

A Critical Analysis of Land Acquisition Act 1894 in the light of Contemporary Legal Contextⁱ

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Pakistan Journal of Law, Analysis and Wisdom

Vol 2 No.1

Abstract

The Land Acquisition is necessary for public purposes along with proper rehabilitation and resettlement of the landowners and livelihood losers so that social and economic justice to be ensured, but the existing laws in Pakistan needs to be enforced efficaciously as to certify a humanitarian, partaking, conversant, consultative and translucent procedure for land procurement. The underlying policy behind Land Acquisition is to create integration of the rehabilitation and resettlement on the one hand and the national perspective of development plan on the other, thus a balance to be ensured between community interest and individual interest. Government played a passive role in Land Acquisition and failed to make proper arrangement for the fair and just compensation to the Landowners and livelihood losers along with rehabilitation and resettlement scheme till so far. The present law has neglected to comprehend the problems identified with land procurement simultaneously, the New Economic Policy and the arrival of foreign multinational corporations add on fuel to the fire. 'Urgency' is a concern of subjective satisfaction of the State; and it is the government only who has to decide that whether the acquisition is for a 'public purpose' or not. The issue of land procurement being a matter of policy; Courts have a very limited role to play. Hence there is a need to re-vitalize the existing law.

Key words: Land acquisition, Public Purpose, Rehabilitation, Resettlement, Matter of Urgency.

1. Introduction

The Bengal Code's Regulation 1 of 1824, which the British Government enacted and introduced the idea of land purchase to the Subcontinent. Act VI of 1857 was the first portion of law that applied to all of India. Following that, a number of other laws were passed, including Act 38 of 1839, Acts 1, 17, and 42 of 1850, Act 20 of 1852, and Act I of 1854. The Land Acquisition Act of

1894 was enacted after Act 10 of 1870. The Act and earlier statutes provide financial compensation for the land seized.¹

The Act 10 of 1870 continued to apply to Pakistan after it gained independence under the footings of the Government of India Act, 1935, and the Indian Independence Act, 1947. According to the Governor General's Order (4/1949), the Act was approved in 1949. The Act remains the cornerstone of the law in this area. The Act and the laws outlined earlier to it envision pecuniary recompense for the land acquired.²

Land acquisition is a confiscatory law intended to strip residents of their valued property rights via the use of forceful state actions taken in accordance with a law. The public purpose, a prerequisite to acquiring property, is not specified in the Act.³ One of the main causes of the Act being abused is when state buy property for commercial goals while posing as having a public purpose. Therefore, this kind of purchase may not be solely for public purposes, but rather just beneficial to the public. Additionally, there is no clause in the Act that forbids changing the public purpose for which the property was purchased.⁴

The Land Acquisition Act does not adequately define urgency. The Executive District Officer Revenue (EDO(R)) has been given unrestricted authority to determine if an emergency situation exists. As a result, the urgency clauses and the discretion granted under them are misused. Persons interested in land acquisition under the urgency rules do not have a hearing right.⁵

¹ Hugo Grotius, *The Rights of War and Peace* (Indianapolis: Liberty Fund, 2005).

² Marcus Jacobs, "Law of Compulsory Land Acquisition"; (Thomson Reuters, 2015), 110

³ 2002 CLC 985

⁴ 2014 CLC 1345

⁵ PLD 2015 SC 56

The duration of the procedures between each step of the acquisition and the creation of an award and payment of compensation is not specified. The involved parties experienced severe delays and losses as a consequence. There are no provisions in the Act for returning land to its original owners. If the project for which the purchase was made is abandoned, the government will continue to own the property, which will be detrimental to the people whose land was seized.⁶

The Act does not comprise of any provisions for refurbishment of land to the original owners. If the acquisition is cancelled by the state, in case the project for which acquisition has taken place is not complied with, the land ownership continues to be bestowed to the Government to the disadvantage of the persons whose land was acquired.⁷

Despite the fact that exercising this right to advance the public interest and welfare has its own advantages, the flaws in the law have been used against the general public and private landowners in general.⁸

