purchaser to a willing seller in circumstances where both parties are motivated by fair

¹⁶ <https://bdnews24.com/bangladesh/2016/12/05/new-law-to-raise-compensation-for-land-acquired-by-government>

¹⁷ <http://www.dhakatribune.com/bangladesh/nation/2016/12/06/land-acquisition-draft-double-compensation/>

business principles and there is no opposition on the part of the vendor to sell and the purchaser is not compelled by any urgent necessity to buy. When assessing the market value of the land to be acquired, it is necessary to take into account the: (i) size, shape, condition and location of the land; (ii) the use to which the land will be put; (iii) the development potential of the land; and (iv) market conditions at the material date of the valuation¹⁸.

Singapore land acquisition policy. Rely on voluntary purchases. System of Betterment Levy was revoked (amendment LAA 2014). Betterment levy is defined as when the Government acquires just a part of a land, the value of the remaining land held by the land owner can, in some instances, increase due to the use to which the acquired land will be used by them¹⁹. In such instances, the LAA required that any such increase in the value of the remaining land must be deducted from the statutory compensation payable for the acquired land.

Canada land acquisition policy. The sum of land compensation fees and resettlement subsidy shall not exceed 30 times the average output value in the three years before the land is expropriated. If the sum of the land compensation fees and resettlement subsidy reaches the legal upper limit and it is still not enough to maintain the land-expropriated farmers original living standard, the local government could use the income from the paid use of state-owned land to grant subsidy.

Vietnam land acquisition policy. Land rights in Vietnam are divided into three categories: land ownership, land management, and land use rights. Land is regulated by the state with accordance to the market price.

2. Case Studies

Tata-Singur case and Pakri Barwadih land controversy have been studied to understand the larger picture of the policies and laws prevalent in the states. The first case deals with state laws, central laws, clash between them and subjects in the concurrent list. Two judgments were given on the same, one by Calcutta High Court and the other by Supreme Court of India (detailed analysis have been attached in annexure).

Tata Singur case. Tata Motors announced in 2006 that they would be building a Tata Nano manufacturing plant in Singur, West Bengal. The then West Bengal government was in support to the plan. However the major opposition party started protesting and opposing the land acquisition and made a political issue out of it. Allegations of the opposing party were that locals were not given due compensation for

¹⁸ <http://www.ijsrp.org/research-paper-0516/ijsrp-p5365.pdf>

¹⁹ <https://urban-regeneration.worldbank.org/node/15>

the acquisition. The condition deteriorated with Tata employees being allegedly manhandled by locals. Ultimately, Tatas decided to pull out of WB in 2008 and they shifted their plant to Gujarat then. West Bengal government then enacted the “Singur Land Acquisition Act 2011” in order to bring the land acquisition done for Tata Motors under this legislation and bypass LAA 1894. However Tatas approached Calcutta High Court (HC) and got the act declared null and void. The case then went to the Supreme Court (SC) which held that that the landowners may be given back their land and any compensation which was given to them need not be taken in order to compensate for harassment these people faced for last ten years.

Pakri Barwadih land controversy. NTPC acquired around 4,000 acres of land in the state of Jharkhand for coal mines and people were offered compensation in lieu of it. However due to some unforeseeable circumstances, violence took place at the site and at least four protestors were killed in the same²⁰. There are lot of versions of the story regarding what happened on the ground, some of the points being encapsulated below.

S. No.	Topic of Discussion	Summary
1.	Pakri Barwadih coal mine project	<ul style="list-style-type: none"> • Land acquisition was carried under the Coal Bearing Areas (Acquisition & Development) Act, 1957. • Under Section 9 of the Coal Bearing Areas Act, a notified piece of land can no longer be sold by the possessor. • Protests started, for adequate compensation for the, a job in the project, and proper rehabilitation. • Allegedly, no aspect of the project has been discussed with the gram sabhas. • NTPC says given that land acquired was in 2004, therefore LARR 2013 does not come into play. • NTPC built rehabilitation camp one km away, but then villagers said, house quality is not good. Therefore construction stopped. • 20 lakh per acre compensation was provided²¹. • 13 central legislations are exempted from the purview of LARR 2013, therefore not making ‘consent’ clause compulsory.

²⁰ <http://indianexpress.com/article/india/india-news-india/jharkhand-yogendra-saw-nirmala-devi-congress-mining-site-violence-3065933/>

²¹ <https://scroll.in/article/755969/jharkhands-coal-conflicts-show-the-lapse-of-land-ordinance-hasnt-doused-the-fire>

3. Discussion

Various states in India and countries throughout the world have enacted legislations and policies in order to acquire land. This is majorly determined by the demographics, local conditions of the place and what is the importance of land for the owner, in that context. The situation becomes peculiar in Jharkhand where 76 per cent of the population is rural²² as compared to 69 per cent of India²³. High concentration of tribal population in the state, i.e. 26 per cent of the state population²⁴ in comparison to 8.5 per cent in India²⁵, also raises new difficulties.

One of the landmark legislation, post-independence, in the area of land acquisition is LARR 2013. This act has increased compensation for the landowners thereby raising the cost of land. This would increase the cost of any private project thereby decreasing its feasibility. Need to take consent and conduct SIA are further provisions under which the land acquisition may get delayed. Land subject falls under state list and enactment of this legislation is under “Transfer of Property” subject, which is in the concurrent list. Thus the two laws have overlapping areas .

Jharkhand has enacted “Jharkhand Private Land Direct Purchase Policy 2017” in order to cope up with these overlaps. The policy is announced so that without disturbing the law, issue of land availability can be tackled. No cap on maximum price for land allows the buyer to negotiate the deal freely. An easy framework for those who are willing to sell/buy their land is envisaged in this policy.

Rajasthan government enacted land pooling law in order to make available land for development projects. There comes a lot of cases where a lot of landowners have small pieces of land and consent from everyone needs to be taken in case of acquisition. For such cases, the government has made this Act so that process of industrialization becomes fast and smooth.

The crux of every acquisition process is consultation with original landowners and attempt to provide them with maximum compensation, which is always above the market price. By various examples we have seen governments engage in dialogue with various stakeholders and tries its best to make the process of acquisition smooth and amicable. They are continuously enacting policies, rules and regulations etc. in order to facilitate

²² http://censusindia.gov.in/2011census/censusinfodashboard/stock/profiles/en/IND020_Jharkhand.pdf

²³ http://censusindia.gov.in/2011-prov-results/paper2/data_files/india/Rural_Urban_2011.pdf

²⁴ <http://www.jharkhand.gov.in/tribals>

²⁵ <https://tribal.nic.in/ST/Tribal%20Profile.pdf>

the process of land availability. We have also seen that labour intensive industries are paid special focus, as they curb unemployment. While laws provide protection to indigenous character of the place, the state is taking best initiatives in its capacity to ensure people have enough opportunities to come out. We have also seen that through various amendments in the state of Jharkhand, provisions exist where state can go for industrialization. Policies are playing a pivotal role in determining the intent of the state as they are providing people and investors with options. Anybody who avails the provision of a policy have a two-fold benefit, firstly it helps in encouraging investment and secondly state does not have to bear repercussions for the same. In Jharkhand the issue of indigenusness is particularly strong given that tribals are given a constitutional safeguard under schedule V of the Indian constitution. Special emphasis has been paid on their demography and maintaining the ecological balance in the community.

Therefore the question which arises before us is, can the landowners be made a part of land acquisition by providing them equity in the industrial process? We would be working under an assumption that this would give landowners a sense of ownership and a better source of living. People in Jharkhand also seek a better lifestyle just like landowners in other parts of the world. This equity being offered is capable of providing them with a better lifestyle. Demographics and local culture would be duly taken care of in this process.

