

LAND ACQUISITION IN SOME MAJOR STATES IN INDIA

PROCESSES, PROCEDURES AND EQUITY CONSIDERATIONS

by

SUMIT BOSE

[Shri Sumit Bose belongs to Indian Administrative Service,
Madhya Pradesh Cadre of 1976 batch]



On behalf of

LAND REFORMS UNIT

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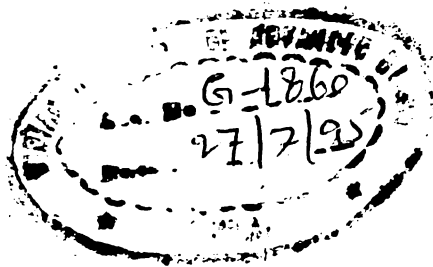
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CHAPTER I

AN OVERVIEW

Development projects, such as the construction of large dams for hydro-electric power and irrigation or the building of roads, bridges, hospitals and schools require land, entailing the displacement of the original inhabitants. The power of eminent domain allows the State to acquire private land for such public purposes. The Land Acquisition (LA) Act, 1894 provides the legislative basis for expropriation of lands. It is applicable to the whole of India except Jammu and Kashmir. Since acquisition of property forms part of the concurrent list of the Indian Constitution, State Governments may enact amendments as long as such changes are not opposed to the provisions of the LA Act. In 1984 the LA Act was drastically revised in order to minimise delays and provide for payment of compensation on a more realistic scale.

- 1.2. It would be convenient to begin by summarizing the broad scheme of acquisition. Under section 4(1) of the L.A. Act, the Government has to publish a preliminary notice identifying the lands to be acquired and inviting objections within 30 days. Any objections raised are heard by the Collector who then makes his recommendations to the Government, which may thereafter issue a declaration under section 6 that the land is required for a public purpose. The public notices under section 4 and 6 have to be published in two local newspapers and in the official gazette. On receiving a direction from the Government to proceed with the acquisition, the Collector serves individual notices under section 9 to the affected land holders asking them to file claims for compensation. The award is decided after considering these claims and any other relevant evidence. The land can be taken over after paying the compensation including 12 per cent per annum on the market value from the date of preliminary notification to the date of award and a solatium of 30 percent on such market value in consideration of the compulsory nature of the acquisition.
- 1.3 In cases of urgency, the declaration under section 6 can be made immediately after the preliminary notification by invoking the provision of section 17 and the Collector may take possession of the land after paying 80 percent of estimated compensation even before a formal award is announced.
- 1.4 The declaration of public purpose under section 6 has to be made within one year of the preliminary notification. The final award of compensation has to be determined within two years of the declaration or else the acquisition proceeding will no longer be valid.

- 1.5 Any affected person, not satisfied with the amount of compensation or its apportionment, may apply to the Collector within six weeks of the award who has to refer the matter to the District Court for adjudication. The court has the power to award a sum in excess of that awarded by the Collector but not a lesser sum. In cases of enhanced awards of Court, interest at the rate of 9 percent for the first year and 15 percent for subsequent years is payable on the compensation amount.
- 1.6 The L.A. Act declares that in respect acquisition for the purposes of the Union, the powers would vest in the Central Government and for all other acquisition with the State Government concerned. By a general order the Central Government has delegated its powers to all the State Government in their respective jurisdiction.
- 1.7 The powers of Collector under the L.A. Act have been conferred on the Land Acquisition officers (LAO). Individual experience for officials to be given these powers. (in the following sections of the paper, whenever LAOs are referred to it means such officers who exercise powers of the Collectors under the L.A. Act. However, certain certain function remain with the District Collector and the reference to a Collector (as distinct from a LAO) would be in this context).
- 1.8 The L.A. Act also lays down the procedure for acquisition of land for companies . Earlier these provision was widely used for all public sector companies . However in the 1984 amendment of the L.A. Act the " provision of land for corporation owned or controlled by the State" has been included in the general procedures for acquisition. The special procedures for companies now applies only to the private sector.
- 1.9. The next four sections of this paper are devoted to detailing the procedures followed in four States - Madhya Pradesh, Bihar, Orissa and Uttar Pradesh - based on a field study undertaken in 1992. The procedures in respect of each State have been arranged under the following headings:
 - i) Initiation of acquisition proceedings
 - ii) Preliminary notification
 - iii) Objections
 - iv) Declaration of intended acquisition
 - v) Special Powers in cases of urgency
 - vi) Computing compensation - land, trees, buildings
 - vii) Compensation for special categories such as encroachers and government lessess.
 - ix) Approval of awards

- x) Payment of compensation
(Since the reasons for delays in payments of compensation are broadly similar in the four states, a separate note is attached at Annexure 1)
- xi) The administrative set-up
- xii) Resolution of disputes .

- 1.10. The study shows the nuances of the application of the land acquisition legislation in the different States. A table depicting the comparative practices in the four States is included at Annexure II.
- 1.11. Apart from the LA Act, the other main legal basis for expropriation is the Coal Bearing Areas (Acquisition and Development) Act, 1957. The sixth part of the paper covers issues related to acquisition of land under this Act, including a comparison with the provision of the LA Act.
- 1.12. The final section of the paper attempts to highlight the areas where greater sensitivity in administering the LA Act could help protect the interests of those who are displaced.

CHAPTER II

MADHYA PRADESH

INITIATION OF ACQUISITION PROCEEDINGS

- 2.1 Any Department or undertaking of the State or Central Government (acquiring department) may request the Collector for acquisition of private lands for the public purpose, giving broad details of the lands required. Since the Collector is designated ex-officio Deputy Secretary in the Revenue Department for purposes of the L.A.Act, he is empowered to initiate the acquisition proceedings.
- 2.2 The proposal received for acquisition are tallied with the village revenue records and any scrutiny at this stage is usually limited to ensuring that there are no religious structures such as temples or mosques on the land so as to avoid likely disputes.

PRELIMINARY NOTIFICATION

- 2.3 The Collector (as Deputy Secretary) issue the preliminary notification under section 4 of the Act. A copy of the notification is sent to the Controller, Government printing and Stationery at Bhopal for publication in the official gazette. The notifications is also published in two local newspapers, with the acquiring department bearing the costs¹. Copies of the notification are also affixed on the notice boards of the Collector's office, the Tahsil office of the village town where the lands are located . All land holders are also notified.

OBJECTIONS

- 2.4 Any objection filed are heard by the LAO , who thereafter makes a report to the Collector for a final decision.

DECLARATION OF INTENDED ACQUISITION

- 2.5 A declaration that the land is required for a public purpose is issued by the Collector (as Deputy Secretary). The declaration is published in the same manner as the preliminary notification (except for individual notice). The Collector also directs the LAO to proceed with the acquisition.

¹ The requirement of publication in the gazette and newspaper is a potential source of delay. Much depends on the initiative of the officials of the acquiring department and the LAO in ensuring that there are no delays either at the Government press at Bhopal or locally with the news papers.

