



Land acquisition in metro projects-process and impacts

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Abstract

In India land acquisition by government has generally impacted people negatively because the Land Acquisition Act of 1894 was based on the principle of eminent domain and compensation offered was based on historical value rather than market value. The implementation of RFCTLARR 2013 in India has provided for informed consent during land acquisition. Metro Rail Projects being linear projects in a brown field environment, necessarily result in land acquisition. This article briefly examines how various states/metro companies have approached this issue. The Ahmedabad Metro project is studied in detail to understand the innovations carried out by Ahmedabad Metro in the land acquisition process, so as to minimize the time taken and improve the condition of PAFs affected by land acquisition.

Keywords: land acquisition, MRTS, PAFs, rehabilitation, resettlement, compensation

Introduction

Allergic eye disease has been considered as a common ocular condition encountered in clinical practice. Vernal Increasing urbanisation needs high capacity transport solutions like the Mass Rapid Transit systems or metro rails that can transport commuters across a large distance within a city or to the neighbouring areas with speed and comfort. The parameters on which the efficacy of such a system is checked are:

- **Availability:** Rail and road infrastructure, shared transport, external connectivity.
- **Affordability:** Public transport, cost of and barriers to private transport.
- **Efficiency:** Public and private transport.
- **Convenience:** Travel comfort, ticketing system, electronic services, and transfers.
- **Sustainability:** Safety, environmental impact.

In the early stages of urbanisation, buses cater to the public transportation demand but there comes a stage when a rail based system becomes essential to cater to the increased demand.

India too has been experimenting with several metro rail projects in it's A (metropolitans) and B class cities across the country and metro is presently operational in 12 cities and under construction in nearly as many more.

The construction of rapid mass transit systems like a metro rail is resource-intensive in terms of technology, planning and design skills, innovations, finances, land and labour. Based on data obtained from various metro companies, (GIDR, 2020) nearly 10% of the total land has to be acquired from people. Even though 90% of the land required is government land, encroachment on such land results in displaced persons being higher. In India, land is often the identity of the communities, their culture, emotions and thus becomes a source of conflict and thus elimination of such conflicts is necessary for both the Central Government and State Governments.

This paper tries to understand the land acquisition process in India with a primary focus on land acquisition for metro rail

projects. It discusses the case of Ahmedabad Metro Rail project implemented by the Gujarat Metro Rail Corporation Limited (GMRCL) with a focus on the challenges faced during the land acquisition and the new initiatives adopted to simplify the process.

Evolution of the Land acquisition process in India

The land acquisition during the British rule was under the Bengal Regulation of 1824 for the construction of various infrastructures like railways, telephone and telegraph, electricity & roads. With the many revisions, it culminated into the Land Acquisition Act of 1894 for the British colonial states. After independence, the act covered entire India except Jammu and Kashmir. In 1950, with the adoption of the Constitution of India, Article 13(2) grandfathered the application of colonial laws as long as they were not in conflict with the fundamental rights of the people (Wahi, *et al.*, 2017) ^[13]. Therefore, the colonial Act remained in force for almost 120 years, though with many amendments.

Land acquisition under the old Act

The Land Acquisition Act (L.A. Act) of 1894 operated on the principle of eminent domain, which was partisan towards the acquiring government authorities. Under the eminent domain principle, the Government could take land from its owner and hand it over to the new owner for a socially beneficial project as decided by the Government. The colonial Act was mostly silent on the resettlement or rehabilitation of the affected and displaced families.

For many large-scale projects like the dams, the 'oustees' were displaced with a short notice period and without reasonable and in most cases no compensation. No state made any legal provision for alternative sources of livelihood for those whose land was acquired by the state. In essence, the L.A. Act, 1894 had no provisions for pre-informed consent of the affected families, social impact assessment of the affected communities and resettlement and rehabilitation.

Resettlement and rehabilitation under the L.A. Act 1894.

The matter of resettlement and rehabilitation of the people displaced due to development projects, including the multi-purpose river valley projects came to the limelight during the construction of Sardar Sarovar Project (Parthasarathy and Dholakia, 2011) ^[11].

In 1969, a tribunal was set up by the Central Government under the Interstate Water Dispute Act, 1956. In 1979, the Narmada Tribunal declared its award to set out conditions for resettlement and rehabilitation of those displaced by the dam and specific directions to the Government of Gujarat, regarding land acquisition, payment of compensation and rehabilitation. The guidelines also had a clear definition of an 'ouster', which also included landless labourers and others who would be affected by submergence.

In 1982, the Union home ministry issued guidelines to the states related to the rehabilitation of the Tribals displaced by the development projects. Thereafter, the rehabilitation policies adopted by state governments started recognizing that in case of public purpose related works, it would not suffice to compensate the legal owners of the properties alone.

During this time, Madhya Pradesh in 1985 and Maharashtra in 1986, followed by Karnataka in 1987 came out with a state-level law on rehabilitation. Other states, Tamil Nadu, Andhra Pradesh, Orissa and Gujarat, relied on issuing Government Orders (G.O.) or Government Resolutions (G.R.) and had undertaken welfare measures to meet exigencies arising out of local situations. Till this time, it can be observed that the Government viewed the issues related to resettlement and rehabilitation as only administrative.

The Government of India initiated the drafting of the Resettlement & Rehabilitation policy only in the year 1985 when the National Commission for Scheduled Castes and Scheduled Tribes indicated that about 40 percent of the Displaced Persons and the Project Affected Persons (PAFs) were tribals. A Committee was formed by the Central Ministry of Welfare to prepare a Rehabilitation Policy (Samling, C.L. *et al.* 2015) ^[16]. The National Policy on Rehabilitation and Resettlement prepared by the Department of Land Resources finally came into force on February 17, 2004, but without any legal or statutory support.