4. Hypothesis

Statement

There is a possibility of making available more land for industrial and business project, without making any amendment in the CNT Act 1908 & SPT Act 1949, creating a win-win situation for all stakeholders, including land owners (tribal and non-tribal), government (legislators and officers) and businesses.

Variables in the hypothesis

The given statement proposes two variables namely 'Availability of land' and 'win-win situation'. We have to check if the latter is dependent on the former or not.

Source of the hypothesis

This hypothesis has been formed from idiosyncratic experience (personal experiences which are peculiar) where it has been found that land can be made available even without changing

the law. Cultural traditions, market value of the land and involvement of the third party in negotiation are some important factors playing role in such possibility.

Type of hypothesis

This is an enumerative induction type of hypothesis where one contradiction cannot be used to disapprove the hypothesis. A number of interviews would be conducted to either prove or disprove the hypothesis statement. Even if in some cases the hypothesis works, it stands proved.

5. Model

More land can be made available by directly engaging with the land owners. This can be done in the line of “Jharkhand Private Land Direct Purchase policy 2017” where both the interested parties (seller/buyer) can approach the Deputy Commissioner and express their interest. Land owners can be offered compensation as well as equity in lieu of their land. When it comes to taking consent from the land selling party, extra caution needs to be practiced. Such deals have been found to be inherently coercive²⁶. Therefore the consent may be taken in a form of a contract and compensation be more than what the land owner would have got as per LARR 2013 or under Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules 2015. Wherever feasible, equity can be offered to the original landowners to give them a sense of ownership in the industry run.



²⁶ <http://cprindia.org/news/5978>

6. Testing

The given hypothesis and model were tested using a methodology as detailed below.

Methodology

Following methodologies could have been adopted –

1. In-depth Interviews (IDIs) of individual experts
2. Focused Group Discussions (FGDs) between stakeholders
3. Talking to actual landowners present on ground

With the given time and logistical constraints, first method was adopted.

Sampling

Individual experts who had an experience of at least ten years working in, or with, the government were consulted and data was collected through them. A structured questionnaire was put to them and their responses were recorded.

Implementation

Following people were interviewed for the testing –

1. Mr. Babulal Marandi (ex-CM)
2. Mr. Arjun Munda (ex-CM)
3. Mr. Bandhu Tirkey (ex-Education and Sports Minister, Government of Jharkhand)
4. BJP MLA Jitu Charan Ram, Kanke (ST) Assembly Constituency
5. JMM MLA Dashrath Gagrai, Kharsawan (ST) Assembly Constituency
6. Advocate Sunil Chaudhary
7. Jharkhand Union of Journalists President Rajat Kumar Gupta
8. Ranchi University Proctor Dr. Diwakar Minz
9. Two land revenue department officials
10. One Industry department official

Summary from Interviews

An ex-CM was interviewed on 4th March, 2018. He said that people do not engage in protests whenever their land is taken for government projects but only demonstrate when a private player is involved. The reason behind the same is that people think if a private player would establish its industry, it would be the owner and the employees who would benefit and they would be left out of the development process. On top of that, land acquired for government project is quite less when compared to private projects. Apprehension is there that the current government is working for corporates and not for the people. This further adds to the unrest. He was of the opinion that with the changing times, concept of land acquisition should be done away with and land should

rather be taken on lease or rent basis. That would be a sustainable model as people would have a continuous source of living and industry would get the land. Tribal land should be dealt with extra care as they are not a business community and solely depend on farming and/or manual labor. In such cases, importance of land increases. He was critical of the role of media and thinks they play in the hands of corporates. Tribal groups and NGOs have been able to further the cause of landowners to an extent.

Another ex-CM was interviewed on 6th March, 2018. He said that the situation of land acquisition isn't very inspiring in the state of Jharkhand. Reason for the same is Coal Bearing Areas Act, 1957. As per this legislation, government could have acquired any land and it would deposit the monetary compensation for the same in the government account if land holder refused to take the same. There was no scope of hearing or raising objections as per this act. Because of this there has been so much rebellion from the landowners that now, tribals as well as non-tribals, combine and protest as soon as state government talks about land acquisition. He also shed light on government projects and elucidated that acquisition for central government projects and state government projects are treated differently. Wherever there is forest, the former goes under "fast-track" category while latter has to go through all the clearance processes. This results in delay for state government projects. Recent amendments in state legislation were opposed because they were changing the land type from agriculture to commercial. In such case, those who lack entrepreneurial spirit, have everything to lose. He also said that the future lies ahead in "partnership" model where both the landowner and industrialist are owners of the land where latter can pay monthly rent to the former. This way it would be a win-win situation.

An expert was interviewed on 6th March, 2018. He said that there is lack of trust between people and the government and therefore things are not smooth as far as land acquisition is concerned. He quoted numerous examples to illustrate the same (Heavy Engine Corporation case etc.). He said people are being fooled where the government first acquires land and then that same land is being sold to private player at a higher price. Delay in compensation and lack of jobs in adequate numbers further add to misery which results in protest. He said that the way forward is in giving land in return of land and also in joint ownership. Actual landowner should receive 50 per cent of the profit and the industrialist can keep the rest with him/her. Time frame should be decided for providing compensation and bureaucrats should be punished if they don't do so.

A senior government official in department of Industries who had more than 10 years of experience was interviewed on 23rd February 27, 2018. He said that there is no issue as far as acquisition of land is concerned in the state of Jharkhand. He elaborated on the same and said following two routes are available whenever land acquisition is to take place –

Mutual Consent. As the name suggests, here the buyer and the seller are in agreement and the transfer of land takes place. It can further be done under three heads, one is through "direct purchase through sale and deed", second is "SC/ST/OBC landowners

under SPT and CNT Act” where land is purchased after consulting landowners and industrialists and the third is “Land allotment by Jharkhand Industrial Area Development Authority (JIADA) through online process” where JIADA acquires various lands like government based land and other unused lands.

Through Land Acquisition Acts. The state can acquire land through various Acts such as The Coal Bearing Areas (Acquisition and Development) Act 1957, National Highways Act 1956, and Railways Act 1989 etc.

Another senior government official in Land Revenue, Registration and reforms who had experience of more than 10 years was interviewed on 27th February 27, 2018. He elucidated that be it government project or private project, government would always acquire land for “public purpose”. By public purpose it means at least a part of expenditure incurred on land acquisition would be borne by the government. If people are displaced from their original land, compensation of equal to four times of market value is provided. If land is purchased under “Jharkhand Private Land Direct Purchase Policy 2017”, compensation can further be increased depending on the terms and conditions of that particular case. They are more than happy to get this compensation. However, the deciding factor for any land acquisition to be successful/unsuccessful is the local politics involved. Most of the times the offer of compensation in lieu of land is available only to a section of people. Therefore the other group feels left out and it tries every measure to stop the land acquisition. This is also combined with politics of locally elected leaders who demand a share of money in such deals and when denied the same, resort to instigating people. The official also observed that two kind of laws have stopped the development of the state. While Jharkhand LARR rules 2015 and direct purchase policy tries to facilitate the land acquisition process, laws such as CNT 1908 and SPT 1949 bring everything to a halt.

