

# **Relevance and Process of SIA study under RFCTLAR&R Act, 2013**

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# 1. Introduction

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 has brought about a paradigm shift in land acquisition process in India. Acquisition of land in a developing economy like India is essential for infrastructure development, urbanization and industrialization which have a multiplier effect on economic development. Development projects though important in the long run, create significant changes in the daily lives of local population. Land acquisition for such projects displaces many and causes loss of livelihoods in the short run, which also creates resistance. The imperfect nature of land market also creates additional bottlenecks for efficient land transfer. The RFCTLARR Act 2013 proposes for Social Impact Assessment (SIA) study to map and estimate costs and benefits to the people affected through the acquisition. While discussing the specific issues in land acquisition and identifying challenges in carrying out SIA study, the present paper proposes conducting SIA in a comprehensive and participatory way to assess the impact, make people aware and minimize resistance.

SIA- Social Impact Assessment- is a field of research and practice, or a paradigm consisting of a body of knowledge, techniques, and values. According to International Association for Impact Assessment (2003) in its Social Impact Assessment: International Principles mentions “social impact assessment includes the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. Its primary purpose is to bring about a more sustainable and equitable biophysical and human environment.”

Planners and decision makers increasingly recognize the need for better appreciation of social consequences of policies, plans, programmes and projects (PPPPs). SIA is likely to contribute substantially toward understanding such impacts. This is all the more important in view of the fact that such impact assessment has become a mandatory requirement.

SIA alerts the planners and programme executors of the likely benefits and costs of a proposed project, which may be social, cultural, and/or economic and such others. The knowledge of these likely impacts in advance can help decision-makers in deciding whether the project should proceed as it is, or proceed with some changes, or dropped altogether.

## BACKGROUND


The Land acquisition Act, 1894 was a general law relating to acquisition of land for Public purpose and also for companies and for determination of the amount of compensation to be made on account of such acquisition. The provision of the Act was found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the state for involuntary acquisition of private land and property. The Act did not address the issues of rehabilitation and resettlement to the affected persons and their families. Hence there was need of a single integrated law to deal with the issues of land acquisition and rehabilitation and resettlement. The

Right to Fair Compensation and Resettlement Act, 2013 addresses the concerns of farmers and those whose livelihoods are dependant on the land being acquired while at the same time facilitating land acquisition for industrialization, infrastructure and urbanization projects in a timely and transparent manner.

“The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement” Act 2013 (“RFCTLARR Act”) came into force on 1st January 2014. It repealed the LA Act, 1894. It aimed at redressing the imbalance of power between government and the land losers. The act broadened the category of land losers to include livelihood losers; introduced a compensation formula based on sale deeds as opposed to circle rates, with a multiplier of 1 for urban areas and 2 for rural areas, thereby bringing compensation awards in accordance with the market value of the land; and mandated rehabilitation and resettlement of land losers. Further, the act introduced requirements of consent of land losers in case of acquisitions for companies (80%), and public private partnerships (PPPs) (70%). Finally, the act introduced procedures for social impact assessment (SIA) in order to ascertain all land losers and the social consequences of land acquisitions.

### **3. Relevance of SIA study under RFCTLARR Act, 2013**

SIA along with Rehabilitation and Resettlement forms an integral part of land acquisition under this act. SIA study and related provisions are enshrined in Sec 4(1) to Sec. 9 of the act. As SIA study is mandatory (barring very few exceptions) under RFCTLARR Act, 2013, its importance cannot be ignored. It helps make informed decision regarding the problems that the displacement will cause. SIA study of proposals leading to displacement of people



through a participatory, informed and transparent process involving all stakeholders, including the affected persons is necessary before the proposal is acted upon. It helps estimate the number of families displaced and affected, if the ameliorative measures will be adequate to effectively mitigate the adverse impact on individual and community assets, infrastructure and restoration of livelihood of affected families and also calculate the compensation to be paid.

### **Advantages:**

The main advantages of doing a systematic SIA include the following:

- Identifying Affected Groups: SIA helps in identifying people and groups who are affected by the project;
- Free and Fair information sharing : SIA should ensure exchange of free and fair information.;
- Avoiding Adverse Impacts: SIA provides the basis for preparing mitigation measures to avoid, reduce or manage adverse impacts;
- Enhancing Positive Impacts: SIA preparation also helps identify measures to maximize/share project benefits;
- Reducing Costs: Addressing social impacts at an early stage helps to avoid costly errors in future.