Before the 1980s, in India, no assessment of the social impacts of development projects was carried out. In 1980, with the establishment of the Department of Environment, it was required to undertake an Environmental Appraisal for a development project. And as part of the environmental assessment, the social and economic impact assessment was also to be considered in the Environmental Impact Assessment (EIA) report. Thus, this was the beginning of assessing the social impacts along with the environmental impacts for the proposed development projects. When the National R&R policy was issued in 2007, it prescribed that social impact assessment (SIA) should be conducted for all projects that cause significant displacement.

Jagadeesan and M. Dinesh Kumar (2015) ^[5] state that during the construction of the Sardar Sarovar Dam, as a result of many years of struggle by the tribal people and the opposition to the state governments' initial R&R package by the grassroots and civil society organizations, the Gujarat Government came out with a well-formulated R&R policy in 1987. This policy was prepared, keeping in view the socio-economic, environmental, and cultural interests of the indigenous communities. It initiated the practice

of giving land titles in the new settlements to not only the titleholders but also to landless labourers, encroachers and adult members in the project affected families. As explained by Parthasarathy and Dholakia (2011) ^[11], eventually, it was the proactive role of a combination of forces including proactive political leaders, bureaucrats, civil society personalities, technical experts, researchers, farmers and NGOs which guided the project.

Land acquisition and resettlement and rehabilitation governed under the new Act of 2013.

With the economic reforms in 1991 and the subsequent inflow of foreign capital, there has been a surge in land acquisition by the states (Ghatak 2011) ^[7]. The creation of a Disinvestment Ministry in 1999 focusing on the privatization of state-owned industries and with the enactment of the Special Economic Zones Act 2005, the acquisition of land by the Government for private industry that had happened in an *ad hoc* manner during the previous decades, became official government policy. However, as explained by Wahi (2017) ^[13], since the late 1990s, the massive public outrage and civil society movements over the increasing visibility and severity of land conflicts translated into legislative efforts to repeal and replace the old acts leading to the Right to Fair Compensation and Transparency in Land Acquisitions, Rehabilitation and Resettlement Act (RFCTLARR), 2013.

The RFCTLARR Act, 2013, accords priority to the participative process for land acquisition and has much improved resettlement and rehabilitation guidelines. The five main pillars of the RFCTLARR Act, 2013 are,

1. Prior-informed consent, i.e. no acquisition without the consent of the landowner,
2. Enhanced compensation which includes proper valuation of the affected property and increased solatium: Market value of the land to be determined as per section 26, based on the land value specified in the Indian Stamp Act 1899. In rural areas, the above determined market value of the land has to be multiplied by a factor of 1.00 (One) to 2.00 (Two) based on the distance of the project from the urban area, as may be notified by the appropriate Government. Whereas, in urban areas, the market value of the land to be multiplied by a factor of 1.00 (one). As per the old act an additional sum of 30 per cent of the market value was offered to the project affected family (PAF) which has been increased to 100 per cent of the market value as solatium.
3. There was no provision of social impact assessment in the old act which is one of the essential requirements of the RFCTLARR Act, 2013.
4. The RFCTLARR Act 2013, makes it mandatory for the requiring body to declare publicly and provide for rehabilitation and resettlement of the affected people even before evacuating them from their extant properties.
5. There is also a Retrospective window of Five years provided under the 2013 Act under which if within a period of previous five years, a landowner had not taken compensation under the LA Act 1894, s/he would be entitled to compensation under the RFCTLARR Act, 2013.

The preamble to the RFCTLARR Act 2013 states that the resettlement and rehabilitation scheme for the project affected communities should be so implemented that their social and economic conditions improve overtime. The Act has come out

with details of the various entitlements of the affected families to mitigate the inconvenience caused to them. These include the transportation allowance, resettlement allowance, and allowance for loss of business income.

Modification to the RFCTLARR Act 2013 at the state level

Land being a state subject, the Central Act of 2013 set the framework with detailed rules to be made by the respective states. However, while framing rules, most of the states chose to make alterations in the five pillars (mentioned above) of the Act. Some states have enacted changes in the Central Act under section 109 of the RFCTLARR Act 2013. There are 14 states which have notified their own rules as per the RFCTLARR Act 2013; i.e. Assam, Bihar, Chhattisgarh, Himachal Pradesh, Karnataka, Kerala, Manipur, Meghalaya, Odisha, Rajasthan, Sikkim, Tripura, Uttarakhand and Uttar Pradesh.

Alterations in the RFCTLARR Act 2013 by states.