One more senior government official in Land Revenue, Registration and reforms who had experience of more than 10 years was interviewed on 28th February 28, 2018. As per him, bureaucracy is implementing the law framed by the government. Each and every provision of the law is being followed religiously, including the need to conduct SIA and taking consent of people. Officers can’t do anything beyond the law. There are no contradictions in legislations as CNT 1908 and SPT 1949 are applicable in SC/ST areas and LARR 2013 is applicable in non-SC/ST region. He was also of the view that requirement of land is not at all an issue in the state of Jharkhand. People are quite happy to receive the compensation they get where their land is being taken away.

Another expert was interviewed on the same day. He deals with cases on land tenancy and ownership rights covered under CPT 1908 and SPT 1949. He said that government is the representative of people, therefore it can acquire whichever land it deems fit. Even if private investor is interested in the land, he/she would have to go through the government. As far as meeting the demands of the displaced are concerned, government is able to provide the expected compensation but providing jobs remain a contentious issue. Currently, government gives “D”

grade jobs to the displaced. This should be changed and if the displaced people are degree holders, they should be given “C” grade jobs. There have been instances where industrialists and government have made false promises of providing jobs. In such cases, media plays an imperative role as people who are displaced are not powerful enough to change the public opinion in their favor. He lastly said that people are unaware about the advantages associated with the industries. Therefore, government needs to run awareness campaigns on one hand and increase monetary compensation on the other, to further smoothen the process.

A sitting MLA was interviewed on 1st March, 2018. He was of the opinion that failure of passage of amendment in land acquisition rules related to CNT 1908 and SPT 1949 in the state assembly is creating a lot of problems in availability of land. Both these laws on one hand act as safeguard for people in the area, but act as impediment for development on the other. He was critical of the opposition and local political leaders who try to politicize everything and also engage in misleading people. For any government reform, they are the biggest limitation.

Another sitting MLA was interviewed on telephone on 4th March, 2018. He was quite critical of the state government and said the amendment brought by them for CNT 1908 and SPT 1949 were totally anti-people. People who are being displaced lose their source of living which government is not able to compensate. The job it gives is “D grade” which does not do justice to the people moved. Compensation alone is not enough and people require a better source of living.

Another expert was interviewed on 7th March, 2018. He was of the opinion that government is the root of all problems. Any land acquisition faces trouble only when government is involved in the process, if individuals do it on their behalf, it is never a problem. There is massive corruption in the government and there have been multiple cases where it has backtracked on its promises. He said that availability of land is anyway a big problem in Jharkhand as only 20 per cent of the land is fertile. Rest is either unfertile or comes under forest category. He paid special emphasis on tribals’ issue and said that it is not all easy to acquire their land under CNT and SPT Act. Government is also unable to understand the types of land and therefore it has further complicated the problem. Solution lies in government allowing people to deal among themselves and do not involve itself. If government itself has to acquire tribal land, there are high chances of a rebellion because of lack of trust.

Another expert was interviewed on 4th March, 2018. He said that villagers and landowners are mostly left helpless whenever their land is acquired by the state government. This has resulted in deep resentment. The problem is never with the government projects but with the private projects. He quoted numerous examples like HEC (Heavy Engineering Corporation) acquiring land in Ranchi and Bihar government allotting land to Birlas where fake promises were made. He expressed his inability in understanding why land required for industry has to be fertile and why it cannot be barren. If industries are ready to set their plant on barren land, a lot of the problems would be solved. He also shed light on legal aspects and said government operates under no restriction when it has to deal with people. It can acquire whichever land it wants.

#	1. How does the state government deals with the private landowners whenever it has to acquire their land for “government projects” like making a National Highway or Railway track?
Ex-CM	People don’t retaliate much as far as land acquisition for government projects are concerned.
Ex-CM	It faces difficulty because of lack of trust in people.
An expert	People have lost faith in the government. They engage in protests.
Govt. official in Dept. of Industries	It offers them compensation.
Govt. official in Land Rev., Reg. and Reforms	Government offers them compensation.
Govt. official in Land Rev., Reg. and Reforms	Government is following the law it has made.
An expert	They offer them compensation. Government is operating in its jurisdiction whenever it is displacing people.
A sitting MLA	Government offers them compensation, job and rehabilitation and resettlement scheme.
A sitting MLA	It displaces them.
An expert	Government is extremely corrupt. This results in various issues. Moreover, it does not completely understand the rights of tribals.
An expert	People don’t retaliate much as far as land acquisition for government projects are concerned.

#	2. How is this different when it has to acquire their land for “private projects” like establishing an industry?
Ex-CM	People protest and demonstrate when a private player is involved. The reason behind the same is people think if a private player would establish its industry, it would be the owner and the employees who would benefit and they would be left out of the development process. On top of that, land acquired for government project is quite less when compared to private projects.

Ex-CM	Under CNT 1908 and SPT 1949, there have been constitutional protection given to areas where there is concentration of tribal people. It is because to save them from acquisition for private projects.
An expert	People have lost faith in the government. They engage in protests, be it public project or private project.
Govt. official in Dept. of Industries	Government acquires land only for “public purpose”.
Govt. official in Land Rev., Reg. and Reforms	Be it government project or private project, government takes the land for “public purpose”.
Govt. official in Land Rev., Reg. and Reforms	Be it government project or private project, government takes the land for “public purpose”.
An expert	Be it government project or private project, government takes the land for “public purpose”.
A sitting MLA	Landowners are more sceptic when the land is being acquired for private projects.
A sitting MLA	It displaces them.
An expert	Government intervention is unnecessary. Private players should be allowed to negotiate a deal on their own.
An expert	People protest whenever the acquisition is for private projects, for the simple reason they know they will be fooled.

#	3. Does the government asks for their consent?
Ex-CM	Yes.
Ex-CM	Yes.
An expert	No.
Govt. official in Dept. of Industries	Yes.
Govt. official in Land Rev., Reg. and Reforms	Yes.
Govt. official in Land Rev., Reg. and Reforms	Yes.
An expert	Yes.
A sitting MLA	Yes.
A sitting MLA	Yes, but even if they respond in negative government chooses to carry on with the work.
An expert	Yes.

An expert	No.
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#	4. What does the government offer in compensation for their land?
Ex-CM	Government offers monetary compensation, rehabilitation and resettlement package and job.
Ex-CM	Government offers monetary compensation, rehabilitation and resettlement package and job.
An expert	Government offers monetary compensation, rehabilitation and resettlement package and job.
Govt. official in Dept. of Industries	Government offers monetary compensation, rehabilitation and resettlement package and job.
Govt. official in Land Rev., Reg. and Reforms	Compensation includes monetary sum, support for rehabilitation and resettlement and wherever feasible employment opportunity.
Govt. official in Land Rev., Reg. and Reforms	Compensation as decided by the law, i.e. market value multiplied by the multiplier as decided, and resettlement and rehabilitation package.
An expert	Government offers them monetary compensation, job and rehabilitation and resettlement package.
A sitting MLA	Government offers them monetary compensation, job and rehabilitation and resettlement package.
A sitting MLA	Government gives monetary compensation and sometimes “D grade” job.
An expert	Government offers them monetary compensation, job and rehabilitation and resettlement package.
An expert	Government offers monetary compensation, rehabilitation and resettlement package and job.

#	5. How is this compensation decided?
Ex-CM	Monetary compensation is decided on the basis of market value. In rural areas, this market value is basically the minimum registration price.
Ex-CM	The compensation is decided as per Land Acquisition Act 1894 and LARR 2013.
An expert	It is decided as per the law.

