

Opinion Article

Participation and Perception of Project Affected People in SIA process under RFCTLARR Act 2013

ABSTRACT

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 has brought about an exemplary change in land acquisition process in India. Land acquisition in a developing nation like India is required for industrialisation, urbanisation through basic expansion of infrastructure which has the multiple effect on economic development. Land acquisition for any development projects is very important to create changes of local peoples' daily lives. It also displaced the people and harm to their livelihoods, which also creates confrontation. Through the land acquisition how people be affected to be estimated by SIA study suggested in The RFCTLARR Act 2013. But the entire SIA process can be succeed when all the stakeholders in general and the project affected people or families in particular to be participated fully during the implementation of the project. Also they should be given chances and or opportunity to participate in the process by the project proponents to record their views. Whereas talking about the particular issues in arrive securing and distinguishing challenges in carrying out SIA considering in Odisha, the current paper proposes conducting SIA in a comprehensive and participatory way to measure the affect, make the community conscious and minimize resistance.

Keywords: RFCTLARR Act 2013, Social Impact Assessment, Land Acquisition, Project Affected People, public hearing.

INTRODUCTION

Land is an important part of the human life and asset for food production and a basic resource for urbanisation and industrialisation. It also a critical resource for economic development of the society. Not only economic concerns, Social and cultural values of the people is also linked to the landed resources. After liberalisation, it became a new challenge to the nation for development of massive and appropriate infrastructure to attract investors for promoting and establishing industrial parks. Be it industrial development or infrastructural development, land, in all cases appears to be a critical issue.

Odisha, a developing state having many problems which impacts on carrying out of development projects to create attraction for investment for establishing industries. The interesting characteristics of land, which is physically constrained, steadfast and cannot be produced and reproduced, has made estimating of land a basic work out, particularly in an defective land market like India. On the other hand, any advancement extend brings with itself guarantee of success, business openings and superior network which have multiplier impacts on financial advancement of the region. But alongside these positives, the uprooting of helpless bunches, misfortune of employments for a certain section of society and disruption in day by day socio-cultural exercises also take place. Most of these negative results develop from land being obtained from nearby population to set up plants, build streets and bridges etc. Post The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement[1] (RFCTLARR) Act, 2013, there has been alter in worldview of land acquisition particularly within the context of compensation, rehabilitation and resettlement issues. Social Impact Assessment of all development projects has become very important factor for land acquisition.

The pre-constitutional Land Acquisition Act, 1894 is replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement[2] (RFCTLARR) Act, 2013. The Constitution-established Gram Sabhas and the Institution of Local Self Government will be consulted during the land acquisition process. The land acquisition process for industrialization, urbanization,

Comment [NS1]: The entire abstract should be restructured and worked upon for it to be meaningful, it lacks coherency.

and the development of necessary infrastructure facilities should be humane, participatory, transparent, and cause as little disruption as possible to the landowners and other affected families. A just and equitable compensation should be given to the affected families whose land has been acquired or is proposed to be acquired on the affected persons by such acquisition [3]. Additionally, it stipulates that suitable provisions for rehabilitation and resettlement must be made for these affected persons. On January 1, 2014, the new (RFCTLARR) Act, 2013 came into effect. For the first time, land acquisition, rehabilitation and resettlement (R&R), and social impact assessment (SIA) were all combined under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act of 2013.

Comment [NS2]: Your introduction needs thorough reworking

STUDY OBJECTIVES

The objectives are spelt out as given below:

- 1) The primary objective of this study is to understand the processes follows for Social Impact Assessment (SIA) under RFCTLARR Act 2013
- 2) To critically examine the significance of the participation of the affected people in the process of SIA under RFCTLARR Act 2013
- 3) To explore the perception of the Project Affected People in SIA process under RFCTLARR Act 2013

METHODOLOGY AND DATA COLLECTION

The information/data for the study was collected from primary and secondary sources. The secondary sources included; Publications, web resources and other secondary sources. A survey instrument was developed for collecting the opinions of project affected people. In addition, field visits were undertaken to selected districts to collect data. The field visits involved semi-structured interviews with representatives of key stakeholders and along with FGDs (the author was involved for the SIA study of five projects in four districts of Odisha state).

Comment [NS3]: Is data collection not part of methodology?

SOCIAL IMPACT ASSESSMENT AND ITS' NEED

The loss of private assets resulting in loss of income and displacement makes social impact assessment an important input in project design while initiating and implementing developmental interventions. An understanding of the issues related to social, economic and cultural factors of the affected people is critical in the formulation of an appropriate rehabilitation plan. For project design to be sensitive to social development issues, a thorough social impact assessment (SIA) must be conducted. SIA further helps in increasing the project's advantages to the underprivileged and vulnerable while reducing or mitigating concerns, risks and adverse impacts.