- 07 States (Gujarat, Maharashtra, Haryana, Andhra Pradesh, Tamil Nadu, Telangana). States have Implemented act and subsequently amended the act. Exempting from Social Impact Assessment for defence, rural infrastructure, affordable housing, industrial corridors or industrial projects. Award based on mutual consent (private negotiations and agreement with the PAF) increased compensation in case of consent.
- 14 states (Assam, Bihar, Chhattisgarh, Himachal Pradesh, Karnataka, Kerala, Manipur, Meghalaya, Odisha, Rajasthan, Sikkim, Tripura, Uttarakhand and Uttar Pradesh) States have enacted changes in the Central act in accordance powers delegated under section 109 of the act. They have notified their own rules as per the RFCTLARR Act 2013; State-level committee to decide the value of the land, the power to negotiate with people and faster execution of the project. For example the policy adopted by KMRL offers higher compensation and entitlements to the PAFs than those mentioned in the RFCTLARR Act 2013. For example, the subsistence allowance for 12 months has been increased from Rs.3000 per month to Rs. 5000 per month. The PAFs who are not opting for a house in urban areas would get cash compensation of Rs. 3 lakhs which is more than that specified in the Act. Process execution expedited by the State Government. Some states are offering higher entitlements than those specified in the RFCTLARR Act, 2013 eg. Kerala and Karnataka
- In 06 States (Karnataka, Rajasthan, Andhra Pradesh, Chhattisgarh, Jharkhand and Kerala) Commissioner R&R has been given the responsibility of the social impact assessment unit. Award based on mutual consent (private negotiations and agreement with the PAF). Most of the awards are cash based compensation and entitlements. Very few or no PAFs opt for housing units. Though SIA is mandatory it is no hindrance in getting clearance for the project. Process execution expedited by the State Government.
- **Tamil Nadu Rules:** Rules notified under section 109 of RFCTLARR Act 2013 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2017 (21 Sept 2017).
- **Jharkhand ACT:** Rules made in 2015 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Jharkhand Amendment) Act, 2017. Act 07 of 2018 (Deemed to have come into effect on 1st January, 2014).
- **Andhra Pradesh ACT:** Andhra Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Amendment Act, 2018 (30 May 2018). (Deemed to have come into effect on 1st January, 2014) Amendment rules- 2014. 10A Exemption of SIA for the five categories as other states. 23A – Award of Collector without enquiry in case of agreement of interested persons. 30A – Acquisition of Land by the State Government by entering into agreement. 31A Payment of lump sum amount by the State Government. Rule. Higher compensation than provided for in the Act.
- **Uttar Pradesh:** No amendment in act or rules so far. Resettlement Policy for Lucknow Metro rail. Based on RFCTLARR Act 2013 and G.O 24/2015/387/8-1-15-50. LDA/204 dated 04.02.2015 of UP Government.
- **Uttarakhand Rules:** The Uttarakhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent Rules), 2015 (09Feb 2016).
- **Bihar Rules:** The Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 dated 27 Oct 2014.
- **Karnataka:** Karnataka Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Amendment Act, 2019 (23 July 2019). Exemption of SIA for certain projects, acquisition of land by entering into an agreement with the PAF, and payment of a lump sum amount as compensation.
- **Rajasthan:** The Rajasthan Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2016.
- **Assam:** The Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.
- **Manipur:** Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement) 2014, August 11, 2014.
- **Himachal Pradesh:** Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement and Development Plan) Rules, 2016 (19 April 2017).
- **Chhattisgarh:** Chhattisgarh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement (Determination of Multiplying Factor In Case Of Rural Areas) Act, 2019.

- **Kerala:** Kerala Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 published on 19-09-2015 higher compensations.
- **Tripura:** Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.
- **Meghalaya:** Meghalaya Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2017 published on 25 September 2017.
- **Maharashtra:** The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2016 published on 21 April 2016.
- **Odisha:** The Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 published on 19 October 2016.
- **Sikkim:** The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Sikkim) Rules, 2015 published on 13 Oct 2015.
- **Madhya Pradesh:** The Madhya Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 published on 03-09-2015.
- **West Bengal:** Direct land purchase from land owners, Land and Land Reforms Department, West Bengal published Memorandum: No. 756-LP/1A03/14(Pt-II) Date: 25.02.2016, RFCTLARR Act 2013 - Applicable but not used for acquisition in the state of West Bengal.

Necessity for changes in the RFCTLARR Act 2013 by States.

A study of the recorded discussions carried during the framing of the Act reveals that the intention was to make the land acquisition process so cumbersome so that purchase at market rate becomes the preferred choice of the Governments rather than compulsory land acquisition following the principle of eminent domain. The states however, not wanting to give up their perceived dominance used the amendments to reduce the time required for the land acquisition the states by introducing consent clauses, through enhanced compensation (like Gujarat and Kerala); doing away with the need of SIA, reducing the notice period to hold public hearings (Andhra Pradesh, Uttar Pradesh, Jharkhand, Kerala, Odisha, Sikkim, Tamil Nadu and Tripura) etc.

Other methods to acquiring land.

Land can be acquired by using 13 different Acts for which the provisions of the RFCTLARR Act 2013 do not apply (section 105). However, the entitlements or compensation could not be lesser than that as given in the Act (which?). Among these 13

Acts listed in schedule 4 of the RFCTLARR Act 2013, land could be acquired for intrastate or interstate mobility projects under the National Highways Act, 1956 (48 of 1956), the Indian Tramways Act, 1886 (11 of 1886), the Metro Railways (Construction of Works) Act, 1978 (33 of 1978), the Electricity Act, 2003 (36 of 2003), and the Railways Act, 1989 (24 of 1989).

There are state level parastatal organizations that acquire land on behalf of the states. For example, Karnataka Industrial Areas Development Board (KIADB) is a statutory body, constituted under Sec (5) of Karnataka Industrial Areas Development Act (KIAD Act)-1966 to promote the rapid and orderly establishment and development of industries and for providing industrial infrastructural facilities and other amenities in Industrial areas in the State of Karnataka. The KIAD Act, 1966, provides for expeditious acquisition of lands for industrial and infrastructure purposes. In Karnataka, the Bangalore metro rail project phase-1 started its land acquisition as per the LA Act 1894 and Karnataka Industrial Area Development Act, 1966 and continues with the same practice for other phases. The metro rail projects of Delhi, Kolkata that had started before the Implementation of the RFCTLARR Act 2013, had acquired land under the old Land Acquisition Act of 1894. The Chennai metro rail project acquires the land under the Industrial Purpose Act, 1997, Land Acquisition Act, 1894 and the Chennai R&R policy.