SPECIAL PROCEDURES IN CASE OF URGENCY

- 2.6 The acquiring department may request the Collector for use of the urgency procedure wherever so required . The Collector sends his recommendations to the Divisional Commissioner who has been vested with powers of the Secretary to the Government in the Revenue Department for purposes of the L.A. Act Using this authority the Commissioner may sanction the use of the urgency clause under section 17. Thereafter the stage of hearing of objections after initial notification is dispensed with and th declaration under section 6 is issued immediately.

COMPUTING COMPENSATION

Valuation of Lands

- 2.7 A major step in the land acquisition process is the calculation of the market value of the property to be acquired. The LAO obtains information on all land transations of the preceding year in the village/town where lands are to be acquired from the sub-Registrar's office (where all transfers of immovable property have to be registgered according to law). This information includes the type of the land, the area and priced and whether the lands is irrigated or nnot. Although individual land-holders are given an opportunity to argue their case fregarding the amount of compensation, LAOs rely primarily on the sale-deeds. In most cases the average of the recorded sale price in the village is taken as an approximation to the market value of the land to be acquired. Where there are no recorded transactions in a particular village, the market value is based on the sale deeds of neighbouring villages. Irrigated lands are usually assessed 30 per cent higher than dry lands.
- 2.8 A method which is usually adopted in project involving large scale acquisition is to further correlate the average price of the soil as recorded in the transations during the Revenue Settlement operations , which were last held in the 1920s and 1930s, such a method ignores the improvements made to the land over the years. There have been persistent demands from affected landholders in projects for updating the soil classification before determiing market value.² The Government has now decided that in all major irrigation projects a soil survey should be undertaken in the affected villages to update the soil classification of the lands before determiing the compensation payable.

²The Soil classification was updated by a survey in the World Bank assisted Hasdeo Bango (M.P. Major) Project.

- 2.9 In the policy adopted specially for Narmada Sagar Project, it was decided for the first time that compensation for the lands to be acquired would be based on the market value of similar types of land in command areas of irrigation projects in the vicinity. This principle has recently been extended to all irrigation projects.

Valuation of buildings

- 2.10 The valuation of building, wells and other structures are entrusted to the Executive Engineer in the in the Public Works Department (PWD) . This valuation is based in the current schedule of rates of the PWD. The staff under the Executive Engineer inspect each of the building, record the measurments and categories the buildings according to their specification. In some of the largers projects the rates to be paid for various categories of buildings/ well are prescribed for the project areas as a whole, so that there is greater uniformity in valuation.

Valuation of trees

- 2.11 The responsibility for valuation of timber and fuel wood of trees standing on the lands to be acquired lies with the Divisional Forest Officer (DFO) . After the LAO refers the case to the DFO, his staff inspects each tree and records the species, the girth measurements and also the quality of tree - that is whether it has full of partial timber value or is suitable only for fuelwood. A "form factor" table, which takes into account the site quality is used to convert the girth size into volume- for both timber and fuelwood. The valuation is then worked out by correlating the volume measurement to the commercial schedule of rates, which is determined annually by the Conservators of Forest in their respective jurisdiction, based on the the auction price at the depots (for fuelwood it is directly related to the fuel auction rates).
- 2.12 Valuation of fruit bearing trees is normally carried out by the Horticulture Department by capitalizing the likely annual income from each tree. Occasionally the rates fixed by the field staff of the Revenue Department by local enquiry are used by the LAO in order to save time.

ASSESSMENT OF MARKET VALUE IN TRIBAL AREAS

- 2.13 There are restrications on the transfer of lands from tribals to non-tribals in the tribal areas under the M.P. Land Revenue Code, 1959. This often means that recored transctions are scarce and not a fair indication of market value. In order to overcome this difficulty the Government has decided that in further the average rates in the tribal areas would be

compared with rates in command areas of irrigation projects outside the region, and the higher rates will be paid.

COMPENSATION FOR SPECIAL CATEGORIES

Encroachers

- 2.14 From time to time ownership rights have been granted to encroachers on Government lands. Wherever encroachers are so entitled to become owners of the land, these formalities are completed and full compensation is paid to them. In all other cases, compensation is paid for all buildings on the encroached land provided such structures have come up before the date on which administrative approval was accorded to the project for which land is required.

Government Lessees

- 2.15 All Government lessees, are entitled to compensation for land.

APPROVAL OF AWARDS

- 2.16 The LAO is required to submit proposals for award of compensation to the collector who is authorised to approve awards of up to Rs.10 lakhs ordinarily and upto Rs.25 lakhs in major projects. Where compensation exceeds this amount, the Collector sends the papers to the Divisional Commissioner who is empowered to clear all higher awards.

PAYMENT OF COMPENSATION

- 2.17 The acquiring department deposits the estimated amount of compensation with the LAOs operate savings bank account in nationalised commercial banks. Payment of compensation to affected persons is made by the LAOs through account payee cheques.

ADMINISTRATIVE SET-UP

- 2.18 As mentioned above, the powers of the Revenue Department have been delegated to the Collector and Commissioner under the L.A.Act. There is no Director of Land Acquisition in the State. Individual acquisition cases usually do not come up to the Government level.
- 2.19 In each district there is at least one officer who is designated LAO by the Collector. All officials of the state civil service who have a minimum working experience of five years may be appointed LAOs. The only training these officials receive is a formal session on the L.A.Act. during the induction course when they join Government Service. The District L.A. unit is poorly staffed and lacks even essential facilities to carry out its work. For example, in Bhopal the LAO has only a Revenue Inspector and a Patwari for field work and a typist to assist with the files (even the latter has been deputed on an informal basis by the Irrigation Department.) The LAO has to depend on the acquiring departments for transport whenever he or his staff have to make field visits.
- 2.20 In the larger irrigation projects there are special L.A. units which are better staffed and equipped since the projects bear the cost of salaries and office expenses.

RESOLUTION OF DISPUTES

- 2.21 A divisional level land acquisition committee under the chairmanship of the Commissioner has been constituted recently for all major irrigation projects. The Chief Engineer of the project, the Collectors concerned, the LAOs and the elected chairmen of the block level Panchayats will be the members of the committee. This committee is expected to suggest solutions for problems which arise during the process of land acquisition and close contact with PAPs.

CHAPTER III

BIHAR

INITIATION OF ACQUISITION PROCEEDINGS

- 3.1 Collector are empowered to initiate acquisition proceedings in respect of all departments and public sector undertakings of the State Government. However, the Central Government and its undertakings have to approach the State Government in the Revenue Department, which in turn may direct the Collectors to proceed with the acquisition.

PRELIMINARY NOTIFICATION

- 3.2 The application for acquisition is compared with the village records and a quick survey done by the staff under the LAO. A preliminary notification is then prepared and is issued by the Collector. A copy of the notification is sent to the Directorate of Public Relations in Patna for the statutory publication in two local newspaper. Since in Bihar a gazette is published at the district level, the notification appears in this district gazette rather than in the state gazette³. The practice of individual and public notice is also followed.

OBJECTIONS

- 3.3 Objections are heard by the LAO. He reports to the Collector who takes the decision whether or not to proceed with the acquisition.

DECLARATION OF INTENDED ACQUISITION

- 3.4 A declaration that the land is required for a public purpose is issued by the Collector in the same manner as a preliminary notification (except that at this stage individual notices are not served). When lands are acquired for the Central Government, the section 6 declaration is issued by the Revenue Department.