Govt. official in Dept. of Industries	It is decided as per the law.
Govt. official in Land Rev., Reg. and Reforms	Monetary sum is four times the market value of the land.
Govt. official in Land Rev., Reg. and Reforms	Monetary sum is one and two times the market value of the land in urban and rural area respectively. This is decided as per Schedule 1 of LARR Act 2013.
An expert	Monetary sum is up to four times the market value of the land. The government can increase this further by using its power.
A sitting MLA	Monetary sum is four times the market value of the land.
A sitting MLA	Compensation is decide as per legislations enacted by the government.
An expert	Compensation is decide as per legislations enacted by the government.
An expert	Compensation is decide as per legislations enacted by the government.

#	6. What do landowners ask in return of their land?
Ex-CM	Depending on the type of landowner, answer varies. If the landowner is business class, they would want a good compensation by which they can set up a business. But if it is tribal landowner, he/she would at least seek fertile land in return where they can carry on with their farming.
Ex-CM	They don't want to give away their land entirely. Moreover, a lot of landowners are into farming and agriculture activities. Therefore they want same kind of land in return, monetary compensation can't do for land acquisition for them.
An expert	They want land in return of land.
Govt. official in Dept. of Industries	Government is providing them everything. Their demands are being taken care of.
Govt. official in Land Rev., Reg. and Reforms	They are unclear about their demands.
Govt. official in Land Rev., Reg. and Reforms	Government is already giving them compensation and they are happy receiving it.
An expert	They want a source of living and compensation.

A sitting MLA	They are unclear about their demands because of local politics.
A sitting MLA	They want a job which acts as a good source of living for them.
An expert	Tribals most of the time don't want to give their land at the first place. If land is taken, adequate jobs are expected.
An expert	People want what they are entitled to as per the legislations.

#	7. Do they agree with the method government determines the compensation?
Ex-CM	Yes, when it is about government projects but no when it comes about private projects.
Ex-CM	People don't see the method, they see what is being offered ultimately.
An expert	No.
Govt. official in Dept. of Industries	Yes.
Govt. official in Land Rev., Reg. and Reforms	The answer depends on the local politics happening in that area. It influences their mind.
Govt. official in Land Rev., Reg. and Reforms	Government is already giving them compensation and they are happy receiving it.
An expert	They agree on monetary compensation. However, how many people and what kind of employment would be given is a contentious issue.
A sitting MLA	The answer depends on the local politics happening in that area. It influences their mind.
A sitting MLA	No.
An expert	No.
An expert	Yes.

#	8. Do they agree with the ultimate compensation package offered?
Ex-CM	Yes, when it is about government projects but no when it comes about private projects.
Ex-CM	No, their demands are different. That needs to be

	understood.
An expert	No.
Govt. official in Dept. of Industries	Yes.
Govt. official in Land Rev., Reg. and Reforms	The answer depends on the local politics happening in that area. It influences their mind.
Govt. official in Land Rev., Reg. and Reforms	Yes.
An expert	Yes.
A sitting MLA	The answer depends on the local politics happening in that area. It influences their mind.
A sitting MLA	No.
An expert	No.
An expert	No. Only 50 per cent of the compensation money is disbursed. Rest goes into the pockets of bureaucrats.

#	9. In case of disagreement, what steps does the government takes to resolve the differences?
Ex-CM	In case of disagreement, consensus is not build up.
Ex-CM	Government is not able to understand their demands. Resolving disagreements is a problem for another day.
An expert	Government tries to crush dissent.
Govt. official in Dept. of Industries	There are no differences or disagreements. Media overemphasizes on such issues.
Govt. official in Land Rev., Reg. and Reforms	The disagreement, in case it is there, is majorly because of the local politics happening at the place. Government is helpless in such cases.
Govt. official in Land Rev., Reg. and Reforms	There is no question of disagreement.
An expert	Government tries to increase compensation.
A sitting MLA	Government puts forward its case in front of the people and tries to convince them. Wherever land is acidic (like Santhal Pargana area), non-productive and unsuitable for agriculture, government tells this to people and tries to carry on with the process.
A sitting MLA	No steps are being taken by the government.
An expert	No steps are being taken.

An expert	Government tries to crush resentment at the primary or secondary stage. Only when it goes out of the hand it negotiates.
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#	10. Does the local politics influence this whole process? If yes, how?
Ex-CM	Yes. Local leaders further the agenda of corporates who want to acquire land.
Ex-CM	It does not have much effect.
An expert	Yes. Local leaders fool people by doing fake promises.
Govt. official in Dept. of Industries	It does play a role, but not detrimental to the project.
Govt. official in Land Rev., Reg. and Reforms	Yes, it does. Most of the times the offer of compensation in lieu of land is available only to a section of people. Therefore the other group feels left out and it tries every measure to stop the land acquisition. This is also combined with politics of locally elected leaders who demand a share of money in such deals and when denied the same, resort to instigating people.
Govt. official in Land Rev., Reg. and Reforms	No.
An expert	There have been cases where false promises have been made. So these issues are highlighted by some people. Calling it politics is one way of putting it.
A sitting MLA	Yes. Local politics determines the success or failure of the process. People are misguided about the project when it is totally for their benefit.
A sitting MLA	No.
An expert	Yes, sometimes it helps in tribals who are resisting land acquisition and sometimes it helps government who is acquiring land.
An expert	Yes. They try to make business out of this land acquisition process. However in such scenario, they lose their political base.

#	11. Do tribal groups and NGOs play any role in this whole process? If yes, what?
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Ex-CM	Yes. Tribal groups and NGOs have been able to further the cause of landowners to an extent. Tribals are not a business community and they solely depend on farming and/or manual labor. In such cases, importance of land increases for them. Tribal groups and NGOs have been able to further this cause.
Ex-CM	Tribal groups stand for tribals' right. They have been provided constitutional safeguard under 5 th schedule to maintain demography and relation between their community, and tribal groups do that. NGOs sometimes help in land acquisition and sometimes work against it.
An expert	Tribal groups protest. NGOs play both sides.
Govt. official in Dept. of Industries	The whole process of land acquisition is smooth, to say the least.
Govt. official in Land Rev., Reg. and Reforms	Tribal groups and NGOs are a part of local politics. They don't act independently but support a faction.
Govt. official in Land Rev., Reg. and Reforms	No.
An expert	NGOs are hardly working because of crackdown on their funding by the central government.
A sitting MLA	Three things are sacrosanct for tribals – land, water and forest. This forms their natural habitat. Whenever any land acquisition touches upon any of these things, tribals groups are the first one to rebel and protest. NGOs most of the time collude with the opposition leaders and play a role in misguiding people.
A sitting MLA	They don't play a major role.
An expert	Tribal groups play an imperative role. Land plays an important role in tribal's life as there are family and religious connotations associated with it. Therefore these groups protest every move by the government to acquire this land. NGOs are busy in promoting religion. It does not have an impact on acquisition as such.
An expert	They play a major role. They behave as interlocutors for both the sides and carry their message.

#	12. What role does media play while this process of land acquisition is taking place?
Ex-CM	Media supports corporates as most of the time it is on their payrolls. It can't act against their own interest.
Ex-CM	Media is highly pro-government, pro-corporate and Target Rating Point (TRP) driven.
An expert	Media is entirely corporate driven.
Govt. official in Dept. of Industries	Media overemphasizes on such matters and tries to create a controversy where exists none.
Govt. official in Land Rev., Reg. and Reforms	Media has limited impact on this process.
Govt. official in Land Rev., Reg. and Reforms	Bureaucracy is trusted with implementing the law. They are doing it.
An expert	Media brings facts to the light. They are doing their job.
A sitting MLA	The true picture never comes in front of the media. They see a distorted picture projected by the opposition leaders. Also there is lack of communication.
A sitting MLA	It doesn't play a major role.
An expert	Media does not play any role. They don't want to go to tribal areas.
An expert	Media furthers the agenda of government and corporates. A part of the media is itself run by the corporates and the remaining section also plays in their hand.