The Mumbai metro rail project which started land acquisition in 2014, chose to complete the land acquisition by invoking the provisions of Maharashtra Regional and Town Planning Act, 1966.

Land acquisition for urban development and infrastructure projects.

As discussed above, in Karnataka, the land is acquired under three separate agencies for various purposes. For industrial use, the land is acquired by the Karnataka Industrial Areas Development Board (KIADB), which is governed under the Karnataka Industrial Areas Development Act of 1966. The Bangalore Development Authority acquires land for residential purposes in Bangalore and other urban development authorities at the district level. For other public purposes like infrastructure projects such as railways, roads and public buildings, the Revenue department acquires land under the Land Acquisition Act of 1894. More or less, similar techniques are used for acquiring land in different states of India for the purpose of urban development.

The recent case of the city of Amravati in Andhra Pradesh is another example, where, land pooling technique has been used to pool land for the development of the new capital city. The Capital Region Development Authority (CRDA) of Amravati announced the land pooling scheme to farmers through which land was pooled in 22 of the total 24 villages. The Delhi Development Authority (DDA) has published a Land Pooling policy in 2018 for the urban development of Delhi. Under this concept, owners or groups of owners would pool land parcels for development as per prescribed norms and guidelines, making them partners in the development process. The land pooling and land reconstitution are practised for planning urban areas and the town planning schemes in Gujarat under the Gujarat Town Planning and Urban Development Act, 1976 (GTPUD).

Gujarat, Chhattisgarh and now Andhra Pradesh, is practising the land pooling technique which takes land from the owners for

development and returns a developed plot of about 40 per cent of the original plot size to the owners. Comparison of the land acquisition process as per the RFCTLARR Act, 2013 and Land pooling and reconstitution under Gujarat Town Planning and

Urban Development Act, 1976 (GTPUD) offers a clear understanding of the process, places where it can be used and how it treats the people.

Table 1: Land Acquisition and Land Pooling

	Land Acquisition	Land pooling and reconstitution
Places-where it can be used?	Land acquisition for any development project for a public purpose	Urban area development
People	Considers the property owners as project-affected people and aims at compensating them appropriately, restoring their livelihoods and lives through resettlement and rehabilitation	Considers the property owners as partners in the development process.
People-what they get in return	Compensation and entitlements / Resettlement / Rehabilitation	A developed plot of 40-50 per cent of the original size plot is returned to the owner at the same location or other location-enhanced land prices.
People-types	Titleholders and Non-title holders who are either displaced or lost their livelihood	Titleholders only, who hold land in the notified area to be considered for development
Process	Land Acquisition	Land pooling and reconstitution
Legal support	RFCTLARR Act 2013 and respective State Government rules or amendments	Few states have legal support-Gujarat - GTPUD Act, 1976 Andhra Pradesh - Area Development authority rules-CRDA Delhi - DDA rules for Master Plan Delhi 2021
Compensation for the affected structure	The act specifies in detail the method to be used for determining the market value of the affected property and other entitlements	No such compensation paid practically, the land value of the developed plot and expenses of providing infrastructure is compensated against the value of the original plot. Sometimes the owners are required to pay to the authority.
Compensation for loss of livelihood	Yes	No
Consideration of non-titleholders if their livelihoods are affected due to land acquisition	Yes	No

In Gujarat, the GTPUD Act, 1976 empowers the planning and development authority to pool and reconstitute land to prepare the city to absorb the growing population. Within the municipal limits, the Gujarat Provincial Municipal Corporation Act, 1949 empowers the Municipal Commissioner to acquire land under section 77, 78, 79 to carry out various functions which include making new public streets or adopting, constructing or altering existing streets, subways, bridges, etc. However, the RFCTLARR Act, 2013, is the most comprehensive act when land is to be acquired for a development project.

Which Act is pro- project affected families?

As described in the table above, one can see that the RFCTLARR Act 2013 has evolved with an intricate detailing of the needs of the project affected families who would be displaced from their original houses or shops. Despite being criticized over the extensive and cumbersome administrative process, the act offers double the market value of the affected properties to the owners along with other entitlements. For those PAFs who would be displaced and resettled at new sites, the act ensures that the sites are provided with required facilities at the new location. Probably, this is the reason that many states authorities depend on other acts of land pooling as the land acquisition requires significant funds for the resettlement and rehabilitation component. The land pooling technique cannot be viewed as an alternative to the RFCTLARR Act 2013. The RFCTLARR Act 2013 has laid down a transparent process for calculating the compensations, entitlements and resettlement and rehabilitation.

The act increases the financial burden on the state government and takes longer time for execution, but there is no doubt that the act has proved beneficial to the project affected and displaced people in many cases as explained below. The model developed by Michael Cernea, 'Impoverishment risks and livelihood reconstruction model' summarizes the findings of resettlement worldwide and applies to India also as tested by Mahapatra K L (1999) ^[17].

Cernea's model identifies the eight most essential dimensions of impoverishment related to resettlement. These are, (i) Landlessness (ii) Joblessness (iii) marginalization (iv) Loss of access to common property (v) Increased morbidity and (vi) mortality (vii) Food Insecurity (viii) Social Disarticulation. These primary risks have varying intensities, depending on local conditions and on the nature of the project (Cernea 1997) ^[19]. Mahapatra has added another dimension to the list, which is 'Loss of education'. It was pointed out by Cernea again that the displacement interrupts schooling and some children never return to school. Due to losses in family income, many children are drawn into the labour market earlier than what would otherwise occur. Regarding the risks of impoverishments, the RFCTLARR Act, 2013 has emphasized on curtailing all such risks to the extent possible. For example, schedule 2 provides for the provision of land and house for those who lose it, thus aiming to eliminate the landlessness and loss of the house. The people who lose their house, even if they are not the owners of the land, but were residing at the place for not less than three years, are also provided for under this act. For joblessness, making available

employment or paying a sum of Rs.5,00,000 or annuity policies for 20 years, has to be provided to the affected people.