³The present practice saves time. However, in a recent case the Patna High Court has ruled that the publication in the district gazette is not sufficient for the purposes of the L.A. Act. Although the State Government has moved the Supreme Court in the matter, this may now mean that all notification/declarations will have to be published in the state gazette.

SPECIAL PROCEDURES IN CASE OF URGENCY

- 3.5 Wherever the special procedures under the urgency clause of section 17 are required to be invoked, a proposal is prepared by the LAO and sent by the Collector through the Commissioner to the Director, Land Acquisition at Patna. The Director, L.A. examines the proposal and sends it to the Revenue Department for approval.

COMPUTING COMPENSATION

Valuation of Lands :

- 3.6 The L.A.O. gathers information on sales from the subregistrar's office and prepares an estimate of the probable cost of acquisition. This estimate includes villagewise details on the type of land according to the soil classification, the area to be acquired and the average rate of compensation. The evidence adduced by individual landholders in support of their claims for compensation may also be taken into account.

Valuation of trees

- 3.7 The instructions state that where there are orchards of mango, guava or other fruit trees on the land being acquired, the compensation should be calculated by capitalising the average annual letting value of an orchard and adding to it the value of timber of the trees. In such cases, the land upon which these trees stand should not be valued separately.
- 3.8 In respect of other trees compensation is calculated as in Madhya Pradesh. In the Subarnarekha Project areas, we were told, that the cultivators prefer to cut the trees and sell them rather than accept compensation on this account.

Valuation of Buildings

- 3.9 Valuation of buildings, wells and other constructions are done on the basis of an assessment by the Executive Engineer, Rural Engineering Services and his staff. In the case of large projects, such as the Bank assisted Subarnarekha Project, detailed guidelines have been prepared laying down rates for different categories of houses, wells, tanks and other structures. This facilitates quick and uniform valuation by the engineers.

ASSESSMENT OF MARKET VALUE IN TRIBAL AREAS

3.10 The Chota Nagpur Tenancy Act imposes restrictions on the transfer of land from tribals to non-tribals in order to prevent the large scale alienation of tribal lands. This means that in the predominantly tribal areas of Chota Nagpur and Santhal Pargans the market value of land cannot be fairly determined from the registered sale deeds. In 1983 the Government issued instructions stating that the compensation for acquisition of tribal lands would be determined by capitalising the annual net profit from farming. According to this system each type of land, based on the soil classification in the land survey records, have been assigned a factor on a scale of ten as follows

Class of land	Factor
1. Don-I(paddy land Class-I)	10
2. Don-II(paddy land Class-II)	9
3. Don-III(paddy land Class-III)	8
4. Tand-I (Upland Class-I)	7
5. Tand-II(Upland Class-II)	6
6. Tand-III (Upland Class-III)	4
7. Fallow land	2
8. Sarna(Religious place)	10

3.11 In the beginning of each year, the Divisional Commissioner determines the compensation payable on Class I paddy land based on the market price of paddy and straw. The compensation payable on other lands is thereafter calculated according to the assigned factor. This method of computing compensation ensures that the awards reflect more accurately the market value in the tribal areas. It has also speeded up the finalization of awards by LAO as they have to merely apply the predetermined rate.

COMPENSATION FOR SPECIAL CATEGORIES

Encroachers

3.12 Scheduled Caste and Scheduled Tribe encroachers are entitled to become owners of the land in certain cases. In that event they become eligible to receiving compensation.

APPROVAL OF AWARDS

3.13 Collectors are empowered to approve estimates of awards upto Rs.5 lakhs and Commissioner upto Rs.15 lakhs. All higher estimates have to be sent to the Revenue Department of Government for approval.

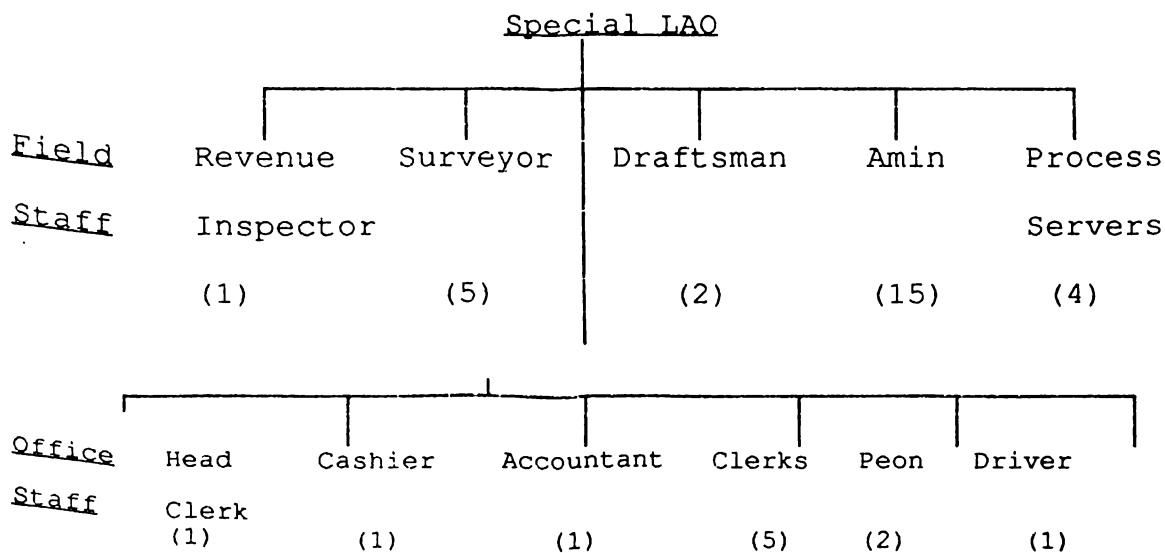
PAYMENT OF COMPENSATION

3.14 The acquiring department provides the required compensation money to the LAO. Affected persons are paid by the LAO through account payee cheques drawn on nationalised commercial banks.

ADMINISTRATIVE SET UP

3.15 The Revenue and Land Reforms Department in the Government has overall responsibility for land acquisition. The Director of Land Acquisition monitors the work in the districts and reports to the Government. The LAOs are officers with about ten years experience in the State Civil Services.

3.16 There is also a Director, Land Acquisition and Rehabilitation in the Irrigation Department but he has no specific functions under the L.A.Act. His duties are mainly to supervise the work of 36 L.A. units deputed to various irrigation projects. 14 of the LA units are with the Bank assisted Subernarekha Project (with an Additional Director LA and Rehabilitation to monitor their work). All these units are headed by Special LAOs who have all the powers of LAO under the Act⁴. Staffing of a typical L.A. Unit is depicted below :



⁴According to the Bihar Irrigation Department while the regular L.A. units complete acquisition proceedings in 136 weeks on an average, the special L.A. units require only 86 weeks.

CHAPTER IV

ORISSA

INITIATION OF ACQUISITION PROCEEDINGS

- 4.1 The department or agency which requires land may apply to the Collector along with the details of the land to be acquired. The Department has to deposit 20 per cent of the estimated amount of compensation with the Collector before the L.A. proceedings can be started.