2. Literature Review

Because it affects a sizable portion of the population, concerns about land acquisition are not new to Pakistani society and have been frequently brought up. Academics, researchers, and lawyers have not, however, made any attempts to inquire about, look into, consider, and assess humanitarian issues related to land acquisition. As a result, there is little available literature in this area. This work makes clear the justification for such a right.⁹

⁶ 2000 MLD 312

⁷ Land Acquisition Collector vs MST Iqbal Begum, PLJ 2011 S.C 20

⁸ Amita Singh, Nasir Aslam Zahid. "Strengthening Governance through Access to Justice", (PHI Learning, New Delhi, 2009),⁹

⁹ Anwar E. Karmali, "The Law of Ownership Flats", (N. M. Tripathi, 1967),25

The Land Acquisition Act, 1894 by Masud-ul-Hassan Khan Sabri.¹⁰ This book explains progress and land acquisitions in Pakistan and analyzes a conceptual framework based on “paradox of values” and “plural value of land.”

"Private Property, Community Development, and Eminent Domain" by Robin Paul Malloy. The authors of this volume discuss the fundamental bond that exists between the state and its people as well as within the populace. The recent ruling by the US Supreme Court in *Kelo v. City of New London* is the topic of discussion.¹¹ This case involved the use of eminent domain to take private property in order to give it to another private party that would use the land for "better" economic purposes. This kind of government action is known as a "economic development taking." The Court determined in the *Kelo* case that the action was lawful under the terms of the US Constitution, but the Justices disagreed with this conclusion, and the public has expressed strong disapproval of it.

The *Kelo* case and the public discussion that followed it provide an opportunity to evaluate the legal environment surrounding the government's capacity to fairly strike a balance between the conflict between private property and the public interest. No one nation or political system is exempt from tension or the requirement to successfully strike a balance. From the United States to the United Kingdom to the People's Republic of China, property and its legal regulation are crucial for issues relating to economic development and the establishment of civic institutions. The *Kelo* decision therefore examines a wide range of applicable legal principles.

¹⁰ Masud-ul-Hassan Khan Sabri, S. Masud-ul-Hassan Khan, "The Land Acquisition Act, 1894", (Khyber Law Publishers, 1975), 26

¹¹ Robin Paul Malloy, "'Private Property, Community Development, and Eminent Domain", (Routledge Publisher, 2016), 134

Authors Amita Singh and Nasir Aslam Zahid wrote "Strengthening Governance through Access to Justice." The Land Acquisition Act of 1894 formalized the State's dominance and permitted the complete colonization of any territory in the name of the "public interest." For the purpose of examining the likelihood that people will have access to justice, the author has researched various state land tenancy laws, programs to fight poverty, and national laws on people's property rights.¹²

Glen Searle titled "Compulsory Property Acquisition for Urban Densification." Around the world, densification has been a key strategy for creating smart, sustainable cities. In an effort to create a denser, more sustainable cities, In this book, property rights disputes that result from coercive acquisition of property are examined using cases from throughout the world. Case studies from Australia, Eastern Asia, Europe, and North America show how effectively or how badly property rights have been recognised in each of these areas. The chapters investigate the role that local organisations and legal frameworks play in protecting property rights throughout the densification process. The case studies specifically address the following concerns, among others.¹³

What particular advantages are offered by the government for forced acquisition, and how much the development industry contributes to enabling, supporting, or promoting compulsory acquisition, regardless of whether compulsory acquisition for the goal of expanding densification is justifiable in principle and in practise.

What financial incentives are provided for procurement, such as compensation or offsets?

Exists a local or national history of the government legally acquiring property for a variety of reasons?

Is compulsory acquisition limited to specific densification categories or areas?

¹² Amita Singh and Nasir Aslam Zahid, "Strengthening Governance through Access to Justice.", (PHI Learning Pvt. Ltd., 2008), 109

¹³ Glen Searle, "Compulsory Property Acquisition for Urban Densification", (Taylor & Francis Limited, 2021), 78

Exist any obligations to provide alternative housing arrangements where existing housing is acquired?