In urban areas, not all the displaced people lose their job, but many of them suffer due to increased expenses of commuting to the previous worksite and thus leading to joblessness. Finding a similar and satisfactory job at another location is not easy for the displaced people. As explained further by Cernea (1997) ^[17], often this leads to marginalization, which is the third risk of impoverishment. Marginalization happens when the families lose income and slide down on the scale of income levels. This also pushes the families towards migrating out in search of new employment opportunities. Food insecurity was observed in the case of farmers who were displaced and the land allotted was of poor quality and was not adequately reclaimed by the project, also, in case of wage labourers, who had a scarcity of work for the first few months due to displacement. For an individual or family, the loss of access to common property resources is not compensated under any government scheme or even the RFCTLARR Act, 2013. Clause for any other benefits.

The RFCTLARR Act 2013 has specified 25 types of facilities as specified in the third schedule (section 32) at the relocation site to reduce the trauma caused due to displacement. It is difficult to restore the societal conditions like bonds with the neighbourhood. However, as it is intended, the affected families are supposed to sacrifice their bonds for the larger welfare of the society.

Metro rails and displacement of people

As the cities prepare themselves for constructing the low carbon mass rapid transit system, it also leads to the eviction of people along its corridors. India is implementing a large number of metro projects that are either at the operation or construction stage across many cities. The metro rail infrastructure has a 5-10 years of Projects life. To keep the cost manageable, the metro rail projects have mostly elevated corridors rather than underground except the areas from where the metro rail is passing through the areas of great historical/heritage importance or congested old city areas. The underground metro rail corridors keep the city landscape aesthetically undisturbed. The metro rail system requires land for constructing the Viaduct, Metro station Building, Platforms, Staircases, entry-exit Structures, Traffic Integration Facilities, Depots, Receiving/Traction Sub-stations, Radio Towers and Temporary Construction Depots and work sites, Staff quarters, office complex and operation control centre. In its design and planning stage, the metro authorities have tried to utilize Government-owned land to the maximum possible extent to avoid displacement from the private properties.

Despite keeping the land acquisitions at lowest possible demands, the metro rail projects displace thousands of households in any city. Not only households but the displacement of commercial establishment leading to the loss of employment is a significant concern. Unfortunately, at present, there is no precise data available for the total number of families displaced due to metro rail projects in India.

As per a press release dated April 9, 2019, from New Delhi, by Housing and Land Rights Network India (HLRN), in the year 2018, the government authorities, at both the central and state levels, forcefully evicted, a minimum, 202,200 people across urban and rural India.

These figures are based on the data collected by HLRN's 'National Eviction and Displacement Observatory' and they only

reflect cases known to HLRN. HLRN further says that the actual number of people evicted/displaced in 2018, is thus likely to be much higher. Though Indian authorities usually do not provide clear reasons for evictions, after analyzing data on 218 reported cases of forced eviction in 2018, HLRN identified four broad categories for which people were forcibly evicted and displaced from their homes and habitats: a) "Slum-clearance/anti-encroachment/city-beautification" drives and interventions aimed at creating "slum-free" cities [47 per cent of affected persons/over 94,000 people]; b) Infrastructure and ostensible 'development' projects, including road/highway construction, housing, and 'smart city' projects [26 per cent of affected persons/over 52,200 people]; c) Environmental projects, forest protection, and wildlife conservation [20 per cent of affected persons/over 40,600 people]; and, d) Disaster management [8 per cent of affected persons/over 15,200 people].

The websites of the metro rail authorities have published some of the phase-wise approved SIA, and EIA reports on their respective websites. According to the Environmental Impact Assessment report of Phase I of the Delhi Metro, the project required 348.45 hectares of land and needed to relocate 2,502 slum houses (called as Jhuggies). The Mumbai Metro Line 3 had to displace 2622 families whereas the Bangalore metro phase 1 and 2 together had to demolish 3691 structures. It is observed that many of these reports are from the past years and disclose data during the time of preparation of EIA and SIA reports for approval of the project. The onsite changes during the finalization of the drawing may also have an impact on the number of affected structures which are not disclosed by the authorities. Thus, the actual cumulative number of affected structures and families might be far more than what is available on the public domain.

All the metro rail projects assert that as the metro rails being developed on existing roads for most of its corridor length; the land requirement is insignificant as compared to other infrastructure projects. However, as the urban public transport projects connect the high-density areas of the city, it requires displacing several families and most of the times they are from low-income groups living in high dense areas. The other significant issues could be some encroachers or lack of proper titles. This research study discusses the measures taken by the metro authority, Gujarat Metro Rail Corporation Limited (GMRC), for reducing the impacts of displacement through the case of Ahmedabad Metro Rail Project and its impacts observed during the process documentation.

The case of Ahmedabad metro rail project

A Special Purpose Vehicle (SPV) initially created as Metro Link Express for Gandhinagar and Ahmedabad (MEGA) for building and running the Ahmedabad-Gandhinagar Metro Rail project was established in 2010 by the Government of Gujarat. After the sanction of Ahmedabad Metro Rail Projects Phase –I by GOI, in accordance with the sanction guidelines, the company was restructured with effect from March 20, 2015, as a 50:50 SPV of Government of India and Government of Gujarat and later renamed in 2018 as Gujarat Metro Rail Corporation Limited (GMRC). It is now responsible for implementation of all metro rail projects in the state of Gujarat. The purpose of establishing GMRC is to plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate the metro rail projects in Gujarat. The Ahmedabad Metro Rail project phase-I to be

implemented to connect the East-West and North-South areas of the city in two metro corridors is spread over a length of 40 km, 32 stations including four underground metro stations.