## **4. Process of SIA study**

### **4.1. Preliminary procedure before SIA study**

To assess the impact of the projects, SIA is to be carried out in all cases of land acquisition with in **six months** of date of commencement. It is to be conducted by an independent third party agency.

**Nabakrushna Choudhury Institute of Developmental Studies (NCDS)** is the State Nodal Agency for conducting SIA Study. NCDS has identified 32 independent agencies to conduct the study in different parts of the State on its behalf.

Before conducting SIA study a notification under sec.4(1) is issued by the appropriate government prescribing the manner in which the study shall be conducted and the date of commencement. Such Government shall ensure that adequate representation has been given to the concerned Panchayat, Municipality or Municipal Corporation as the case may be at village level or ward level, in the affected area to carry out a Social Impact Assessment study in consultation with them. The date may be specified by such Government by notification.

#### **4.2. Preparation of SIA study**

After receipt of proposal from the District collector, the state SIA unit shall prepare a detailed project specific Terms of Reference (TOR) for each proposal listing all the activities that must be carried out indicating the appropriate team size, number of field teams and profile of the team members and stipulate the schedule and key deliverables for the SIA.

It shall also determine an estimated SIA fee based on the TOR with clear break-up of costs for each item or activity. The project proponent shall deposit the estimated SIA fee along with extra amount towards administrative costs with the authority conducting the SIA study. The state government shall issue notification under sec.4(1) on receipt of intimation from the authority conducting SIA study regarding deposit of SIA fee.

The SIA study shall include all the following:

- (a) assessment as to whether the proposed acquisition serves public purpose;
- (b) estimation of affected families and the number of families among them likely to be displaced;
- (c) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;
- (d) whether the extent of land proposed for acquisition is the absolute bare- minimum extent needed for the project;
- (e) whether land acquisition at an alternate place has been considered and found not feasible;
- (f) study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project vis-a-vis the benefits of the project

-While undertaking a Social Impact Assessment study, the appropriate Government shall, amongst other things, take into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport, drainage,

sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds.

Appropriate Govt shall require the authority conducting the SIA to prepare SIMP(Social Impact Management Plan) listing the ameliorative measures required to be undertaken to address adverse impact and such measures shall not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government, in operation in the affected area.

#### **4.3. Mandatory Public Hearing**

Whenever a Social Impact Assessment is required to be prepared, the appropriate Government shall ensure that a public hearing is held at the affected area, after giving adequate publicity about the date, time and venue for the public hearing, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report.(Under Sec 5)

Under sec 6 the appropriate Government shall also ensure that the Social Impact Assessment study report and the Social Impact Management Plan(SIMP) are prepared and made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas.

#### **4.4. Appraisal of SIA**

- SIA Report to be evaluated by an independent multidisciplinary Expert Group consisting of :- (Under Sec. 7)

- (i) Two non-official social scientists

- (ii) Two representatives of local bodies i.e. Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be

- (iii) two experts on rehabilitation

- (iv) A technical expert in the subject relating to project

- The appropriate Government may nominate a person from amongst the members of the Expert Group as the Chairperson of the Group.

- If the Expert Group is of the opinion that,—

- (a) the project does not serve any public purpose; or

- (b) the social costs and adverse social impacts of the project outweigh the potential benefits,

It shall make a recommendation **within two months** from the date of its constitution to the effect that the project shall be abandoned forthwith and no further steps to acquire the land will be initiated in respect of the same. Such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision. If in spite of such recommendations, proceeds with the acquisition, then, it shall ensure that its reasons for doing so are recorded in writing.

#### **4.5. SIA criteria for Expert Committee**

- Critical Assessment of Magnitude of Physical and Economic Displacement. This may include the number of affected households to be physically relocated as well as those rendered landless/with marginal unviable land holdings (marginal with 1 hectare of land holding).
- Critical Evaluation of Social Impact Management Plan and whether the ameliorative measures suggested will be adequate to effectively mitigate the adverse impact on individual and community assets, infrastructure and restoration of livelihood of affected families.
- Critical Assessment of Attitude of the community towards the project and the reasons for opposition, if any - nature of the project/timing/other specific characteristics etc - perceptions of the community about social well-being, neighbourhood cohesion or cultural differences among members of the community etc.
- Physical cost and benefits easy to arrive at the social costs but intangible emotional costs would vary depending on the value judgments/background of the evaluating team.