Jairam Ramesh and Muhammad Ali Khan's book "Legislating for Justice: The Making of the 2013 Land Acquisition Law".¹⁴ Land ownership in Pakistan has always been a precarious scheme. The state had been empowered to make a claim on whatever land it saw fit because of its previously unrestricted power of acquisition and the Parliament's failure to acknowledge the right to own property as a basic one. But from 2012 to 2014, the Pakistani government undertook a project to completely rewrite the legislation on acquisition, not only alter it. Given the lack of other mechanisms ensuring clear title, this process resulted in the radical polarisation of public opinion into two sharp sides: those who saw acquisition as a necessary tool for Pakistan's development and those who were vehemently opposed to an antiquated relic that flouted the law.

In "Hand Book of the Law of Land Acquisition: An Analysis of the Law and Procedure," written by Chunilal Damodardas Barfivala. The main objective of the book is to provide an overview of global experiences regarding the protection of property rights when using compulsory property acquisition to achieve sustainable cities through urban densification.¹⁵

The "Law of Compulsory Land Acquisition" by Marcus Jacobs, the most comprehensive book on land resumption in Australia is Marcus Jacobs QC's Second Edition. "Land Acquisition and Compensation in India: Mysteries of Valuation" by Sattwick Dey Biswas, a timely new edition that examines a variety of issues that may arise in a land resumption matter, contains excerpts from the eight main State and Territory Acts as well as Commonwealth legislation. This book examines the concept of "paradox of values" and "plural value of land" and discusses land acquisition and

¹⁴ Jairam Ramesh and Muhammad Ali Khan, "Legislating for Justice", (Oxford University Press, 2015), 156

¹⁵ Chunilal Damodardas Barfivala, "Hand Book of the Law of Land Acquisition: An Analysis of the Law and Procedure," (Local Self-government Institution, Bombay, 1957),7

development in Pakistan.¹⁶ The study ties the valuation problem to its origins in conventional economic theory and to how each person views it. The project provides a unique perspective on the current issues with urbanisation and development in the Global South, where land use regulations are changing rapidly to make room for urban amenities, housing, and industrial land. The author draws a scheme or framework in the conclusion that addresses various potentials to better address land values during land acquisition. Anyone interested in global south land acquisition, land markets, land appraisal, and land economics should read this book.

M. Desai's article, "Land Acquisition Law and the Proposed Changes," An examination of the Land Acquisition Act of 1894 and how the courts have applied it reveals that the landowner or tenant has significantly suffered. It gives the government complete authority to purchase land for any "public purpose," despite the fact that the courts have essentially taken a hands-off approach and permitted a wide range of land acquisitions for private businesses.¹⁷

Mr. A. Ghosh's *The Compulsory Acquisition and Compensation Laws of India, Pakistan, and Burma*, This book makes an effort to explain the reasoning used by the then-Minister and his Principle Aide, who assisted in drafting the legislation, to support each and every provision. The book provides a first-person account of the difficulties encountered and the variables that influenced the State's attitude to a resource that is possibly the most crucial in a country with a land shortage and a population excess.¹⁸

Granville Austin has lucidly outlined the sequence of events during the freedom struggle and how a consensus on the necessity of having fundamental rights was reached in his painstaking study titled "The Indian Constitution: Cornerstone of a Nation." It also highlights how the founding

¹⁶ Marcus Jacobs, "Law of Compulsory Land Acquisition", (Thomson Reuters, 2015), 306

¹⁷ M. Desai, "Land Acquisition Law and the Proposed Changes," (Oxford University Press, 2011), 45

¹⁸ Mr. A. Ghosh, "The Compulsory Acquisition and Compensation Laws of India, Pakistan, and Burma", (Asian Development Bank, 2009), 45

fathers of the Indian Constitution came to an agreement on a set of fundamental rights after taking into account various viewpoints expressed by illustrious Constituent Assembly members. The portrayal of India's constitutional framework for land acquisition through this work was very helpful. The Constitution of India by P.M. Bakshi offers a critical analysis of the Indian Constitution's clauses and judicial interpretations. M.P. Jain took great care to examine how various Constitutional provisions should be interpreted legally in his book Indian Constitutional Law. The rules for organising judicial decisions on land acquisitions are provided in this treatise. The main reasons why the Indian Constitution included fundamental rights are covered by M.V. Pylee in his book Constitutional Government in India. In Pakistan, the Land Acquisition Act, 1894, which governs the procedure for acquiring land for public purposes, does not include provisions for the rights to just compensation and transparency in land acquisition, rehabilitation, and resettlement. The research should also include a comparative analysis so that the justifications for changing the law governing land acquisition can be clarified.