The total land required from the Government authorities and Railways is 5, 20,900 Sqm (84 per cent of the total land required) and from private owners is 96,051 Sqm that is 16 percent of the total land requirement (GMRCL, 2021).

Table 2: Number of projects affected families for Ahmedabad metro rail project (Phase 1)

Corridor	Total stations	Total Length	Total PAFs (all types)	Rehabilitation/others
East-West	17	22.1616	1609 (80.77%)	
North-South	15	18.87	383 (19.22%)	
Total	32	40.03	1992	

Source: GMRCL, 2021

The project is under construction and is slated to be completed by the year 2022. Until Jan 2021, about 1992 project-affected families (PAFs) have been identified. Of which the 63.3 percentage residential category families and 27.5 percent of commercial category persons who own a shop or commercial establishment. More than 1324 PAFs have been fully compensated including those who have been resettled at new locations (more than 950 PAFs) of their choice and another 315 are in process.

Land acquisition process adopted by GMRCL

- In general, based on the request of the requiring body (GMRCL), the District Collector acquires and transfers the private land to GMRCL for the construction of required infrastructures. GMRCL in consultation and coordination with the Collectors' office undertakes field level activities like the survey of affected structures, marking of the affected area, and discussions with the Project Affected Families (PAF). However, simultaneously advance possession is taken of the property by paying 80 % of the agreed upon market value to the PAF and signing an agreement regarding the rate at which the transaction is finalised.
- The land acquisition is governed by, (i) the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation Act (RFCTLARR), 2013, (ii) the Gujarat State Amendment Act, 2016 and (iii) the Policy of GMRCL/MEGA on the mode of Land Acquisition, Rehabilitation, Compensation and Valuation of properties of the PAFs (for subjudice and non-subjudice cases) w.e.f. 2016. (iv) The requirements of the funding agency – In case of Ahmedabad Metro Rail Project, the guidelines of Japan International Cooperation Agency (JICA) were considered while formulating the policy.

The land acquisition process adopted by GMRCL is based on the statutory processes as prescribed in the RFCTLARR Act 2013. The mutual agreement between GMRCL and PAFs is submitted to the District Collector based on which the award is issued by the District Collector, thus regularizing the transaction with Section 23(A) full tax benefits to the PAF. The ownership of the acquired land is transferred to GMRC in accordance with the mutation process.

- Of the total compensation, 80 per cent is paid to the PAF before they vacate from the affected structures. Sometimes, if requested by PAF, and not immediately required by GMRC, they are given sufficient time to vacate the structure. After vacating and relocating to a new place, the PAFs are required to visit the Collector office to receive the remaining amount which has been transferred to collector by GMRC. All original agreements between GMRCL and the PAFs are submitted to the Collector office. GMRCL maintains copies of the same. The responsibility of resettlement and rehabilitation is of GMRCL, which is the land requiring body. GMRCL takes land from the local administrative body (ULB) for constructing resettlement sites or purchases EWS/LIG houses for allotment to the PAFs.
- The other essential features of the land acquisition process adopted by GMRCL are as below.

a. Introduction of Consent Award (section 23A) through State Government's amendment to the RFCTLARR Act 2013

To limit the cost and time overrun of the project (due to delays in land acquisition because of court cases), GMRCL decided to emphasise on the negotiable consent award rather than the regular award. Through the consent award, GMRCL can directly negotiate and arrive at a mutually agreed compensation amount, which can be conveyed to the Collector as per a signed agreement between the PAF and GMRCL. The consent award is issued as per the section 23A of the RFCTLARR (Gujarat Amendment Act) published on August 12, 2016. of Gujarat bill no. 05 of 2016.

b. Enhancement of land values to match the prevalent market rate.

During the process of negotiating the consent award, many of the PAFs demanded that they should be compensated with the prevailing market rates. The market rate in Gujarat is determined by the Jantri rates (circle rates published by the state government in Gujarat), which were last updated in 2011. As it was not feasible to wait for the next update of the Jantri rates, GMRCL came up with an ingenious solution to update the Jantri rates for the current year, which was approved by the Board. GMRCL uses the capital gain index used by the Income Tax Department for collecting taxes on the appreciation value of the properties. As this index value is published each year, GMRCL decided to use the same index for enhancing the Jantri rates for the respective year required for the final award in that year. Thus, a project-affected family, which is supposed to receive compensation in 2019, would be paid the updated value as per Table no. 3:

Table 3: Example of jantri calculation (Land rates)

Jantri rate for open land as per 2011 (A)	Indexation of 2011-12 (B)	Indexation of 2019-20 (C)	Jantri rate per Sqm escalated for 2019-20 (D)= $\frac{A \times B}{C}$
19000	184	289	29842.39

The Government of Gujarat subsequently ratified the GMRCL's decision to use the indexing. A government resolution (G. R. No. 1016/842/A.1 dt.17/05/2021) was issued regarding the adoption of this method to calculate the current market value wherever such compensation is to be paid. Setting up precedence for further

land acquisition projects, the decision was appreciated by the project especially for NHRCL affected families as it ensured the compensation was as per the prevalent market values.

c. Compensation and acquisition of full property even if partly required

As per the section 94, if a part of the property is required; and the owner wants to surrender the entire property, it is incumbent upon the acquiring body to take the entire property and compensate the PAF accordingly.