#	13. What steps do you think should be taken in future in order to make this process of land acquisition even smoother?
Ex-CM	Concept of land acquisition should be done away with and land should rather be taken on lease or rent basis. That would be a sustainable model as people would have a continuous source of living and industry would get the land.
Ex-CM	Land should be used in "partnership" model where both the landowner and industrialist are owners of the land where latter can pay monthly rent to the former. This way it would be a win-win situation. Government has to understand the difference between

	use of land for agricultural purpose and commercial purpose. For the latter to be pursued, there has to be entrepreneurial spirit, which is most of the time lacking. If government wants to push industrialization, it has to first generate entrepreneurial spirit in people.
An expert	Land should be given in return of land and options of joint ownership should be explored. Actual landowner should receive 50 per cent of the profit and the industrialist can keep the rest with him/her. Time frame should be decided for providing compensation and bureaucrats should be punished if they don't do so.
Govt. official in Dept. of Industries	The process is already working at the best.
Govt. official in Land Rev., Reg. and Reforms	Government is already doing its best. Compensation equivalent to four times of market price is in itself a huge sum. On top of that it offers rehabilitation and resettlement scheme. The person receiving this package is more than happy till the time others try to influence him/her. Once politics get into the picture, situation gets out of the hand.
Govt. official in Land Rev., Reg. and Reforms	The process is already working at the best.
An expert	Awareness campaign and increase in compensation should be there. If the people displaced are degree holders they should be given C grade job and not D grade, what they are currently offered.
A sitting MLA	Amendments to CNT 1908 and SPT 1949 should be passed in the assembly.
A sitting MLA	Anti-people laws such as amendments proposed by the government should be taken back. People should be given a job which acts as a good source of living for them.
An expert	People need to be taken into confidence. Tribal issue has to be understood. Only then smoothening of the process can be thought of.
An expert	Government should acquire the barren land and not fertile. SIA should be properly conducted.

#	14. Do you think there are any limitations under which government has to acquire land? If yes, what they are?
Ex-CM	For the current government, corporate funding is the limitation. They have made themselves dependent on corporates.
Ex-CM	Yes, under SPT and CNT Act they have to take care of the demography of tribal areas and the cohesiveness between these communities.
An expert	Government comes for a term of five years. Whenever new government comes, it tries to undo the work done by previous government.
Govt. official in Dept. of Industries	There are no limitations.
Govt. official in Land Rev., Reg. and Reforms	There are vested interests of local elected leaders. They can resort to any level in order to fill their pockets. Government can only do what is in public interest, not what is in public representative's interest.
Govt. official in Land Rev., Reg. and Reforms	There are no limitations.
An expert	No, an undeveloped region wants industry. If government is encouraging investment, they would be totally up for it.
A sitting MLA	Politics done by opposition leaders is beyond control.
A sitting MLA	No.
An expert	Tribals give immense importance to their land. In such a case, possibilities of taking their land are limited.
An expert	No, every inch of land in the country belongs to the President of the country in legal terms. Therefore the question of limitation does not arise.

#	15. Does the current model of providing equity through joint ownership works?
Ex-CM	Yes.
Ex-CM	Yes.
An expert	Yes.
Govt. official in Dept. of Industries	Yes.

Govt. official in Land Rev., Reg. and Reforms	It depends on the local politics being played. If local leaders are taken into confidence, this model would work for sure. If they are not, they might be able to fail the model.
Govt. official in Land Rev., Reg. and Reforms	Yes.
An expert	Yes.
A sitting MLA	CNT 1908 and SPT 1949 might become a hurdle in implementing in this model. They are in direct contradiction to what the model proposes. However people are eventually getting what they want. Therefore the current model can work.
A sitting MLA	No.
An expert	Yes.
An expert	The current model is fine, but government should acquire barren land rather than fertile.

7. Result of Hypothesis Testing

The given model would work out rightly as per seven interviewees, would work conditionally as per three interviewees and would not work at all as per one interviewee. Applying the test of majority, the current model would work.

8. Recommendations

During the testing process, a lot of suggestions were made. There is a trust deficit between people and government due to laxity in the compensation disbursement process, and corrupt bureaucracy. Some of the interviewees suggested that it is unreasonable to expect every industrialist to go for agricultural land, or vice versa, if he/she has the means to get non-agricultural land. The reason for the same is in majority of the cases, the agriculture as a profession practiced by a family has historic significance and therefore there is reluctant to go out if it. Socio-cultural factors add to it.

It was also realized that bureaucrats are tasked with implementation of law and their role in making the same is limited. Public opinion is majorly determined by elected leaders and people who deal with public in a direct and continuous manner. Primary recommendation which featured in a number of interviews were that there may be joint

ownership of land. This would help provide a sense of continued ownership to the actual landholder, thereby making the case of land availability a win-win situation.

Many interviewees also focused on the issue of tribals and said it is not understood by the government. There is a reason they have been provided constitutional safeguard as far as their rights on forest are concerned and amending CNT and SPT Acts might backfire. However, contradictory opinions came to the front as far as amending these Acts are concerned. Some interviewees were of the opinion that industrialization is the need of the day and if law has to be amended to facilitate the same, it may be done.

There were suggestions like giving land in compensation for land acquired, making stringent laws for bureaucracy where compensation is disbursed in a time bound manner and if it is not done, government officials are punished.

Recommendations are summarized in two categories, one is regarding the workability of the proposed model and other is regarding land acquisition, which is the prevalent model in the state as far as tackling the issue of land availability is concerned.

Recommendations related to the proposed model (category 1) –

1. Concept of land acquisition may be done away with and land rather be taken on lease or rent basis. That would be a sustainable model as people would have a continuous source of living and industry would get the land.
2. There may be joint ownership of land where a portion of the profits earned by the industry is given to actual landowners.

Recommendations related to the prevalent model of land acquisition (category 2) –

1. Government may acquire the barren land and not fertile. SIA should be properly conducted.
2. Land may be given for land.
3. Government may initiate a program through which it can take tribals into confidence. Awareness campaign and increase in compensation may be there.
4. If the people displaced are educated enough they may be given C grade job and not D grade, what they are currently offered.
5. Whenever there are more than multiple owners for a single piece of land, jobs provided may be equal to the number of landowners.

6. Government may encourage people to take up entrepreneurship. Only then the quest to industrialize would materialize.
7. Time frame may be decided for providing compensation and bureaucrats may be punished if they don't do so.

8. Limitations

Following are the limitations of the study–

1. Due to local politics, there is limited debate possible to enable new ways of thinking.
2. The intermingling of the party politics and governance for people to change their stand in different times. Government comes for a term of five years. Whenever new government comes, it tries to undo the work done by previous government. Political parties, when in power have the task to ensure rights of people as well as create jobs through industrialization. Businesses also fund election campaigns. This compels them to make pro-corporate laws which turn out to be anti-people. This leads to conflicting answers.
3. Being a sensitive topic, focused group discussion could not be arranged. Similarly, being an intertwined topic, objection type survey was not feasible and was limited to survey of experienced persons.

9. Further pointers for research

- Interaction of land holding and tenancy rights in forest areas
- Visiting project sites and talking to landowners and tillers.
- Talking to gram panchayat leaders in such areas.
- Matching the standards for rehabilitation and resettlement package as envisaged in LARR Act 2013 and what is actually provided.