From the above literature review it is clear that a through research is needed for a Critical Analysis of Land Acquisition Act 1894 in the light of Islamic Jurisprudence and Contemporary Legal Context.

2. Constitutional guarantee and the “Land acquisition act 1894”

Land Acquisition legislation is based upon the Article 173 of Constitution of Islamic Republic of Pakistan which meaning is as under;

“Power to acquire property and to make contracts, etc”

(1) The executive authority of the Federation and of a Province, subject to any Act of the relevant legislature, includes the grant, sale, disposition, or mortgage of any property vested in, the purchase

or acquisition of property on behalf of, the Federal Government or, as applicable, the Provincial Government, and the making of contracts.

(2) Any property purchased for the benefit of the Federation or a Province shall become the property of the Federal Government or, if appropriate, the Provincial Government.

(3) All agreements made in the course of the exercise of an executive power of the Federation or of a Province must specifically be made in the name of the President or, as applicable, the Governor of the Province, and all such agreements and assurances of the property must be executed on his or her behalf by the individuals and in the manners that the President or Governor may designate.

(4) Neither the President nor the Governor of a Province may be held personally accountable for any contract or guarantee made or carried out in the course of the Federation's or the Province's, as applicable, executive power. Additionally, no one establishing or carrying out any such contract or assurance on their behalf shall have any personal responsibility for such contract or assurance.

(5) Legal rules must be followed when a federal or provincial government transfers land.

This article of constitution grants wider power to the government that they can acquire any land for public purpose, but this power of the state is unqualified and without any limitations. This is the reason that this authority of the Government is misused and manipulated.

In most of the countries, Land Acquisition legislation has changed throughout time. With the landmark decision "Kohl v. United States," the US Supreme court¹⁹ established the standards of "fair compensation" for the Federal Government's purchase of property. This decision started the debate over eminent domain in the USA. The Fifth Amendment later added the "Takings Clause"

¹⁹ Kohl v. United States, 91 U.S. 367 (1875)

to the US Constitution, which placed two conditions on the government's capability to wield the authority of acquisition for "fair compensation" and "public use."²⁰

As with Pakistan's history of exploitation, which goes back to the "Bengal Regulation I of 1824," Land Acquisition legislation in Pakistan has colonial roots. The main goal of this law was to make it possible for East India Company personnel to legally purchase private land for infrastructural development.²¹ Act I of 1894, which Pakistan approved as the current "Land Acquisition Act, 1894," amended this legislation through time in the years 1850, 1863, 1870, and ultimately in 1894. By means of state employees, such as the CDA, this legislation enables the state to use its inherent authority to acquire property.²²

3. Shortcomings in Land Acquisition Act 1894

The Pakistani constitution's provides basic property right and also provides protection for rights relating to property. The notion that the state cannot infringe on basic rights unless there is an emergency lies at the heart of the concept of fundamental rights. These rights are acquired by the natural condition of things.²³ The landowners are unfairly disadvantaged since, underneath the guise of Land Acquisition Act 1894, the state may seize possessions for a public purpose even if the owner is reluctant to give it up.²⁴

The term "public purpose" is not defined by the law; rather, it is interpreted by case law, which has extended the understanding of communal drive to include not only the construction of schools

²⁰ Glen Searle, "Compulsory Property Acquisition for Urban Densification", (CRC Press, 2018), 115

²¹ A. Ghosh. *The Laws of Compulsory Acquisition and Compensation in India, Pakistan and Burma*, 4th Edition, 1951, Eastern Law House Limited Calcutta