PRELIMINARY NOTIFICATION

- 4.2 The Collector prepares a draft notification under section 4 of the L.A. Act and sends it to the Revenue Department of the Government with copies to the administrative department (for which land is to be acquired) and the Revenue Divisional Commissioner (R D C). The administrative department has to certify that the land is required for a public purpose and that there are adequate budgetary provisions. Thereafter, the Revenue Department issues the notification and sends it to the Government Press for publication in the gazette and to the Public Relation Department which arranges for publication in local newspapers. Individual land owners are not served notice at this stage, although the notification is published in the local Government offices and in the affected villages.

Objections

- 4.3 The L.A.O. enquires into the objections which may be filed before him and submits a report to the Collector who in turn sends his recommendations to the Revenue Department. A final decision on the objections is taken by the Revenue Departments.

DECLARATION OF INTENDED ACQUISITION

- 4.4 A draft declaration is sent by the Collector through the R.D.C. and the acquiring administrative department to the Revenue Department for publication in the same manner as the Section 4 notification.

SPECIAL PROCEDURES IN CASE OF URGENCY

- 4.5 Wherever the special urgency procedure are required to be applied, the Collector and the administrative department have to send their recommendations to the Revenue Department which may authorise such use.

COMPUTING COMPENSATION

Valuation of land

- 4.6 Along with the draft declaration papers the L.A.O. prepares an estimates of the compensation which should be paid for the acquisition after consulting the records of the registration office and making local enquiries. The Collector certifies the estimate the sends it to the R.D.C. who checks and countersigns the papers and sends it to the administrative department. The latter approves the estimate and indicates the availability of funds to the Revenue Department which then issues the declaration.

Valuation of Building

- 4.7 Valuation of buildings and other structures are usually done by the Executive Engineer, P.W.D. However in the Talcher area, we found that S.E.C.L. and N.T.P.C. civil engineers were undertaking this task using the commercial schedule of rates of the P.W.D.

Valuation of trees

- 4.8 Wherever trees appear to have timber value, the cases are referred to the Forest Department for calculating the compensation to be paid. However valuation of other types of trees are done by local enquiry by the L.A.O. and his staff.

APPROVAL OF AWARDS

- 4.9. Since the estimates of compensation are already sanctioned by the Government, the Collector approves the final award if the amount is within 20 per cent of the original estimate. However if the final amount exceeds 20 per cent limit or there are new items which may have been left out the original estimates, the award is again sent to the Revenue Department for approval.

ASSESSMENT OF MARKET VALUE IN TRIBAL AREAS

- 4.10 During enquiry, no special procedures were found to be followed.

PAYMENT OF COMPENSATION

4.11 After the publication of section 6 of the declaration, the estimated amount of compensation is paid into the Government treasury by the acquiring department and kept as a revenue deposit⁵. Payments after the award is finalized are usually made by account payee cheques. It was found that in the acquisition for N.T.P.C. and S.E.C.L. in the Talcher region compensation was being paid in cash.

COMPENSATION FOR SPECIAL CATEGORIES

4.12 Encroachers on Government land are compensated only for any construction which they may have carried out but are not paid for the land.

ADMINISTRATIVE SET UP

4.13 The overall responsibility for land acquisition lies with the Revenue Department, which performs specific functions as described in the L.A. process above. There is no Directorate of Land Acquisition and the Collectors deal directly with the Revenue Department. There is a District Land Acquisition Officer (D L A O) in every district and there may also be additional D.L.A.Os wherever required. The posts are manned by officers of Orissa Administrative Services (state civil service) with about 7 to 8 years experience. There are Special L.A.Os for major projects such as the World Bank assisted Talcher Thermal Power and Subernarekha Projects.

4.14 Typically the S.L.A.Os or D.L.A.Os have a Head Clerk, seven Clerks to assist him in the office and a field staff comprising two Revenue Inspectors, 6 Amins, 6 Chainmen for survey work and 6 process servers.

4.15 The department acquiring land has to pay 20 percent of the final compensation amount as administrative charges. However, departments which bear the cost of salaries and other expenses of the special L.A. units (for example, the Irrigation Department pay only 10 percent of the award sum. These charges have ensured that the L.A. units are adequately staffed and have the necessary resources to carry out their work.

RESOLUTION OF DISPUTES

4.16 There are no special procedures for resolution of disputes. However, the PAPs air their grievances through the normal political and administrative channels⁶

⁵Revenue deposits may be made in the treasury by Courts (including LAOs) in connection with revenue administration. They are of a temporary nature and may be withdrawn according to the orders of the Court.

⁶ The process has led to Government interventions in favour of PAPs in some cases. In the case of acquisition for the 1b Thermal Power Station of the Orissa Power Generation Corporation, the Government decided to double the amount of compensation as initially calculated by the Collector.

CHAPTER V

UTTAR PRADESH

INITIATION OF ACQUISITION PROCEEDINGS

- 5.1 A department which requires private land applies to the Collector for acquisition along with a copy of the land records of the proposed land. These papers are tallied with the village revenue records and there is a spot check to ensure that there are no structures of religious significance on the land.
- 5.2 Where agricultural land is proposed to be acquired for non-agricultural use, specific approval of the State land Use Board is required. The Chief Minister chairs this Board and the Secretary of the Planning Department provides the secretarial support. Other Secretaries to the Government, including that of the acquiring department, are members of the Board.

PRELIMINARY NOTIFICATION

- 5.3 A proposal for preliminary notification of acquisition is prepared by the LAO and sent by the Collector to the Director, Land Acquisition at Lucknow. After examining the papers the Director, LA sends them to the Secretary of the administrative department (for which land is being acquired) and the notification is actually issued by that department. Copies are sent to the Government press for publication in the gazette and to the Director, Public Relations for publication in the local newspapers. Before the process of preliminary notification is started the acquiring department has to pay 10 percent of the estimated compensation to the Collector which is placed in a personal ledger account (PLA)⁷

OBJECTIONS

- 5.4 Objections are heard by the LAO and finally decided by the Collector.

DECLARATION OF INTENDED ACQUISITION

- 5.5 The Collector sends a report to the Director, Land Acquisition along with an attestation that the publication of the preliminary notification has been completed. The Director, LA forwards the declaration to the acquiring department which issues the declaration in the same manner as the preliminary notification.

⁷ P.L.A. is a deposit kept at the Government treasury in the nature of a banking account. Cheque may be issued on this account.

SPECIAL PROCEDURES IN CASE OF URGENCY

- 5.6 Wherever the acquiring agency feels that urgently clause should be applied, it sends a request to the Collector. If the Collector agrees that this would be appropriate, a proposal is sent to the administrative department concerned, through Director, LA, for approval.

COMPUTING COMPENSATION

Value of Land

- 5.7 The sale rates and other details are called from the Sub-registrar's office. Individual land owners and other interested parties are also given an opportunity to present their evidence as in other States.

Valuation of Buildings

- 5.8 These cases are referred to the Executive Engineer of the PWD as in the other States.

Valuation of trees

- 5.9 Valuation of trees of timber value are entrusted to the DFO and that of fruit-bearing trees to the Horticulture Department as in the case of M.P.