However, the authority and power of interpretation have been given to the Collector to decide that the PAF cannot use the remaining property to its designated use. In case of partial property to be acquired, GMRCL has given the choice of surrendering the full or partial property to the PAF, even under the consent award.

d. Additional 50 per cent Compensation for titleholders in case of acquisition for linear projects

As per the Gujarat amendments in 2016 Section 31A, 50 per cent additional compensation is offered on the primary value of land and structure for consent acquisition in place of the R&R benefits. Thus, including 100 per cent solatium and 50 per cent additional benefits, the PAFs finally receive 2.25 times of market value for their land as compensation in case of consent award in urban areas.

e. No tenure requirement for encroachers as per JICA guidelines

For the encroachers to be eligible to receive the compensation for the affected structure; the RFCTLARR Act of 2013 specifies a minimum tenure of three years. GMRCL follows the JICA guidelines for environmental and social consideration (which closely follow the safeguard policies of the World Bank and Asian Development Bank). The JICA guidelines emphasise on compensating all the encroachers without any condition of tenure ship.

The families found to be staying at the affected area during the socio-economic survey are identified as PAFs and offered alternate accommodation if they are encroacher. There is no specific cut-off date for identification of the PAFs. GMRCL has a very liberal policy, and this attitude seems to be generous, however; one may question if this dilutes the pre-requisites of the RFCTLARR Act 2013 and encourages mushrooming of illegal houses in the affected areas in pursuit of receiving government benefits as compensation

f. PAFs demands for providing houses in separate colonies instead of in the available, affordable housings

Adopting a softer approach towards the PAFs with the aim of faster evacuation, GMRCL unreservedly agreed to construct separate housing colonies for an underprivileged group of PAFs. The PAFs who are sanitation workers of the Ahmedabad Municipal Corporation (Class 4 employees of AMC) have only structure ownership, and the land ownership rests with AMC. GMRCL decided to construct permanent housing colonies for the project affected families as per their demand, and the land ownership would be transferred to GMRCL. Until the completion of these housing colonies, the PAFs are being paid monthly rentals until the final houses are allotted.

g. PAFs demand for changes in the allotment or upgradation

Many of the PAFs perceive the allotment of new houses as a window to upgrade their quality of life by improved housing conditions.

Some PAFs who were eligible for getting more than one EWS unit, requested for a higher category of single housing from the eligible monetary compensation. Many PAFs opted for housing loans schemes for paying the balance amount. PAFs were eligible for an EWS house costing 4.5 Lakhs but requested for shifting to a LIG housing scheme, costing about 12 Lakhs. GMRCL agreed to help them in different ways like adjusting the difference amount against the structure value and other compensatory benefits, in facilitating the housing loan required for paying the balance amount towards the LIG unit.

h. Lack of property documents for proving ownership

Ahmedabad city has a noticeable number of non-regularized housing colonies known as a Chawl. Chawls are notified slums provided with necessary infrastructural facilities like water supply, sewer connection, drainage line and electricity. Most of the Chawls are more than 50-60 years old and have no records to show the original owners and the transfers of properties afterwards. More than 82% of the affected families were identified to be non-title holders of the land even though they were residing for at least 30 years or even more or their land documents were not registered & hence invalid. To handle the disputes and practical problems of the Chawls and non-regularized colonies, the concept of tripartite agreements was introduced by GMRCL. In such cases, the original landowner was located through advertisements in newspapers, word of mouth or from the old land ownership documents available with the Revenue Department (Form 7/12). The agreement was prepared between the three parties as Land Owner, current occupiers (self-claimed structure owners) and GMRCL. The occupiers (self-claimed owners) received nearly 80 % of the compensation and balance was paid to the landowners and titles were smoothly transferred to GMRCL. Residential houses in ULC land were regularised as per Govt. policy to treat them as landowners and provide compensation at market rate.

What are the risks of impoverishments due to resettlement?

The innovative approach of GMRCL has helped in solving some practical problems in project implementation. For the permanent encroachments on Government and private land, the concept of land for land on identical ownership pattern was introduced wherein; encroachers were given the option of an alternate land on same ownership pattern, i.e. New shops were provided in which the structure belonged to occupier and land belonged to GMRCL.

a. Risks of impoverishment due to social disarticulation

As explained by Michael Cernea (1997) ^[17] for the displaced families, the resettlement comes with the risks of social disarticulation. It is difficult to reduce such risk; however, GMRCL approached it through the involvement of the affected families in the allotment process. The families to be displaced were given the option to choose the allocation of houses at the resettlement site. In this process, many families decided mutually to opt for adjoining houses replicating their current arrangements.

However, it is impossible to replicate the convenience and bonding with the neighbourhood at a new resettlement site.

b. Risks of impoverishment to rentiers and informal workers

Despite a liberal and generous policy, GMRCL's approach lacks clarity on some issues. For example, compensatory payment to an owner for losing rental income if the property or part of the property was rented out. Most of the times, the owner himself is not willing to share any compensation with the rentiers or lacks a valid rent agreement, and such owners ask the renters to vacate the structure. Thus, such a rentier does not get any entitlements. By this approach, the owner gets compensation for the structure and other allowances; however, they are not paid for the loss of monthly rental income.