²² Malik Iftikhar Ali. *A Case Study of Land Acquisition by Government in West Pakistan*, A Publication of the National Institute of Public Administration⁷⁸, Upper Mall, Lahore

²³ *Bostan v Land Acquisition Collector, Rawalpindi*, PLD 2004 Lah.47

²⁴ PLD 1983 Lah 552

but also the development of companies for commercial purposes, even though the latter may be necessary but not a "public good"²⁵ Furthermore, the Land Acquisition Act reference to a "competent forum" as the arbiter of "fair compensation" leaves room for exploitation.²⁶

As it opens up hitherto unheard-of avenues for corruption and the misuse of authority, the power of forced acquisition is open to abuse.²⁷ Private landowners, who lack the authority to object, are unfairly placed at a disadvantage, creating an unbalanced dynamic between the state functionary and them.²⁸ Additionally, shady practices and insufficient payment for the property violate the fundamental notions of fairness and equity. With blatant disregard for the rule of law, legal loopholes are openly abused.²⁹

Compensation which is awarded to land owners as a consequence of land acquisition is also a matter of controversy and it always ended up to litigation. Price is determined by the collector and land owner is not provided an adequate and fair opportunity to be heard which is violation of his fundamental right. It is also against the norm of natural justice that he should not be provided with the opportunity to be heard.

4. Rulings of Courts on Land Acquisition

In the important case of Qazalbash Waqf v. Chief Land Commissioner the Shariat Appellate Bench of the Supreme Court of Pakistan (SAB) pronounced the land reform legislation to be against Islam. The Qazalbash Waqf case was one of several awqaf scattered over the whole nation. This

²⁵ Justice Malik, "Land Acquisition Act", (State Mutual Book & Periodical Service, Limited, 1990), 6

²⁶ David L. Callies, Daniel R. Mandelker, Joseph Gordon Hylton, "Property Law and the Public Interest: Cases and Materials", (Carolina Academic Press, 2016), 321

²⁷ PLD 2018 Islamabad 67

²⁸ Velandai Gopalayyar Ramachandran, "The Law of Land Acquisition and Compensation," (Eastern Book Company, 1969), 27

²⁹ PLD 2017 Lah. 442

Waqf included near to Lahore more than 1,000 acres of irrigated land. As always, the Waqf was founded on a single, straightforward principle: promoting social justice while upholding Allah's will and His law. The Qazalbash Waqf, like other strong organisations, was caught in the trap Mr. Bhutto created when he was manipulating the State legislation to carry out his promise of a land reform.³⁰

The Qazalbash Waqf, a historically God-protected institution, recently lost a significant portion of its land, purportedly for the sake of redistribution among peasants without land.

Similar to the mutawallis of the Qazalbash Waqf, many people who had lost their estates to the State knocked on the doors of the courts looking for help. But for many years, there was no help to be had since the Constitution's own different Articles that forbade judicial scrutiny and counter-law in this area safeguarded the land reform legislation. But Mr. Bhutto eventually overshadowed, just as all powers mediocre. Islamic socialism was abandoned in favour of calls for "Nizam-e-Mustafa." After hanging Z. A. Bhutto, General Zia ul Haque set out to 'Islamize' Pakistan's legal system. He first established Shariat benches in the High Courts of each province, tasked with "examining and deciding the question of whether or not any law or provision of law was repugnant to the injunctions of Islam." Later, these regional benches were combined into a single "Federal Shariat Court" (FSC). The Shariat Appellate Bench (SAB) of the Supreme Court will hear appeals of FSC rulings. When the High Court's Shariat Benches were established in 1979, previously discouraged plaintiffs like the Qazalbash Waqf saw a fresh glimmer of hope.