COMPENSATION FOR SPECIAL CATEGORIES

- 5.10 There are no special provisions.

ASSESSMENT OF MARKET VALUE IN TRIBAL AREAS

- 5.11 There are no special procedures.

APPROVAL OF AWARDS

- 5.12 Awards of varying amount are finally approved by the different authorities as below:

- | | | |
|----|--------------------|------------------------------------------|
| 1. | Upto Rs. 10 lakhs | Collector of the District. |
| 2. | Upto Rs. 50 lakhs | Commissioner of the Division. |
| 3. | Above Rs. 50 lakhs | The Chairman, Board of Revenue, Lucknow. |

Awards approved by the Chairman, Board of Revenue are examined by the Director LA and then submitted to him for approval.

PAYMENT OF COMPENSATION

- 5.13. Before the awards are finalised, the acquiring department has to deposit the entire amount of compensation with the Collector in the PLA. Wherever the emergency clause is applied 80 percent of the estimated compensation is similarly deposited with the Collector an order taking over before the land is issued. Payment is made by the LAOs by cheque drawn on the PLA.

ADMINISTRATIVE SET UP

- 5.14 The Director of Land Acquisition (a Senior Scale Indian Administrative Service Officer), assisted by 3 Deputy Land Reforms Commissioners, belonging to the state civil service, 6 officers on special duty in the rank of Tahsildars, functions under the general control of the Chairman, Revenue Board and the Revenue Department.
- 5.15 As described above, unlike other States, the Administrative Department of the agency for which the land is acquired, performs statutory specific functions under the L.A.Act.
- 5.16 Each district has at least one LA unit and in some instances more than one (71 such units in the State). In Allahabad, for example, there is a LA unit for Allahabad Development Authority, A LA unit for the allocation department and a joint organisation LA unit which acquired land for all the other departments. Each LA unit is headed by a special LAO with a minimum of five years experience in the civil service. Recently 3 day training course for SLOs have been started at the Institute of Management Development Programmes, Lucknow. In a typical LA unit, the SLAO is be assisted by Naib Tahsildar, a Head Clerk, an accounts clerk, 4 court clerks, 8 Amins and 8 process servers. All salaries and expenses are paid by the Revenue Board.
- 5.17 The Revenue Department levies administrative charges at the rate of 10 percent of the award money to cover the costs of land acquisition. This amount goes into the State budget and in turn may be allocated to the Revenue Department.

RESOLUTION OF DISPUTES

- 5.18 There are no regular procedures for resolution of disputes other than those provided under the LA Act. However, committees, with both officials and elected representatives, have been constituted from time to time to deal with the problems of specific projects (for example, in case of Rihand Thermal Project a committee under the Revenue Minister was formed.)

CHAPTER VI

THE COAL BEARING AREAS (ACQUISITION AND DEVELOPMENT) ACT, 1957

PURPOSE

- 6.1 Coal Companies acquire land for coal mining under the Coal Bearing Areas (Acquisition and Development) Act, 1957 (C.B.A. Act). The preamble states that the purpose of C.B.A. Act is to "establish in the economic interest of India greater public control over the coal mining industry and its development by providing for the acquisition by the state of unworked land containing or likely to contain coal deposits or of rights in or over such land". The Department of Coal (D.O.C.), Ministry of Energy in the Government of India (GOI) and the Coal Companies are vested with powers of acquisition under the C.B.A. Act.

SCHEME OF THE ACT

- 6.2 Based on available geological information a Coal Company submits its proposals to D.O.C. for preliminary notification of its intention to prospect for coal in a specified area. This notification under section 4 of the Act enables the coal company and its agents to mark out and survey the land.
- 6.3 Once it is determined the coal is obtainable in any of the lands notified under section 4, D.O.C. may issue lands. However, this is to be done within a period of two years (extendable in certain circumstances by another year) from the date of the preliminary notification. This notification under section 7 has to be published in the Central Gazette and the State Government concerned is also consulted. Persons affected may file objections to the notified authority, which is the Coal Controller at Calcutta. After considering the report of the Coal Controller a declaration of acquisition may be made under section 9 and notified in the Central and State Gazettes. This declaration is also to be published in the affected villages, gram panchayats, and in local Government offices, including that of the District Collector. The law requires that this declaration should be made within three years of the notification of intention to acquire land under section 7. Following the declaration in the official Gazette, the land and the rights over the land vests with G.O.I. under section 11, which may, in turn, hand over the land to the Coal Company, section 13 provides for determination of the compensation payable which is based on the market value of the land, on the date of the preliminary notification under section 4. If the landowner does not accept the quantum of compensation, or, where it is not possible to determine individual rights over the notified land, the matter is referred to a Tribunal

under section 14. The District Judge, in whose jurisdiction the affected land is located, functions as the Tribunal.

DIFFERENCES BETWEEN C.B.A. ACT AND LAND ACQUISITION ACT

- 6.4 There are several differences between the L.A.Act and the C.B.A. Act. The scheme of acquisition under the C.B.A. Act is far more authoritarian than under the L.A.Act. Most significantly, there is no provision for affected persons to be served individual notice at any stage of the proceeding and the land vests with the Government, after the declaration, without any stipulation that the compensation money should be paid before taking over the land. Further the C.B.A. Act does not incorporate any of the measures introduced in the L.A.Act in 1984 to make the compensation more equitable. This the C.B.A. Act does not provide for payment of solatium or any other additional amounts. A detailed tabular comparison of the two Acts has been made at Annexure 3.
- 6.5 The G.O.I. is aware of the many disparities between the two Acts and have been considering possible legislative action to bring the C.B.A. Act more in line with the L.A.Act. In the meanwhile, D.O.C. has issued an order allowing the payment of all such sums in addition to market value of the land acquired as provided under the L.A.Act. These are :-
- i) Solatium at the rate of 30% of the market value of the land acquired.
 - ii) Interest at the rate of 9% per annum for the first year and 15% for the subsequent years on the amount of compensation in case of awards enhanced by the Tribunal.
 - iii) An amount at the rate of 12% per annum to cover the rise in the cost of land from date of preliminary notification (which is the base date for computing market value) and the date of declaration of acquisition under section 9.
- 6.6 Furthermore, constant pressures from project affected persons have ensured that the total compensation paid under the C.B.A. Act approximates the payments under the L.A.Act. For example, in the Singrauli region of M.P., till 1984 Northern Coalfields Limited (N.C.L.) were compensating at a lower rate than that determined under the L.A.Act which led to a prolonged agitation in the villages. Thereafter the rates paid under the L.A.Act have been adopted and there are now uniform rates of compensation for lands acquired for N.T.P.C. and N.C.L.