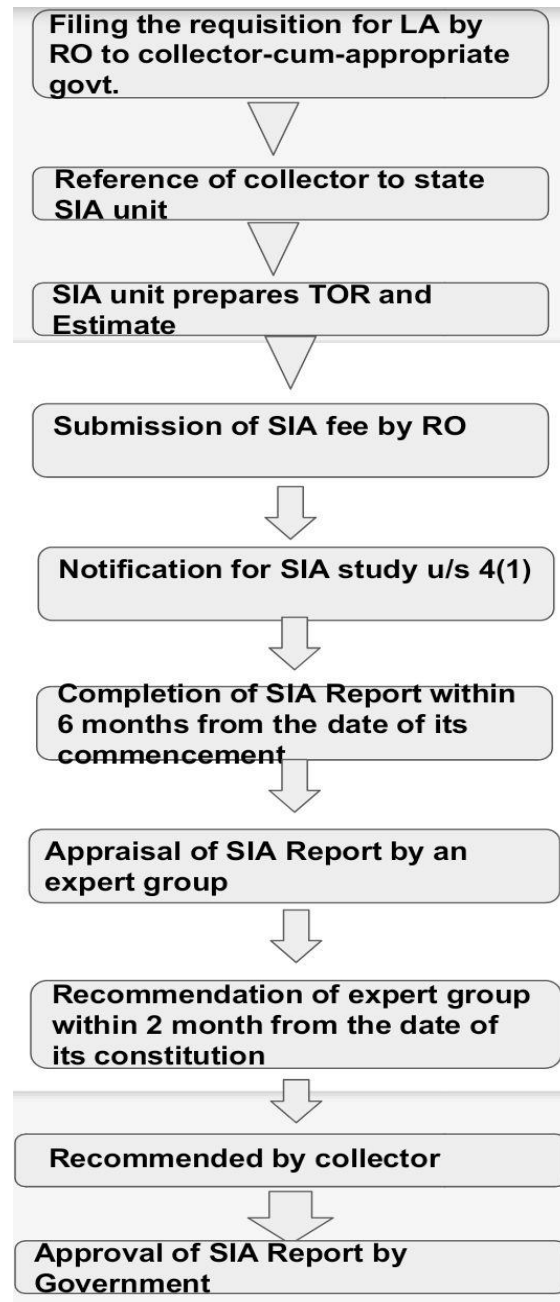
The recommendations of the Expert Group shall also be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas.

#### **4.6. Examination by appropriate Government**

The Social Impact Assessment report along with the proposal for land acquisition is examined by the appropriate government. Apart from ensuring other clauses he shall ensure that the potential benefits and the public purpose shall outweigh the social costs and adverse social impact as determined by the Social Impact Assessment that has been carried out.

He shall also examine the report of the Expert Group on the Social Impact Assessment study and after considering all the reports, make recommendations to the government. The government shall finally decide whether to approve or reject the SIA report.

## 4.7 PROCESS FLOW DIAGRAM OF SIA STUDY



#### 4.8. Exemptions

3.3.1. If land is proposed to be acquired under urgency provision in Sec. 40 SIA study may be exempted by appropriate government. This provision is restricted to:

- (a) acquisition of land for defence of India; or
- (b) national security; or
- (c) for any emergency arising out of natural calamities; or

3.3.2. In respect of irrigation projects where the process of Environment Impact Assessment is required under the provisions of any other law for the time being in force, the provisions of this Act relating to Social Impact Assessment shall not apply.

#### 4.9. Lapse of SIA report

As per Sec. 14, where a preliminary notification under section 11 is not issued within **twelve months** from the date of appraisal of the Social Impact Assessment report submitted by the Expert Group under section 7, then, such report shall be deemed to have lapsed and a fresh Social Impact Assessment shall be required to be undertaken prior to acquisition proceedings under section 11. The appropriate Government, shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same. That decision shall be recorded in writing and the same shall be notified and be uploaded on the website of the appropriate govt.

## 5. Conclusion

After going through the relevance and process of Social Impact Assessment study it is clearly evident that SIA is very important for analyzing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions and any social change processes invoked by those interventions. It forms a very important part of the historic legislation that RFCTLARR Act, 2013 is. The colonial era Land Acquisition Act, 1894 had the land losers and displaced masses at a great disadvantage. Its repeal and subsequent enactment of the new act helped bridge the power imbalance that existed between the state and the public. This people centric and revolutionary legislation brought about greater democracy in the land acquisition procedure and ensured that the people affected by it are adequately compensated for all the sufferings they would endure because of it. The participatory and democratic research process adopted in SIA is an effective instrument bringing forward the views of affected communities on risks, effects and mitigation measures based on a sound socio-economic baseline study and impacting the lives of people by creating a balance.

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