They may reclaim the land they had lost if someone could prove that land reforms were against Islamic law. Court cases were quickly filed by litigants who claimed, among other things, that

³⁰ PLD 1990 SC 99

Islamic socialism and its land reforms were in fact not Islamic at all. It is difficult to deny the zeal with which these plaintiffs approached the recently constituted Shariat benches. The first of these petitions, Shariat Petition No. 1 of 1979, brought before the Peshawar High Court by Haji Niamatullah Khan, was dismissed on July 2, 1979, and challenged clause (d) of subparagraph (3) of paragraph 25 of M.L.R. 115. The first one only established the pattern. Records show that at least 33 of the first 75 Shariat petitions submitted before the Lahore Bench covered concerns related to land reforms.

Because private property ownership is revered in Islam, 'ulam' judges in this case uniformly opposed governmental action in restricting property rights, while the majority of other judges defended the use of such authority in the public interest.

Both supporters and detractors of legislation requiring land reform used the Qur'an and sunnah to bolster their arguments. These SAB judges ultimately served as the final arbiters in deciding which specific application of Islamic law is applicable. The court has ruled that, among other things, setting a limit on individual land ownership is against Islamic tenets. As a result, a number of clauses in the Land Reforms Act of 1977 and the Land Reforms Regulation of 1972 were found invalid.³¹

The landowner retains ownership of the property even after receiving a notice under section 4 of the Land Acquisition Act 1894, according to the case of Haq Nawaz Khan and others v. Rab Nawaz and others. After the collector takes ownership of the land, it becomes property of the government. When the collector takes ownership of the land, it becomes the property of the government. Lahore Development Authority bought the property in question to build a housing development. After the

³¹ Ibid

authorities had issued the notice for the acquisition of the property, the plaintiffs bought the land from the owners.³²

The notice of purchase was contested by the plaintiff. It was a dispute between the plaintiffs and the original owners. The plaintiffs were unable to contest Lahore Development Authority's purchase of land since they were not there at the time. Only the original owners have a claim to compensation.³³

The ability to determine whether or not land is required for public use has been granted to the government. Therefore, the Government in question has the last say about whether or not a declaration under Section Six of the Act should be made. If a need arises, only the government has the authority to determine whether it serves a public purpose or not. The declaration of the government may be contested if there has been an improper use of authority at the request of the harmed party (land owners). As a result, the housing sector faces a significant amount of litigation. There is no limit on the top court of Pakistan's authority to determine whether or not land is being purchased for public use.³⁴

The order issuing the notice was invalidated by the high court because it was unjust, discriminatory, and in breach of basic rights. Additionally, it was ruled to be against the Land Acquisition Act of 1894's legislative aim, which was to encourage businesses to engage in public benefit endeavors.³⁵

³² 1992 SCMR 993

³³ 2011 YLR 3060

³⁴ AIR 1962 SC 764

³⁵ 2016 CLC 408

Private properties are taken under the terms of the property purchase Act of 1894 for public uses without the owners' agreement, and the welfare of the general public is the primary factor driving this purchase of property. The purpose of the legislative arrangement is not to deny landowners their constitutional rights. Articles 23 and 24 of the 1973 Constitution of the Islamic Republic of Pakistan provide certain rights. Under the Act, property may be purchased, but only after compensation has been paid.³⁶

Under Article 10-A of the Constitution, the right to a fair trial is acknowledged as a basic right. Any person's right to a fair trial would be violated if they were not allowed to object to the taking of their property.³⁷

Under the terms of the Land Acquisition Act, land that had previously been bought for cooperative housing society members could not be acquired for the Lahore Development Authority. Because the members of the cooperative housing society were already low-income individuals, the notices issued for the purchase of land for the LDA society were disregarded because these individuals were more worthy. LDA organisation was unable to acquire the property for public use.³⁸

Any property purchase that serves simply to benefit a select few persons would be considered unjust enrichment and would defeat the goal of the public purpose.³⁹

5. Basic Principles of the Land Acquisition

Owning land has always been a dangerous endeavor in Pakistan. The State was given unrestricted acquisition powers under “The Land Acquisition Act of 1894”. The Parliament's failure towards

³⁶ PLD 2002 SC 91

³⁷ PLD 2016 Lahore 293

³⁸ PLD2016 Lahore 293

³⁹ 1996 SCMR 1277

acknowledging the basic nature of the right to property ownership has also given the State additional freedom to lay claim to whatever land it sees suitable. The research may help with looking at the beginning and development of property rights that were recognized underneath Part II of Native American Constitution as well as examining conflict over recompense in acquirement matters beforehand and afterward the 44th amendment. It also emphasizes the impact of the 44th Amendment on the progress made in land acquisition.