SIA PROCESS UNDER RFCTLARR ACT 2013

Preliminary procedure before SIA study

- Upon receiving the application in "form A," which must be completed in all respects, the district collector will review it quickly and, if satisfied, forward it to the authority conducting the SIA study, along with a copy to the department that deals with land acquisition and the department that the project is related to.
- The Tahsildar will get the land details from the district collector in order to update the Record of Rights for the proposed project area.
- Before conducting SIA study a notification under section 4 (1) is issued by the appropriate government prescribing the manner in which the study shall be conducted and the date of commencement [4].

Preparation of SIA study

- Following acceptance of the District Collector's proposal, the State SIA unit will draft a comprehensive set of project-specific Terms of Reference (TOR) (*Nabakrushna Choudhury Centre for Development Studies (NCDS)* in Odishais the State Nodal Agency for conducting SIA Study. NCDS has identified 38 independent agencies to conduct the study in different parts of the State on its behalf.) [5]

- The state government shall issue notification under sec.4 (1) on receipt of intimation from the authority conducting SIA study.

Mandatory Public Hearing

- A public hearing will be conducted in the impacted region to gather the opinions of the impacted families, which will be documented and incorporated into the Social Impact Assessment Report (Under Sec 5).
- Under sec 6, the appropriate government must see to it that the Social Impact Management Plan (SIMP) and the study report for the Social Impact Assessment are created and made available in the local language.[6]

APPRAISAL OF SOCIAL IMPACT ASSESSMENT REPORT BY AN EXPERT GROUP.

A self-governing multidisciplinary expert group comprising (i) two non-official social scientists, (ii) two representatives of local bodies, such as a panchayat, gram Sabha, municipality, or municipal corporation, as applicable, (iii) two experts on rehabilitation, and (iv) a technical expert in the project-related field, is tasked with evaluating the SIA Report under section 7. A member of the Expert Group may be proposed by the appropriate Government to serve as the Group's Chairperson.

EXAMINATION OF PROPOSALS FOR LAND ACQUISITION AND SOCIAL IMPACT ASSESSMENT REPORT BY APPROPRIATE GOVERNMENT.

(1) The appropriate Government shall ensure that—

- a) There is a legitimate and bona fide public purpose for the proposed acquisition which necessitates the acquisition of the land identified;
- b) The potential benefits and the public purpose referred to in clause (a) shall outweigh the social costs and adverse social impact as determined by the Social Impact Assessment that has been carried out;
- c) Only the minimum area of land required for the project is proposed to be acquired;
- d) There is no unutilised land which has been previously acquired in the area;
- e) The land, if any, acquired earlier and remained unutilised, is used for such public purpose and make recommendations in respect thereof.[7]

(2) The appropriate government will review the reports from the Expert Group and the Collector, if any, on the Social Impact Assessment study. After weighing all of the information, it will suggest an acquisition area that will minimize adverse effects on the affected families as well as infrastructure and ecological disruption and minimum relocation of people.

(3) The decision of the appropriate government will be published in the affected areas in the prescribed manner and uploaded on the relevant government's website. It will also be made available in the local language to the Panchayat, Municipality, or Municipal Corporation, as applicable, as well as the offices of the District Collector, Sub-Divisional Magistrate, and Tehsil.

With the caveat that the appropriate Government must also determine whether the affected families' prior consent, which is required by the proviso to sub-section (2) of section 2, has been obtained in the manner that may be prescribed when land is sought to be acquired for the purposes listed in that subsection's (2).

EXEMPTION FROM SOCIAL IMPACT ASSESSMENT

When it is suggested that land be purchased under section 40's urgency provisions, the appropriate government may decide to waive the need that a Social Impact Assessment be conducted.

TIMELINE OF THE LAND ACQUISITION PROCESS UNDER RFCTLAR&R ACT, 2013 [8]

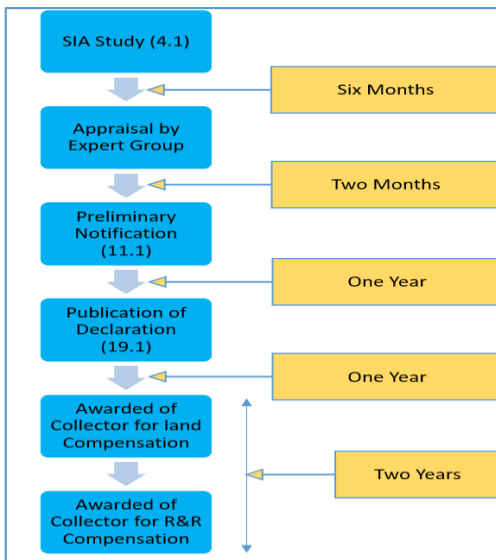


Fig . 1 Study protocol

Ref: relevance and process of SIA study under RFCTLAR&R act, 2013, Project report, (Submission for completion of Induction Training) S.N. Tandi, AddlTahasildar, Komna.