USE OF C.B.A. ACT

- 6.7 All lands for open-cast mining are acquired by N.C.L. in the Singrauli region of M.P. and U.P. under the C.B.A.Act. In the Talcher area of Orissa where South-Eastern Coalfields Limited (SECL) already have the underground mining rights, it acquires the surface rights under the L.A.Act. This is necessiated by a provision in the C.B.A.Act that after the preliminary notification under section 4 all mining rights are automatically cancelled. In virgin areas, S.E.C.L.adopts the C.B.A.Act procedures.
- 6.8 Since acquisition under the C.B.A.Act is done entirely by D.O.C. and the Coal Companies, the district administration is not involved at all, except for obtaining copies of village land records. Yet almost in all cases, the coal company has to seek the help of the district administration, and often of its coercive force, to take over the land acquired. This has usually led to coordination problems. Some of the State Governments, notably Bihar, have argued forcefully that all lands should be acquired under the L.A.Act and the C.B.A.Act should be repealed.

CHAPTER VII

EQUITY IN LAND ACQUISITION - WHAT CAN BE DONE ?

- 7.1 The earlier sections of this paper have described the processes of the LA Act and detailed the administrative procedures in four states: MP, Orissa, Bihar and UP. The present section attempts to focus on the interventions required within the existing legal system so as to better protect the interests of displaced persons. It calls for greater social sensitivity in administering the LA Act.
- 7.2 The first issue to be addressed is whether there are alternatives which can be pursued to avoid the necessity of land acquisition or in restricting the area of the land to be acquired. When a government department requests land acquisition for a development project, instead of routinely allowing a preliminary notification u/s 4 the district administration could explore the feasibility of providing government land, including land held by other government departments. It is usual for each department to jealously guard its land holdings. This may result in other departments acquiring private land when a mere transfer of land from one department to the other could be a perfectly feasible alternative. In this context it would be useful to complete an inventory of all public lands at the sub-division/district level so that existing vacant lands are earmarked and readily made available for public projects.
- 7.3 Even when acquisition is found to be essential, it must be examined whether the extent of land sought to be taken over is justified by the project. Government and public sector projects tend to exaggerate the demand for land on the basis of future expansion schemes which are often fanciful. Hence an accurate assessment of land requirement in consultation with the project authorities is usually helpful.
- 7.4 The preliminary notification u/s 4(1) has wide-ranging consequences. It freezes land transfers, allows project officials to enter the land for survey and fixes the dates on which the market value for the property is calculated. Yet the law does not require notices to be served individually on the effected persons but only through a public notification. Such a notification and its consequences may not be adequately understood, especially in tribal and remote areas where literacy rates may be low. There is usually a great deal of mistrust of government intentions whenever large scale displacement is envisaged. A possible solution is to try and take the affected people into confidence as early as possible in the planning cycle. For example, when large scale land acquisition is proposed it may be useful to convene meetings of the Gram Sabha and explain the details of the proposed land acquisition and its consequences to the villagers.

- 7.5 Once it is decided to go ahead with land acquisition especially for larger projects it always helps to launch a drive to update land records. During such a drive, special care needs to be taken to ensure that the rights of the weaker sections such as tenants and encroachers are properly reflected as such records form the basis for the payment of compensation. Similarly women's rights in land are inevitably under recorded. A greater attention to this aspect could help in bringing about gender equity. Such a drive will also help cut down procedural problem in the land acquisition process since disputes regarding the apportionment of compensation and other matters will be settled more easily.
- 7.6 The objections received to the preliminary notification u/s 5(A) are usually disposed of in a routine manner without a real application of mind. Very rarely are LA proceedings dropped at this stage. It would be useful to carefully consider the objections filed and any alternatives to the proposed acquisition, if they are suggested. Further, at this stage, a proper survey of the land to be acquired could prevent potential controversies. For instance, if there are religious structures on a part of the land to be acquired, such areas could be dropped from the subsequent section 6 declaration.
- 7.7 The amendments of 1994 have considerably widened the scope of the special power in the case of urgency u/s 17 from the earlier mandated waste or arable lands to all types of lands. The assessment of urgency is essentially subjective. Government departments tend to commonly request use of the urgency procedures and seniors officials are prone to allow such use indiscriminately on the ground that development projects may otherwise be delayed. However, since such powers abridge the rights of individual land holders, they must be used judiciously. The courts have also ruled that the exercise of such powers are justiciable and that they have to "examine whether the decision to invoke the emergency provisions are based and taken on any material and that it was neither arbitrary nor capricious nor malafide..." (MP High Court in Babu Khan vs. Bhopal Development Authority and others, Misc. Petition No.1099 of 1990).
- 7.8 Determination of fair compensation forms the core of LA proceedings. The Act requires that market value of the property should be the determining factor in calculating the compensation to be awarded. Market value is the sum which a land holder may reasonably expect for his land in the open market according to the prevailing rates i.e., if he is not under compulsion to sell. If market value is indeed paid it should be reasonably possible for the affected person to replace his asset with another of equal value. However, market value is commonly calculated mechanically by simply adopting the average of the registered sale-deeds of land transaction in the area. These sale-deeds are usually under-valued in order to save on stamp duties. Hence a proper enquiry into the market prices of land in the region is necessary to provide the insight required to

- determine which sale-deeds are grossly under-valued and should be ignored while calculating the compensation. Similarly careful consideration has to be given to the assessment of other assets such as houses, trees and wells. The agencies responsible for fixing values on these assets, such as the Public Works, forest and horticulture departments have to be properly guided in their approach in this work.
- 7.9 The timing of payment of compensation is equally important. The amendments of 1984 have provided that not more than 3 years should elapse between the preliminary notification u/s 4(1) and the award u/s 11. However, there is no provision which stipulates the period within which the government should pay the compensation awarded and take possession of the land acquired. Delays in payment of compensation leads to erosion in the value of the award. Once an award is announced, prompt payment of the compensation money helps the displaced.
- 7.10 A person interested in the land, who is not satisfied with either the amount of compensation or its apportionment, may request a reference to the District Judge's Court within 6 weeks of the award. The LAO then has to refer the case to the Court along with the relevant files. Since the affected persons cannot approach the courts directly they are often at the mercy of the LAOs for their reference to reach the courts. It is not unusual for such cases to lie with the LAO upto a couple of years before they are actually despatched to the courts. A close check on such cases will help in the prompt transfer of case records to the District Judge's Court so that reference hearings could begin.
- 7.11 Section 28 (A) provides for redetermination of the amount of compensation on basis of the Court's award. It means that if a person has been awarded enhanced compensation, others similarly placed i.e., covered by the same notification u/s 4, may apply to the Collector for higher compensation on the basis of the Court's order, even if they had not moved individual reference applications earlier. Imaginatively used this section has the potential to extend the benefits of the enhanced compensation to the economically weaker or socially backward of a displaced section, who otherwise limited access to judicial processes. The cooperation of NGOs working with the displaced populations will prove useful in this effort.
- 7.12. The LA Act is often perceived as anti-people and weighted unfairly in favour of the Government. There is certainly a case for further amendments to the Act. For instance, it could be argued that representatives of the affected people should be directly involved in the assessment of compensation. However, as indicated above, in implementing the Act, even in its present form, there are opportunities for interventions which may help the persons being displaced. Such socially sensitive handling of land acquisition can help lay the foundations of a successful resettlement and rehabilitation programme.