Worst is the scenario of rentiers having a valid agreement, who are paid only shifting allowance to vacate the affected house. Similar is the case of employees working in the shops. Most of them working on with an informal agreement, they are asked to leave the job if the shop is to be acquired.

c. Risks of impoverishment due to loss of education

Another significant impact is the increased dropouts of school from the relocated families. It was observed that many children from the relocated families, who could not afford to attend the previous schools due to long distances, drop out of the school. Many of them lose interest in studying due to the elongated resettlement process.

d. Risks of impoverishment due to loss of business

The petty shop owners and people in business are at high risk of impoverishment due to resettlement. As per the RFCTLARR Act 2013, the businessmen and shop owners are compensated for the structure or lands owned and are entitled to other allowances as applicable (shifting allowance and business loss allowance). The business loss allowance of INR 25000 is paid to them as per the RFCTLARR Act 2013. However, most of the affected businessmen who are required to be displaced are at a significant financial loss as the whole process of land acquisition affects different aspects of their established business like the access of the shop, storage of goods, market access, and customer's convenience, loading-unloading and parking. The affected but not displaced business people encounter this loss right from the time of barricading in front of their shops until the completion of the construction, which might take 2 years or more. In the case of displaced business people, the loss starts from the day of barricading and may continue for years till they can regain the same income level. Though the businessmen are not losing their home, the business might be the only source of livelihood for many families, and the compensation offered could never fetch for the lost income, inconvenience, loss of mental peace and increased stress to all the family members.

e. Problems faced by relocated families at resettlement sites

The resettlement and rehabilitation is primarily the responsibility of the land requiring authority. A lack of coordination between the local authorities who construct houses and the responsible authorities gives rise to poorly managed and maintained housing sites. This was evident in many of the resettlement sites constructed by AMC a few years back which were now handed

over to GMRCL for resettlement purpose. Lack of coordination and inadequate staff caused many inconveniences for the PAFs who are required to repair the windows and doors or electrical wiring in their allotted houses. Formation of cooperative housing society and membership of existing resident welfare societies at the resettlement site was also a significant hurdle which requires grave attention of the authorities. The resistance by the existing residents at the Resettlement sites is like the sword of Damocles for the new PAFs which are shifted at such sites. Many a times, the resident families at the sites are unreceptive towards the relocated families and this adds to the plight of the relocated families.

Concluding remarks

The need to provide a safe, reliable, comfortable and affordable mobility infrastructure in the new city areas is a huge task, which requires high capital, planning and resources. However, urban local bodies may not be able to garner such capital-intensive projects. As recommended by the Working Group on Urban Transport during the twelfth (2012-2017) five-year plan [MoUD, 2012]; providing safe, speedy, affordable and comfortable public transport for all has to be the goal of the governance. If this has to materialize, an innovative financing mechanism has to be developed and used extensively with the principle of provision as planning for the future rather than trying to 'catch up with the backlog'. In case of metro rail projects in India, most of the metro projects are funded through Government of India, state government and soft loans at marginal interest rates availed from the international funding agencies to be paid over a long term. Thus, future capital is created for the urban local bodies like the Development Authorities and the municipal corporations which would benefit in future from the escalated land/property rates which ultimately empower the municipal corporation in generating higher revenues through the taxes.

The effective execution of the RFCTLARR Act 2013 needs a lot of clarity and understanding for the frontline authorities and office bearers who are responsible for determining the compensation and paying the award. The functionaries need capacity building to avoid any mistakes, which might lead to delays in negotiations and consents. The total compensation for affected properties comprises mainly the compensation for land and structure value, 100% solatium on the compensation and the R&R benefits. However, in the end, it would be necessary to understand if the compensation paid equals to the future discounted value of the property.

The metro rail system is always being questioned for its efficiency, increasing the ridership, which seems to be a significant task in front of the metro rail authorities looking at its limited coverage compared to other modes of transport. Improving the last mile connectivity to feed the system might work as the best solution. The expansion of metro rail projects is planned following the demands for establishing more connectivity.

On the contrary, as such transport infrastructure enables mobility; it also determines the business expansions or industrial expansions in the peripheral areas. A rapid train also defines the future growth of the cities. Innovative and futuristic planning of the mobility infrastructure in the urban areas could drive growth in the city areas. There are some problem areas-how to identify and address it should be thought over.

The metro rail projects offer windows of opportunities to the project affected families to move away from the old city areas from their dilapidated houses to newly constructed housing facilities provided as part of compensation and resettlement. The rehabilitation as envisaged in the RFCTLARR Act, 2013 may take longer than expected for the displaced families; however, the challenges can be successfully overcome with a planned approach.

For the mammoth projects like dams or even the metro rail projects which are mostly implemented in a phased manner, it is essential to undertake a midcourse evaluation of the project impacts to resolve the grievances raised by the stakeholders regarding its technical feasibility and its likely economic and ecological impacts. A post-project evaluation would not provide sufficient opportunity to the project managers for corrective measures in case if needed to optimize the project's benefits and the inconveniences caused to the displaced families.

It can be concluded that for a mid-course correction, keeping a tab on a specific project related aspects through monitoring and evaluation would help in achieving the goals of fair and transparent land acquisition and resettlement and rehabilitation process. The vital aspect is: the changes in income levels before and after displacement, how people with no land titles are coping up with the resettlement sites, what are the changes in the lifestyle of the displaced people and whether the displaced people were satisfied with the R&R process and how does the forced evacuation affects the adjustment of diverse socio-economic population.

GMRCL has initiated the Process Documentation Research for the entire resettlement and rehabilitation activities for the project. A third-party monitoring and appraisal agency has also been appointed to monitor the short, medium and long-term impacts of the resettlement and rehabilitation process. Eventually, the unique initiative of process documentation research by GMRCL would throw light on the distinct and context-sensitive solutions adopted by GMRCL for land acquisition and resettlement and rehabilitation process. Apart from creating institutional memory, this would be useful for all the mega infrastructure projects carried out in the country and elsewhere.

Agencies like GMRCL can feed the Government based on their experience of project implementation. The Government takes time to react; however, it comes out with a decision.

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