PARTICIPATION OF PROJECT AFFECTED PEOPLE IN SIA PROCESS

- **Who is Project Affected People?**

For purposes of the Social Impact Assessment, to assess the project impact household/ family is considered as a unit. Households listed in the land schedule to be acquired categorized as Project Affected Families (PAF) according to RFCTLA R&R Act 2013. PAF is defined as "Families who are losing their income, partially or fully, due to loss of land in the acquisition are considered as PAFs. The severity of the effect can be further categorized based on the extent of loss of land under cultivation (either partial or full). If a family is losing their total land under cultivation, then it is considered as fully affected else partially affected" whereas PDF (Project Displaced Families) is defined as "Families losing their dwelling and livelihood due to land acquisition and are displaced from their habitation are considered as Project Displaced Families".

- **Participation of Project Affected Families (PAF)**

The need of participation of Project Affected Families (PAF) in SIA under RFCTLA R&R Act, 2013 is probably most widely recognized, for several reasons. First, PAF involvement process provides an opportunity to them to identify and understand the economic, environmental and social impacts of a proposed project. Comprehensive PAF participation can help identify potential negative impacts of the proposed projects. Therefore, decision-making need to follow the basic environmental observation of the proposed sight and cultural heritage to be considered a basic input which influences the decisions.

An effective SIA seeks to identify both the indirect and direct effects of the project to ensure accuracy in cost benefit analysis. PAF participation can reduce and compromise the key conflict issues with the project executor. It also increases their awareness of the project and identifies opportunities for community ownership such as citizen monitoring of the project. PAF participation can foster a more effective integration of economic, social and environmental [9] concerns regarding infrastructure development.

SIA AND PUBLIC PARTICIPATION

Land acquisition remains at the centre of many controversies and public policy paralysis in India. There are very few public policy issues in India that rival land acquisition in terms of its complexity, challenges and significance to country's growth and transition to more urbanised and industrialised status. RFCTLA R&R Act, 2013 has many provisions in which public involvement is made Compulsory. The entire process of socio- economic and Social Impact Assessment and formulation of R & R Plan entails regular engagement with the affected communities. As a matter of fact, community engagement is now an integral and the most important part of SIA as per RFCTLA R&R Act, 2013.

Public participation is a process that enables the project or policy outputs proposed through social impact assessment to be supported by large communities, and this process continues throughout the life of the project. Public participation serves as a tool to educate the community about the potential benefits and damages of the proposed project. Public participation creates increased community awareness of the current situation for the future for the affected population before a final decision is made. In addition, the public participation process can serve as a valuable data collection tool on specific social impact assessment variables.

Social impact assessment is a systematic process that tries to determine the day-to-day effects on the quality of life of people affected by the environment by physical development and policy change. Social impact assessment identifies the current situation and predicts potential impacts on the community after the project is implemented. Impact assessment is important in monitoring and measuring against actual and predicted social impacts.

Participation of project affected families during SIA study under RFCTLA R&R Act, 2013 is an integral part of the study. PAF are participating during household survey, general infrastructure survey, focused group discussion (FGD) and Public Hearing meetings. These are the platforms and opportunities given by the RFCTLA R&R Act, 2013 to elucidate the opinions of both direct and indirect stakeholders of the projects.

PERCEPTION OF PROJECT AFFECTED PEOPLE

As of discussed in methodology, the researcher was involved in SIA studies at several districts of Odisha for acquisition of land for various developmental projects like; Widening to 2-Lane of Vijayawada-Ranchi Corridor, Construction of Approach Road to HL Bridge over River Mahanadi, Construction of Proposed ROB in lieu of L.C. No. JT-60 at Km 623/11-12 between Bargarh Road and Barpali Station, Construction of Sanamuligaon MI Project, Construction of Chheligarh Irrigation Project etc. and covered 1134 numbers of Project Affected Families from 14 numbers of villages for acquisition of 86.236 Acres of land and gained the experience to know their **perception** on the project. These were the eye opening messages for policy makers as well as the project proponents to make people friendly plans for providing justice to the affected people. The followings are few perceptions listed to know the feelings of the PAF:

The abstract of the feelings of people about the project are given below.