ANNEXURE I
A NOTE ON DELAYS IN PAYMENT OF COMPENSATION

There may be delays in payment of compensation due to various reasons. While some of these causes are project specific, there are also several common factors which were observed in the four States. Instances where delays may occur are discussed below:

- i) **Where the compensation amount is enhanced by an order of the Court.** Usually it takes several years for the Court to pronounce judgement in cases, which are referred to it. At that stage the acquiring department may not have adequate budgetary provisions to pay the additional amounts awarded.
- ii) **Where there are disputes regarding apportionment of compensation.** Such cases are sent by the LAO to the Court for a decision. Final disposal may take time, pending which the compensation cannot be disbursed.
- iii) **Where possession of lands are taken over by acquiring departments before an award is announced.** Prior to the 1984 amendments to the LA Act, LAOs were not required by law to finalize the awards before taking over the lands. This has led to a backlog of cases where acquiring departments have actual possession of lands for which compensation has not been paid to the owners.
- iv) **Where a landowner has died after the award but before he had received compensation.** The successor may be required to produce a succession certificate from the Civil Court. This procedure takes time. (In order to overcome this difficulty the Bihar Government has prescribed that in situations where the amount involved is less than Rs. 10,000 a certificate of succession from a local revenue officer would be sufficient for scheduled caste and scheduled tribe persons to obtain the award money).
- v) **Where the lands acquired are also involved in proceedings under either the agricultural or the urban land ceiling law.** Legislation in the different States provide for imposition of a ceiling on farm holdings and distribution of surplus land. The Urban Land (Ceiling and Regulation) Act, 1976 prescribes that vacant urban lands, exceeding a specified size, may be taken over by the Government in certain designated cities. (In U.P. where lands involved in agricultural or urban ceiling are proposed to be acquired, clearance from a committee of secretaries is required).

Since the scale of compensation under the ceiling law is much lower than under the LA Act, compensation is not paid till the ceiling case is finally decided. This is also specifically required by a State amendment to the LA Act in Bihar.

ANNEXURE II

COMPARISON OF LAND ACQUISITION PROCEDURES IN FOUR STATES

ACTIVITY	MADHYA PRADESH	BIHAR	ORISSA	UTTAR PRADESH
<p>I</p> <p>AUTHORITY COMPETENT TO</p> <p>(i) Initiate LA Proceedings</p> <p>(ii) Issue preliminary notification (under section 4)</p> <p>(iii) Decide on objections received</p> <p>(iv) Issue declaration of intended acquisition. (under section 6)</p> <p>(v) Adopt urgency clause Procedures (under section 17)</p> <p>(vi) Approve awards</p>	<p>Collector</p> <p>Collector</p> <p>Collector</p> <p>Collector</p> <p>Commissioner</p> <p><u>Ordinarily:</u> Upto Rs 1 million - Collector Above Rs 1 million - Commissioner</p> <p><u>Major Projects:</u> Upto Rs 2.5 Million - Collector Above Rs 2.5 Million - Commissioner</p>	<p><u>For State Government and its undertakings</u> : Collector <u>For Central Government and its undertakings</u> : Revenue Department</p> <p>Collector</p> <p>Collector</p> <p>Collector</p> <p>Revenue Department</p> <p>Upto Rs 0.5 million:Collector Upto Rs 1.5 million:Commissioner Above Rs 1.5 million:Revenue Department</p>	<p>Collector</p> <p>Revenue Department</p> <p>Revenue Department</p> <p>Revenue Department</p> <p>Revenue Department</p> <p>All estimates of compensation are verified by the Commissioner and approved by the administrative department for which land is to be acquired. Thereafter Collector approves award if increase is not more than 20% of estimate</p>	<p>Collector However : i)If agricultured lands are required for non-agricultural purposes approval of State Land Use Board is necessary. ii)If lands involved in cases under urban or agricultural ceiling law are to be acquired, clearance of committee of secretaries is mandatory.</p> <p>Administrative Department for which land is to be acquired.</p> <p>Collector</p> <p>Administrative Department for which land is to be acquired.</p> <p>Administrative Department for which land is to be acquired.</p> <p>Upto Rs 1 million : Collector Upto Rs 5 million : Commissioner Above Rs 5 million : Board of Revenue</p>

	ACTIVITY	MADHYA PRADESH	BIHAR	ORISSA	UTTAR PRADESH
II	Determining market value of land	Based on registered sale deeds For major irrigation projects, valuation to be based on market value of similar lands in neighbouring command areas.	Based on registered sale deeds	Based on registered sale deeds	Based on registered sale deeds
III	Procedure for assessment of market value in tribal area	Rates to be compared with command area in adjoining non-tribal area by divisional level committee.	On capitalized annual net profit from farming on land - rates fixed annually by Commissioner for various types of lands.	No special procedure.	No special procedures
IV	Valuation of Buildings	Usually by Executive Engineer, Public Works Department (PWD) For major projects, specification and rates of various categories of buildings specified by divisional level Committee.	Usually By Executive Engineer, Rural Engineering Services. For major projects as in M.P.	Usually by Executive Engineer, (PWD). However, for SECL, MTPC projects by project engineers using the PWD schedule of rates.	Usually by Executive Engineer PWD.
V	Valuation of trees	<u>Timber & Fuel wood</u> by Divisional Forest Officer <u>Fruit Bearing</u> by Horticulture department (Sometimes by local enquiry by revenue officials.)	Same as in M.P. (In Subernarekha Project, cultivators prefer to cut the trees and sell them instead of accepting compensation)	Same as in M.P.	Same as in M.P.
VI	Compensation payable to special categories	<u>Encroacher</u> : entitled to full compensation if eligible for ownership rights - otherwise, entitled to compensation only for the structures on the land. <u>Government lessee</u> : entitled to full compensation as for land owners.	<u>Encroacher</u> : entitled to compensation for structures on land.	<u>Encroacher</u> : Scheduled castes & tribes entitled to ownership rights and full compensation in certain cases.	<u>Government lessee</u> : entitled to full compensation as for land owners.

ANNEXURE II

COMPARISION OF LAND ACQUISITION PROCEDURES IN FOUR STATES

	ACTIVITY	MADHYA PRADESH	BIHAR	ORISSA	UTTAR PRADESH
1	AUTHORITY COMPETENT TO				
	(i) Initiate LA Proceedings	Collector	<u>For State Government and its undertakings</u> : Collector <u>For Central Government and its undertakings</u> : Revenue Department	Collector	Collector However : i) If agricultural lands are required for non-agricultural purposes approval of State Land Use Board is necessary. ii) If lands involved in cases under urban or agricultural ceiling law are to be acquired, clearance of committee of secretaries is mandatory.
	(ii) Issue preliminary notification (under section 4)	Collector	Collector	Revenue Department	Administrative Department for which land is to be acquired.
	(iii) Decide on objections recieved	Collector	Collector	Revenue Department	Collector
	(iv) Issue declaration of intended acquisition. (under section 6)	Collector	Collector	Revenue Department	Administrative Department for which land is to be acquired.
	(v) Adopt urgency clause Procedures (under section 17)	Commissioner	Revenue Department	Revenue Department	Administrative Department for which land is to be acquired.
	(vi) Approve awards	<u>Ordinarily:</u> Upto Rs 1 million - Collector Above Rs 1 million - Commissioner <u>Major Projects:</u> Upto Rs 2.5 Million - Collector Above Rs 2.5 Million - Commissioner	Upto Rs 0.5 million:Collector Upto Rs 1.5 million:Commissioner Above Rs 1.5 million:Revenue Department	All estimates of compensation are verified by the Commissioner and approved by the administrative department for which land is to be acquired. Thereafter Collector approves award if increase is not more than 20% of estimate	Upto Rs 1 million : Collector Upto Rs 5 million : Commissioner Above Rs 5 million : Board of Revenue