10. Appendix

i. Detailed analysis of Supreme Court judgment on 31st August 2016

S. No.	Fact	SC Interpretation
1.	The State of West Bengal formulated an industrial policy to establish automobile industries in the State to cater to the needs of the people and to solve the problem of unemployment in the State. In	NA

	<p>pursuance of the same, the respondent, Tata Motors Ltd. (hereinafter referred to as “TML”), entered into discussions with the State Government of West Bengal regarding the infrastructural needs of the project. In a letter dated 19.01.2006 addressed to then Principal Secretary of the Commerce and Industries Department of the Government of West Bengal, TML stated that a team had visited the State and met representatives of the Government. It also thanked the Government for the openness with which the discussions were held and the assurance of its full support on the project, and summarized its requirements for the same.</p>	
2.	<p>The Tata Housing Company Ltd. has proposed to set up housing and related infrastructure at Telipukur under Singur P.S. in Hooghly district comprising of 200 acres to cater to the Housing and Social infrastructure requirements of the proposed Small Car Project of the Tata Motors Co. Ltd. at Singur, which is not far away from the proposed project site.</p>	NA
3.	<p>the notification under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter referred to as the “L.A. Act”) was published in the Calcutta Gazette Extraordinary dated 21.07.2006, the relevant portion of which reads as under:</p> <p>“Whereas, it appears to the Governor that land as mentioned in schedule below is likely to be needed to be taken by Government/Government Undertaking/Development Authorities, at the public expense for a public purpose, viz., employment generation and socio economic development of the area by</p>	<p>A perusal of the said notification makes it clear that it does not specifically mention that the land in question is being acquired in favour of WBIDC. It merely states that the land in question might be needed for Government / Government Undertaking/Development Authorities.</p>

	<p>setting up TATA Small Car Project in the Mouza Beraberi, jurisdiction list No. 5, P.S. Singur, District Hooghly; it is hereby notified that for the above purpose an area of land comprising RS/LR plots as detailed below and measuring more or less, 72.03 acres, as specified below within the aforesaid Mouza.....”</p>	
4.	<p>Section 5-A of LAA 1894 further provides that after the notification, the objections, if any, may be submitted in writing to the Collector. In the instant case, five objection petitions were received from the land owners/cultivators within 30 days after publication of notification under Section 4 of the L.A. Act.</p>	NA
5.	<p>The formal lease deed was executed on 15.03.2007. Subsequently, the acquisition proceedings were challenged before the High Court of Calcutta by way of Writ Petitions. By common judgment and order dated 18.01.2008, a Division Bench of the Calcutta High Court, dismissed the Writ Petitions, and upheld the acquisition of land, holding the same to be in the interest of the public and for public purpose. The same was challenged by way of Special Leave Petition before this Court. Even as the above said cases were pending before this Court, the State Government of West Bengal and TML went ahead with the development of the land and setting up of the factory for the ‘Small Car Project’.</p> <p>It was, however, at around that time that the local population started protesting against the acquisition of the land and setting up of the factory. Numerous incidents of blockade, protests and</p>	NA

	violence were reported in the print and electronic media.	
6.	By letter dated 10.11.2008 addressed to the Director General of Police, West Bengal, TML informed that it is suspending operations as the circumstances were no longer conducive for them to work in a peaceful manner. TML started removing the equipment, machines and other materials from the site from 10.11.2008 onwards.	NA
7.	The new Government of West Bengal enacted a legislation on 20.06.2011 titled the 'Singur Land Rehabilitation and Development Act, 2011' for taking over the land covered by the lease granted in favour of TML.	NA
8.	TML challenged the constitutional validity of the said Act by way of Writ Petition before a single Judge of the Calcutta High Court. By judgment and order dated 28.09.2011 the learned single Judge upheld the validity of the said Act.	NA
9.	The correctness of the said decision was challenged by way of appeals before a Division Bench of the High Court. By its common judgment and order dated 22.06.2012, the Division Bench allowed the appeals and struck down Sections 2, 4(3), 5 and 6 of the Singur Act, 2011 as unconstitutional as they were in direct conflict with the provisions of the L.A. Act and hence, repugnant to the said Act. It was further held that the entire Singur Act, 2011 itself is void and unconstitutional as the same had not received assent from the President of India. Hence, the present appeals.	NA
10.	The scope of the present appeals is only restricted to deciding the validity of the acquisition of land and the compensation	NA

	awarded thereafter in favour of the land losers.	
11.	<p>It is submitted that the provisions of the 7th part of LAA, titled “Acquisition of land for companies”, were not followed in the instant case, though the same are mandatory in nature. The learned senior counsel draws our attention to Section 39 of the L.A. Act which reads as under:</p> <p>Previous consent of appropriate Government and execution of agreement necessary:- The provisions of section 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the appropriate Government, nor unless the Company shall have executed the agreement hereinafter mentioned”</p>	<p>A perusal of the notification issued under Section 4(1) of the L.A. Act extracted supra clearly shows that the proposed lands in the notification are needed for the setting up of the Tata Small Car project in mouza Berabery, P.S. Singur, District Hooghly (however the 2nd judge interpreted that provisions of chapter VII need not be invoked as the proposal submitted to the Cabinet on 30.5.2006 indicates that the West Bengal Industrial Development Corporation (WBIDC) was the acquiring body to acquire 1053 acres of land for Small Car Project of TML. The fact that the application was filed by TML indicating its willingness for setting up the industry would not also make it an acquisition for a company but how the State has dealt with the same, would be the decisive factor. Since WBIDC was involved right from the beginning by the State Government and a decision was taken by the State Government that WBIDC would be the acquiring authority and WBIDC was involved in identification of the land and the reports were submitted by it to the Government, the acquisition was for WBIDC is apparent as the land was to vest in the WBIDC and it has paid the compensation).</p> <p>Even from a perusal of the letter dated 29.08.2006, written by the Joint Secretary, Land and Land Reforms Department, Government of West Bengal, it becomes clear that the state government did not apply its mind while considering the need of the land and merely followed the document on which the Collector had signed.</p>

		<p>The acquisition proceedings are perverse because the proper procedure as laid down under Part VII of the L.A. Act read with Rules was not followed by the State Government.</p> <p>If the manner of doing a particular act is prescribed under any Statute, the act must be done in that manner or not at all.</p> <p>Another judge interpreted it as Section 3, clause (f), sub-clause (iii) makes the land acquisition for “public purpose”.</p>
12.	<p>The learned senior counsel further submits that post the amendment to the L.A. Act in the year 1984, it becomes clear that the acquisition for a company must comply with the requirements of Part VII of the L.A. Act, and must only be done in accordance with the same. The same cannot be fused with acquisition of land for a public purpose.</p>	<p>The 2nd judge interpreted that acquisition for “company” and “public purpose” need not be exclusive. They can overlap depending on the socio-economic condition of the particular region.</p>
13.	<p>It is further submitted by TML that the fact that the compensation amount of Rs. 138 crores was deposited by WBIDC and not by TML also keeps the acquisition of the lands in the instant case out of the purview of Part VII of the L.A. Act and the relevant Rules.</p>	<p>NA</p>
14.	<p>The State of West Bengal has stated previously in its counter affidavit that establishing a new industry is the public purpose as envisaged under Section 3(f) of the L.A. Act and that in the instant case, it was the state government which had acquired the lands in favour of WBIDC for the purpose of fulfilling its industrialization policy in the State of West Bengal. Therefore Part 7 should not apply.</p>	<p>It is also a well-established position of law that a stand taken by the state government can be changed subsequently if there is material on record to show that the earlier action of the acquisition of lands by the State Government was illegal or suffers from legal malafides or colourable exercise of power. This Court is not bound by affidavits and counter affidavits filed by the parties. In exercise of its power under Article 136 of the Constitution of India, this Court can examine the material on record in</p>