The problem of the property rights of land losers has been investigated in an effort to find a solution. Furthermore, it investigates whether the relocation of the landowner and the rehabilitation and resettlement of those who were harmed by the project in cases of land acquisition were justified. With the spread of the notion of eminent domain and the resulting perpetual struggle between the interests of the individual and the society, the idea of private property has been destroyed.

The research closely examines the harmony between a person's private property rights and the interests of the whole society. The land acquisition rules are judged to be out of date in light of constitutional principles and the changing economic environment. Finally, the researcher concentrated on the study that, by examining the answers to three essential questions, provides precision, deepness, and insight to the problem by guiding over the contemporary, the former, and the upcoming situation. What are the present-day facts of land acquisition? How did we end ourselves in this situation? How do we proceed?

6. Conclusion

In the nutshell it can be concluded as the present legislation on land Acquisition is insufficient to protect the rights of land owners. State only provides compensation in monetary form and does

not provide any rehabilitation and resettlement policy for those whom land is forcibly acquired. This is sheer violation of not only individual right but also a blatant abuse of human rights as a whole. It can be said that Pakistan suffers from a complicated web of many social and economic issues as a consequence of the state's forced land acquisition procedure. Due to improper rehabilitation and resettlement efforts on the part of the purchasing authority, the forced property acquisition puts the interest holders in a total condition of hardship. In this study the ineffectiveness of the Land Acquisition Act of 1894 is specifically highlighted with special reference to Pakistan's forced land purchase procedure. In order to understand the current gaps and pinpoint the most important areas for improvement, it will also elaborate the land acquisition procedures in some other common law countries, including India and the United Kingdom, in order to change the land acquisition procedure in Pakistan into one that is more effective and fairer. Common law nations like Pakistan include both India and the United Kingdom, therefore it makes sense to analyse how land is acquired in these nations. It may be beneficial to review the convenience and effectiveness of the land acquisition processes in India and the United Kingdom in order to improve the procedure in Pakistan. The Land Acquisition Act (LAA), 1894, which both India and Pakistan received from their British colonial ruler. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 (LARR, 2013) was India's replacement for the LAA, 1894, which was revoked. This new legislation is fairly progressive in that it provides landowners greater freedom and lessens the state's ability to compel compliance. In certain circumstances, it even requires the approval of 80% of landowners before acquiring land, although Pakistan's LAA, 1894, has no such provision.

7. Suggestions

In the view of the above discussions, it is suggested that to ensure the protection of land owner's interest, definition of "Public purpose" should be defined again in a restricted manner to overcome the issues of malpractices on part of Government authorities. To prevent the abuse of urgency provision there is a need to incorporate sectors which comes under the said provision such as defence, health and infrastructure. Provisions regarding rehabilitation and resettlement should be incorporated to the existing law to provide an adequate relief to the affected persons land is forcefully acquired by the state. The term "affected person" is used to refer to anybody who has a connection to the land, such as labourers, as well as non-title holders who have a partial stake in it in both India and the UK. But "public purpose" is interpreted pretty broadly in Pakistan, so it's possible that a purchase might still go through even if there isn't a strong argument for the public interest. Similar to the UK and India, where the notion of "public purpose" is fairly limited, property is often bought for defense, key infrastructure, strategic requirements, and other purposes. However, "public purpose" is interpreted rather broadly in Pakistan, and it is possible that a purchase may go through even if there is no compelling public interest. There is a need to amend the existing redundant colonial law to meet the requirements of justice, equity and fair play and to avoid the litigation in the result of every land acquisition.

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ⁱ This article is an extract from the PhD Law dissertation to be submitted by the author in partial fulfillment of her PhD Law at International Islamic University, Islamabad