COMPARISON OF LAND ACQUISITION PROCEDURES IN FOUR STATES

	ACTIVITY	MADHYA PRADESH	BIHAR	ORISSA	UTTAR PRADESH
II	Determining market value of land	Based on registered sale deeds For major irrigation projects, valuation to be based on market value of similar lands in neighbouring command areas.	Based on registered sale deeds	Based on registered sale deeds	Based on registered sale deeds
III	Procedure for assessment of market value in tribal area	Rates to be compared with command area in adjoining non-tribal area by divisional level committee.	On capitalized annual net profit from farming on land - rates fixed annually by Commissioner for various types of lands.	No special procedure.	No special procedures
IV	Valuation of Buildings	Usually by Executive Engineer, Public Works Department (PWD) For major projects, specification and rates of various categories of buildings specified by divisional level Committee.	Usually By Executive Engineer, Rural Engineering Services. For major projects as in M.P.	Usually by Executive Engineer, (PWD). However, for SECL, MTPC projects by project engineers using the PWD schedule of rates.	Usually by Executive Engineer PWD.
V	Valuation of trees	<u>Timber & Fuel wood</u> by Divisional Forest Officer <u>Fruit Bearing</u> by Horticulture department (Sometimes by local enquiry by revenue officials.)	Same as in M.P. (In Subernarekha Project, cultivators prefer to cut the trees and sell them instead of accepting compensation)	Same as in M.P.	Same as in M.P.
VI	Compensation payable to special categories	<u>Encroacher</u> : entitled to full compensation if eligible for ownership rights - otherwise, entitled to compensation only for the structures on the land. <u>Government lessee</u> : entitled to full compensation as for land owners.	<u>Encroacher</u> : entitled to compensation for structures on land.	<u>Encroacher</u> : Scheduled castes & tribes entitled to ownership rights and full compensation in certain cases.	<u>Government lessee</u> : entitled to full compensation as for land owners.

COMPARISON OF LAND ACQUISITION PROCEDURES IN FOUR STATES

	ACTIVITY	MADHYA PRADESH	BIHAR	ORISSA	UTTAR PRADESH
VII	Methods of payment of compensation	By account payee cheques drawn on commercial banks	By account payee cheques drawn on commercial banks	By account payee cheques drawn on commercial banks	By account payee cheques drawn on Personal Ledger Account (of the Government treasury.)
VIII	L A Administration.	Collectors vested with authority of deputy secretary in the Revenue Department of Govt. Commissioners vested with authority of secretary in the Revenue Department of Govt. No Directorate of L A. All functions delegated to Collectors and Commissioners.	Directorate of L A coordinates land acquisition activities.	Revenue Department exercises major functions in L A process. No Directorate of L A.	Administrative Departments acquiring land, exercise specific function under L A act. Directorate of L A under The Board of Revenue coordinates L A activities
IX	Administrative charges for land acquisition.	<i>10 percent of award value</i>	5 percent of award value.	10 percent of award value in case salaries of L A staff is borne by the acquiring department. In Other cases 20 percent of award value.	10 percent of award value.
X	Structure for resolution of disputes.	Divisional Level Committee under chairmanship of Commissioner.	No specific setup . However, for the Subarnarekha Project, committee on resettlement under the Commissioner also reviews land acquisition.	No specific setup.	Adhoc committee for acquisition in major projects.

ANNEXURE III

COMPARITIVE VIEW OF THE LAND ACQUISITION ACT, 1894 AND
THE COAL BEARING AREAS ACQUISITION AND DEVELOPMENT) ACT, 1957

		Land Acquisition Act, 1894	Coal Bearing Areas (Acquisition and Development) Act, 1957
1.	Application of the Law	For the acquisition of land needed for public purposes and for companies.	For the acquisition of unworked land containing or likely to contain coal deposits, including mining rights.
2.	Competent Authorities.	The State Government, Divisional Commissioners, District Collectors and officials appointed to perform the functions of a Collector under the Act.	The Government of India (Department of Coal) and officials of the Coal companies.
3.	Notifications	Preliminary notifications under section 4 and declaration of intended acquisition under section 6 to be published in the official gazette and two newspapers (one in the local language) and public notice in the affected locality.	Preliminary notifications under section 4 and notice of acquisition under section 7 to be published in the official gazette.
4.	Objections to acquisition.	May be filed with the Local Land Acquisition Collector.	Have to be filed with the Coal Controller at Calcutta.

		Land Acquisition Act, 1894	Coal Bearing Areas (Acquisition and Development) Act, 1957
5.	Notice to affected persons.	Individual notice mandatory under section 9.	Individual notice not necessary at any stage. Declaration of acquisition under section 9 has to be merely published in the official gazette and Local Government offices.
6.	Prescribed Timelimits.	Declaration of intended acquisition under section 6 to be made within one year of preliminary notification under section 4; awarded of compensation to be finalised within two years of the declaration.	Notice of acquisition under section 7 to be issued within three years of preliminary notification under section 4; declaration of acquisition to be made within three years of the section 7 notice
7.	Compensation Payable	In addition to market value of land, following sums are payable : i) Solatium of 30% on market value in consideration of compulsory nature of acquisition. (contd...)	Act does not provide for either solatium or any payments other than market value. However, executive instructions issued by Department of Coal directs Coal Companies to pay these additional seems, in line with the Land Acquisition Act.

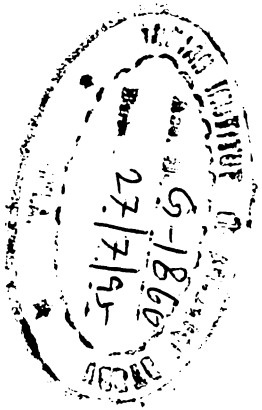
		Land Acquisition Act, 1894	Coal Bearing Areas (Acquisition and Development) Act, 1957
7.		ii) 12% per annum on the market value from date of preliminary notification to date of award. iii) In case of enhanced award of the Courts, interest on compensation payable at the rate of 9% per annum for the first year and 15% per annum for subsequent years.	
8.	Timing of Payment.	At least 80% of estimated compensation has to be paid before taking possession of any land even in cases where the urgency clause is applied ; full payment of award in other cases.	No such requirement for payment before occupying the land acquired.

		Land Acquisition Act, 1894	Coal Bearing Areas (Acquisition and Development) Act, 1957
9.	Adjudication	Affected person, not satisfied with the award of the Collector, may seek a reference to the Court of the District Judge. Thereafter, appeal lies with the High Court.	Where no agreement is reached ... matter to
10.	Scope of Court orders.	Benefits of enhanced compensation awarded by District Courts extendable to all those landowners similarly placed.	

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