	However now the state government changes stance and says section 7 should apply.	order to determine whether the action of the previous state government in acquiring the lands in the instant case was in accordance with law or not.
15.	Land acquisition collector under Section 4 issued a preliminary notification and under Section 5A heard the people objecting to the acquisition.	Some of these objectors were not given the opportunity to be heard as required under Section 5-A (2) of the L.A. Act. This violated their fundamental right of equality enshrined in Article 14 and 19.
16.	No individual notices were served upon the land owners/cultivators by the Collector, therefore violating Section 9 and 11 of LAA 1894	The 2 nd judge interpreted that the service of personal notice is mandatory as required under section 9(3) of the Act.
17.	The WB government stated that it has acquired land for TML plant in “public purpose”.	Determining “public purpose” is a contended question in law. After a catena of judgments, it has been decided that if the cost of acquisition is borne partly, or wholly, by the state government, it is public purpose. Even if an amount of Rs. 100 is borne by the state government, it would be in public purpose. In this case, the entire money has been paid by WBIDC consequently by mere mention that the land was required for the small car project of TML.
18.	Some aspects of the industrial plant set up were not in “public interest”.	The 2 nd judge interpreted that setting up of an industry is a huge project and would have various aspects. But any conclusion has to be made by taking a holistic approach and seeing the project as a whole. Aspects can’t be seen in silos.
19.	Possession of land has been taken ten years before from the landowners.	The compensation is awarded to land-owners on annualized yield of 10 years. it would be appropriate to direct that land is given back to all land owners since they have been deprived of the usufruct of the land for a decade as such the compensation paid to them shall not be recovered. They are permitted to retain it or claim it in full and final settlement of claim towards damages for deprivation of use of their land

	etc.
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ii. Detailed analysis of Calcutta High Court judgment on 22nd June 2012

S. No.	Fact	Interpretation by HC
1.	Petitioner (Tata Motors) calls the “Singur Land Rehabilitation and Development Bill 2011 (now referred as “Act”)” illegal, invalid, unconstitutional and/or void.	NA
2.	Petitioner alleges the Act has violated Article 14 and 300A of the Indian constitution.	<p>“Property” includes not only real and personal property but also incorporeal rights such as patents, copyrights, leases, choses in action and every other thing or exchangeable value which a person may have. In other words, the meaning of “Property” would connote everything that has an exchangeable value. Therefore, it appears to us that ‘deprivation of property’ as mentioned in Article 300-A of the Constitution includes leasehold. The reason is leasehold is nothing but property.</p> <p>The power to make a law authorizing “deprivation of property” is conferred by Article 300-A. It cannot be contended that because there is no entry in the lists relating to ‘deprivation of property’ as such, it is not within the competence of the legislatures of this country to enact such a law.</p>
3.	Petitioner alleges, once a land has been acquired under LAA 1894, it cannot be subjected to the Act.	NA
4.	Petitioner alleges that the Act does not provide any method to provide compensation to the petitioner.	The Court has no jurisdiction to insert, in the guise of interpretation of statute, or rewrite/recast/reframe the same as held by the Supreme Court, we hold that Hon’ble Singe Judge after holding that the intention of the legislature to pay compensation is vague and uncertain, has no power to insert or recast or rewrite the statute by inserting Sections 23 and 24 of the Land Acquisition Act, 1894. Therefore, the said part of the order is not

		sustainable in the eye of law and is set aside.
5.	WB government was trying to invite the Tatas in 2006 for setting up a manufacturing plant for “Nano”.	NA
6.	Tatas announced to the world that they would manufacture the car by October 2008 in district Hoogly.	NA
7.	WB cabinet cleared the land acquisition proposal put forward by Tata on 31 st May 2006 and communicated it to relevant departments.	NA
8.	On 20 th December 2006, WBIDC issued a letter to Tatas to take “permissive possession of 950 acres of land pending finalization of the lease deed and lease terms and conditions.	NA
9.	As per an agreement signed on 9th March 2007 between WB government and Tatas, the latter would receive substantial fiscal benefits from the former in comparison to what was offered by Uttarakhand govt. 47 acre of land was to be used for rehabilitation of “project affected persons”.	NA
10.	Formal lease was executed on 15 th March 2007.	NA
11.	Under clause 9 of the said lease deed it is the duty of the lessee to construct drainage and sewerage facilities on the demised land and in accordance with and in conformity with the overall master plan of drainage of the entire area inclusive of the surrounding villages prepared by the department of Irrigation of Waterways of the Government of West Bengal.	NA
12.	The Clause 10 of the Lease reads as follows, “That the Lessee shall not use or permit any other person to use the said	NA

	Demised Land or any part thereof for a purpose other than for which it is leased or in a manner which renders it unfit for use for the purpose of the Lease.”	
13.	The Clause 13 which reads as follows: “The Lessee shall not, during the term of this Lease Deed, sublease or transfer the said Demised Land or any part thereof to any third party. However, the possession, use or enjoyment of any part of the said Demised Land by any Group company, associate company, subsidiary, joint venture, contractor for the purposes contained herein shall not be construed as a subletting for the above purpose, provided that the Lessee shall continue to be responsible for the obligations and performance under this Lease Deed.”	It would be evident from clause 13 that any company which was a subsidiary or part of the group of the lessee would be permitted to enjoy it.
14.	The said lease agreement further records in Part IV that compensation in respect of the said land has been duly paid by the lessor WBIDC to the Collector, District – Hooghly as per the requirement of the Land Acquisition Act, 1894 (hereinafter referred to as the L.A. Act).	NA
15.	Part V of the said lease deed contains clause 3 which provides as follows – That the said Demised Land will, throughout the whole lease term (and any renewed term), be classified as being for factory use”.	NA
16.	The said lease deed also contains a termination clause which deals in part VI of the said lease deed. clause I of part VI states that if the lessee had not utilized the demised land for a period of three years or more, the	But such notice of determination could not be exercised unless another notice of three months was served on the lessee.

	lessor had the right to give notice indicating the breach and if such breach was not rectified within six months from the date of receipt of the notice, the lessor would have the right to determine the lease.	
17.	Under clause 2 the lessee had also the right to determine the lease in case of any breach of covenant by the government upon notice of six months followed by another three months' notice, similar to the determination by the government.	NA
18.	In case of determination the lessee under clause 1(d) had one year's time to remove their plant, machinery, equipment and so on.	NA
19.	Petitioner states it had invested large sums of money to develop the land specially to avoid flooding during the monsoon season. The company constructed the entire plant within 13 months. The company had invested over Rs.18 thousand crores in developing and leveling the land and plants and machinery are setting up thereon.	NA
20.	On 6 th August, 2008 the Superintendent of Police wrote to the General Manager of the Tatas at Singur that a decision has been taken to set up 20 camps on an urgent basis within the project site to guard it.	NA
21.	The letter dated 10 th October, 2008 addressed to the Director General of Police, West Bengal points out that due to "Intimidating circumstances" petitioners are compelled to suspend the work and they are unable to keep their commitment to complete the	NA

	manufacture of “Nano” car from Singur plant by October, 2008.	
22.	Petitioner communicated to government multiple times they would consider the option of moving out from the premises provided they and their vendors were compensated for the cost of the buildings, sheds on the premises and expenses incurred in developing the infrastructure which remain on the premises.	NA
23.	Petitioner alleges that after the Assembly Election held on April/May, 2011 the scenario has changed.	NA
24.	On 20th June, 2011 Singur Land Development and Rehabilitation Act, 2011 was passed and published in the official gazette.	NA
25.	Single judge bench stated that the exercise of the power of eminent domain has to satisfy the twin test of being for public purpose and providing an amount of compensation to the deprived leaseholder.	NA
26.	The judge further held that there is a mechanism provided in the Act for determination the compensation by the District Judge, Hooghly.	NA
27.	The judge further held that compensation would be as per Section 23 and 24 of LAA 1894.	NA
28.	The statement of objects and reasons of the said impugned Act reads as follows:- 1. The State Government for employment generation and socio-economic development by setting up of Small Car Project providing employment and industrial development had	Respondent interprets it as that the dominant purpose of the Singur Act is to utilize valuable track of land for socio-economic development, employment generation and industrial development of the State. To give effect to such public purpose the State has exercised its right of reversion by way of legislative Act.