- Cracks in kinship will be a major impact as loss of land may lead to dispersal of extended families across space and quarrels over share in compensation. Family violence and crime may be an offshoot of this impact.
- Increase in consumption of alcohol will be a likely impact as perceived by many. This is because compensation receipts may be celebrated and alcohol may be used to settle scores in respect of share in compensation.
- Most of the land losing households will be in stress because they will be losing land that they cultivated for years, decades and over generations. Another source of stress may be the amount of compensation and uses to which they may be put to.
- Many perceived a favourable impact on the local economy due to improvement in irrigation of the lands and growth of volume of production due multi-crop by improving the land quality.
- A general feeling among the affected households is that the compensation amount is low compared to rocketing increase in the price of land in the area.
- The perception of non-land losing households in the village is more or less similar to those expressed by the land losing households excepting that they will be directly benefitted by the improvement of irrigation system due to land acquisition.

- They apprehend undervaluation because land transactions are made at prices that are invariably much higher than that recorded in the sale deeds. This people do to evade registration fees that are to be paid on the amount quoted on the deeds.

RECOMMENDATION

It is recommended that valuation of the land proposed to be acquired may be made by taking into account the actual market value prevalent in the area which stands higher than the benchmark value documented in the records of the Sub-Registrar Office. In household surveys, in Focused Group Discussions, and in conversations with various eminent persons, certain concerns were raised which need to be addressed in the context of land acquisition as follows:

- a) As opined by the affected people, there should be followed a hassle-free payment procedure.
- b) Payment procedure of compensation should be made as soon as preliminary notification U/s – 11 (1) and completion of RoR authentication process.
- c) During the construction phase the project proponent should ensure that, the executor/ contractor should engage the local people based on their existing skill and knowledge.
- d) Most of the land records are not updated which needs updating before payment of the compensation.
- e) The project affected families should be participate and present during physical survey as per the proposed layout plan prepared by the project proponent.
- f) Any remaining portion of the land which is rendered useless after the proposed acquisition plan should also be acquired along-with.
- g) Grievances redressal mechanism should be prompt and faster so that disputes are quickly settled. It is suggested decentralised grievance redressal system should be made to reduce the time of affected people to run after offices.
- h) The actual owner or their representative should be present or invited by the appropriate authority of the project during the time of measurement of the land and building which is supposed to be acquired.

CONCLUSION

Even if development projects provide wealth, they also negatively alter the sociocultural practices and patterns of livelihood in the community, disproportionately affecting the weaker sections. In the twenty-first century, displacement brought on by development also poses a serious threat. All of these could lead to acquisition opposition and delay project execution. One attempt to overcome these constraints in a participatory manner is the Social Impact Assessment included in the RFCTLARR Act, 2013. Land acquisition SIAs are difficult to conduct because there are many parties involved, some of whom have competing interests. To reduce opposition and create a win-win situation, SIA should be conducted comprehensively, accounting for all affected families who depend on the land to be acquired. To do this, it is essential to inform the public about the advantages and disadvantages of land acquisition and involve them in the decision-making process by adhering to SIA's correct procedures.

REFERENCES

1. <https://www.indiacode.nic.in/bitstream/123456789/2121/1/A2013-30.pdf>
2. <https://lawcorner.in/right-to-fair-compensation-and-transparency-in-land-acquisition-rehabilitation-and-resettlement-larr-act-2013/> April 21, 2022 by Aayushi Mitra
3. <https://www.legalserviceindia.com/legal/article-11530-rules-and-procedures-regarding-land-acquisition-and-compensation-awarded-as-per-land-acquisition-act-2013.html>, **By Nelluvely**
- 4&5. https://rotiodisha.nic.in/files/29102018/Publication%20And%20Training%20Material/Project%20Reports%20of%20Trainees/RFCTLARANDR/DEEPTIMAYEE%20BHUE_20th%20Batch.pdf
Relevance and Process of SIA study under RFCTLAR&R Act, 2013 Submitted By: Deeptimayee Bhue Asst Collector O/o Sub-Collector Padampur, Bargarh 20th Batch Induction Training Period: 23/08/2018 to 15/09/2018

6&7. <https://www.aaptaxlaw.com/land-acquisition-act-2013/section-6-land-acquisition-act-2013-publication-of-social-impact-assessment-study-section-6-of-land-acquisition-act-2013.html#:~:text=%281%29%20The%20appropriate%20Government%20shall%20ensure%20that%20the,uploaded%20on%20the%20website%20of%20the%20appropriate%20Government.>

8. Ref: relevance and process of SIA study under RFCTLAR&R act, 2013, Project report, (Submission for completion of Induction Training) S.N. Tandi, AddlTahasildar, Komna.

9. Mark Roseland, Sustainable community development: integrating environmental, economic, and social objectives, Progress in Planning, Volume 54, Issue 2, 2000, Pages 73-132, ISSN 0305-9006, [https://doi.org/10.1016/S0305-9006\(00\)00003-9](https://doi.org/10.1016/S0305-9006(00)00003-9), (<https://www.sciencedirect.com/science/article/pii/S0305900600000039>)

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