<p>transferred 997.17 acres of land situated at Singur in favour of West Bengal Industrial Development Corporation Limited (hereinafter referred to as “WBIDC”) after acquisition for facilitating of setting up of Small car project by Tata Motors Limited (hereinafter referred to as “TML”) and factories or industries ancillary thereto for socio-economic development and generation of employment and immediately after such transfer, the WBIDC without charging any premium has granted a lease of 647 acres of land at an annual rent in favour of the TML for the sole purpose of small car production so that the object and purpose of the State could be achieved and hereafter issued letters of allotment to several ancillary Industries as recommended by the TML (for short vendor) by charging premium and at nominal annual rent.</p> <p>2. Since the grant of lease to the TML, four years have passed but no small car production industry has been commissioned for regular production of small car, which has in fact been abandoned by the TML as announced by the TML and reiterated in their letters including the letter dated 28.09.2010 and the TML have already transferred, removed the small car project and all machinery and equipment from the said and to another State. So far as letters of allotment issued to the ancillary industries recommended by TML for the purpose of setting up of the industry/factory is concerned, the object has also totally failed. None of those</p>	<p>HC interprets the dominant purpose of the Act has two compartments, one is to return the land to the “unwilling owners” and the other is to utilize the same in public interest.</p> <p>Returning land and conferring title is absolutely direct confrontation with the Act prevailing in the said field i.e. L.A. Act, 1894. We have specifically considered the provisions of Sections 3, 4(3), 5 and 6 of the Singur Act and it appears to us that the said provisions of the Act is totally repugnant to the Act of 1894.</p>
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<p>industrial undertakings have taken any steps for obtaining lease in terms of letters of allotment or at all have not set up any industry and the land has been lying unutilized for more than three years. No employment generation and socio-economic development has taken place and people in and around the area have not been benefited in any manner, whatsoever, although more or less Rs.137 core has been paid by WBIDC as compensation to landowners and the State Government has spent more than Rs.76 crore for construction drainage and other infrastructure. In addition, the State Government has incurred expenses for providing security at site.</p> <p>3. The WBIDC in view of non-achievement of object, purpose of the land lease and letters of allotment, do not want to remain as owner of the land and is keen on ownership of the land being vested in the State and the State Government have agreed to reimburse WBIDC for the amount of compensation paid.</p> <p>4. Several owners of the land/farmers have protested against acquisition against their wishes and have not accepted any compensation and on having realized that there is no scope of generation of employment have been clamoring for return of their land and staging agitation in that area endangering safety and security of the area which unless properly handled urgently, serious law and order problems is likely to develop.</p> <p>5. In the circumstances, the State</p>	
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	<p>Government in public interest considers necessary to take back the ownership of those plots of land and to take over possession thereof in view of total frustration of the object and purpose of allotment/lease of land and for ameliorating ascending public dissatisfaction and agitation and to take steps urgently for return of the land to the unwilling owners of the land who have not accepted any compensation and to utilize remaining portion of the land in public interest for benefit and socio-economic development of the State of West Bengal.”</p>	
<p>29.</p>	<p>Entry 42 of List III – transfer of property</p>	<p>We have also noticed that acquisition of property would always come under Entry 42 of List III.</p> <p>When there is acquisition there is exercise of power under Entry 42 of List III and this power cannot be an incident of any other power [See Rustom Cavesjee Cooper’s case (supra) and Ishwari Khetan Sugar Mills’s case (supra)].</p> <p>After analyzing the arguments and decisions cited on behalf of the State and the parties we come to the conclusion and hold that both the Acts i.e. L.A. Act and present Singur Act come within the same field i.e. within the Entry 42 of List III.</p> <p>Article 254 (1) of the Ind. Cons. Says if there is any repugnancy between law made by parliament and state legislature, the latter would be void. To decide if any repugnancy can arise, the Court will rely upon the doctrine of ‘pith and substance’ and Court has to ascertain the true character of the legislation. The name given by the</p>

		<p>legislature to the impugned enactment cannot be a conclusive on the question of its own competence to make it. It is the ‘pith and substance’ of the legislation which decides the matter and it has to be determined with reference to the provisions of the statute itself.</p> <p>Pith means ‘true nature’ or ‘essence of something’ and Substance means ‘the most important or essential part of something’. Doctrine of Pith and Substance says that where the question arises of determining whether a particular law relates to a particular subject (mentioned in one List or another), the court looks to the substance of the matter. Thus, if the substance falls within Union List, then the incidental encroachment by the law on the State List does not make it invalid²⁷.</p> <p>Following conditions must be satisfied to qualify for an act to be repugnant as per “M. Karunanidhi v. Union of India [(1979) 3 SCC 431]-</p> <ol style="list-style-type: none"> 1. That there is a clear and direct inconsistency between the Central Act and the State Act. 2. That such an inconsistency is absolutely irreconcilable. 3. That the inconsistency between the provisions of the two Acts is of such a nature as to bring the two Acts into direct collision with each other and a situation is reached where it is impossible to obey the one without disobeying the other.”²⁷
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²⁷ <http://lawmin.nic.in/ncrwc/finalreport/v2b3-3.htm>

30.	Entry 18 of List II of the 7 th Schedule – land.	<p>In Entry 18 of List II the rights have been given to the State Legislature widely to cover land reform and alteration of land tenures, but not “acquisition of land” which is included in Entry 42 of List III [See Kameshwar Singh’s case (Supra) or transfer of property other than agricultural land which is included in Entry 6 List III.</p> <p>We find from the impugned Singur Act itself that the dominant purpose of the Singur Act is to return the land to the unwilling owners and thereafter to use the land for the public interest. Therefore, the Singur Act cannot come within the purview of Entry 18 List II.</p>
31..	In the instant case the assent of the President was not taken for the bill.	Clause 2 of Article 254 does not apply.

iii. Questionnaire

1. How does the state government deals with the private landowners whenever it has to acquire their land for “government projects” like making a National Highway or Railway track?
2. How is this different when it has to acquire their land for “private projects” like establishing an industry?
3. Does the government asks for their consent?
4. What does the government offer in compensation for their land?
5. How is this compensation decided?
6. What do landowners ask in return of their land?
7. Do they agree with the method government determines the compensation?
8. Do they agree with the ultimate compensation package offered?
9. In case of disagreement, what steps does the government takes to resolve the differences?
10. Does the local politics influence this whole process? If yes, how?
11. Do tribal groups and NGOs play any role in this whole process? If yes, what?
12. What role does media play while this process of land acquisition is taking place?
13. What steps do you think should be taken in future in order to make this process of land acquisition even smoother?
14. Do you think there are any limitations under which government has to acquire land? If yes, what they are?

15. Does the current model of providing equity through joint ownership works?