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LAND ACQUISITION IN INDIA:

A REVIEW OF SUPREME COURT CASES 1950-2016

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A REVIEW OF SUPREME COURT CASES

1950-2016

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ABOUT LAND RIGHTS INITIATIVE

The CPR Land Rights Initiative was created in November 2014 as an institutional space for building systematic knowledge on land rights issues. The Initiative currently houses research projects on the *constitutional right to property*, *land acquisition*, and *land rights in the Scheduled Areas*.

The *constitutional right to property* project is reviewing the chequered trajectory of the right to property in the Indian Constitution, from its inclusion as a fundamental right in 1950, through numerous amendments and ultimately its abolition as a fundamental right, and inclusion as a constitutional right in 1978.

The *land acquisition* project seeks to comprehensively review the law of land acquisition in India starting from the Land Acquisition Act, 1894 and up to the drafting and enforcement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This Report is an outcome of research done pursuant to this project.

The *land rights in the Scheduled Areas* project examines why despite the existence of a protective legal and administrative framework in the Fifth and Sixth Schedules of the Constitution, the Scheduled Tribes continue to remain the most vulnerable and impoverished sections of the population. Through archival research and case studies of four states, Gujarat, Andhra Pradesh, Telangana, and Meghalaya, the first three of which are Fifth Schedule states, and the last is a Sixth Schedule state, we analyse the separate constitutional and legal framework governing property rights in the Scheduled Areas, and how the special protections envisaged by this regime are eviscerated by a contrary legal and administrative framework of land acquisition, forest, and mining laws.

The Land Rights Initiative also promotes stakeholder engagement on land rights issues through our conferences and seminars, and the Land Rights Initiative Speaker Series.

ABOUT CENTRE FOR POLICY RESEARCH

The Centre for Policy Research (CPR) has been one of India's leading public policy think tanks since 1973. The Centre is a non-profit, independent institution dedicated to conducting research that contributes to a more robust public discourse about the structures and processes that shape life in India.

CPR's community of distinguished academics and practitioners represents views from many disciplines and across the political spectrum. Senior faculty collaborate with more than 50 young professionals and academics at CPR and with partners around the globe to investigate topics critical to India's future. CPR engages around five broad themes: economic policy; environmental law and governance; international relations and security; law, regulation and the state; and urbanisation.

FOREWORD

This innovative and important study contributes to a deeper understanding of several important questions. It is a contribution to an understanding of how disputes over land are actually adjudicated in the Supreme Court. What issues are being litigated? What issues are at stake? Are there any discernible patterns in the nature of litigation? By asking these questions, this Report helps build an empirically grounded and nuanced understanding of the operational laws related to land acquisition in India. The Report is also an important contribution to an understanding of courts and the rule of law. Most of the debates in this area focus on statutes, doctrines or individual judgments. This study takes a statistical look at what Courts actually do. In doing so it allows us to understand the evolution of law more deeply. Finally, although this is not the main aim of the study, the analysis of land judgments also provides a lot of insight into the relationship between law and society more generally. Which states produce more litigation in the area of land? Why do court orders often not translate into reform of administrative practices? In reading this report you will encounter many new questions.

A foreword that gave the punchline of the argument away would be like a blurb in a detective novel that told you who the culprit was. Therefore, the purpose of the foreword is not to pre-empt a reading of this Report. But I will say this. The study uses a comprehensive data base of cases adjudicated in the Supreme Court to shed light on land laws. The virtue of this study is its methodological honesty. It does not claim more than what the data will allow us to conclude. It has supplemented statistical analysis with a deep reading of the judgments and triangulated it with other forms of qualitative evidence. At one level, the study is modest. It does not claim to be comprehensive in its treatment of issues related to land disputes. Nor does it claim to have the magic key that can unlock all the mysteries of land adjudication in India. But its power resides in its modesty. By carefully sifting through a comprehensive data base of cases, the study opens up a whole series of new questions relating to land adjudication in India. It powerfully questions many entrenched assumptions about land litigation. It redirects our attention to issues and institutional practices that genuinely need to be examined. And most importantly, it sets a rich research agenda for the future.

The Centre for Policy Research is deeply grateful to Namita Wahi and her team comprising of Ankit Bhatia, Pallav Shukla, Dhruva Gandhi, Shubham Jain, and Upasana Chauhan for such scrupulous work. We would also like to thank the Asia Foundation and the Norwegian Research Council for grants that made this study possible.

DR PRATAP BHANU MEHTA
President, Centre for Policy Research

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This Report is the outcome of a deep commitment on part of the Land Rights Initiative research team to create systematic knowledge on land issues in India with a view to meaningfully evaluating legal and policy initiatives that can mitigate land conflict. Our first words of gratitude go to Pratap Bhanu Mehta, President, and Partha Mukhopadhyay, Senior Fellow, CPR, and Siri Gloppen, Professor of Comparative Politics, University of Bergen, for believing in the project and helping conceptualise and execute it over the past two years.

Many serendipitous encounters and stimulating conversations provided the intellectual and material conditions to make this study possible. The research team grew organically over a period of two years. I am deeply grateful to Pallav Shukla, Ankit Bhatia, Shubham Jain, Dhruva Gandhi and Upasana Chauhan for tremendous individual contributions and outstanding team work throughout the past two years inspite of being in five different locations during the course of the research study. A chance meeting with Mandakini Devasher Surie, Sasiwan Chingchit and Patrick Barron from the Asia Foundation eventually led to the Foundation funding the first phase of this research. An existing collaboration with the Centre for Law and Social Transformation, Bergen funded by the Norwegian Research Council, made the second phase of this study possible. Workshops held at the Centre in Bergen (2015 and 2016), and at Harvard University (2015), provided valuable feedback and enabled stimulating conversations with Tom Keck, Professor of Political Science, Syracuse University, and Nick Robinson, Visiting Lecturer in Law, Yale Law School, who provided crucial inputs for designing the research questionnaires. From 2015 to 2017, this study became a rite of passage for researchers at the Land Rights Initiative. Former research associate Spandana Battula and research interns, Achinthya Sivalingam, Apoorva Ramaswamy, Mihika Poddar, Shreya Ramann, and Sarangan Rajeshkumar provided valuable research assistance for the study.

Seminars at the Centre for Policy Research (2016, 2017), India International Centre (2016), and the World Bank (2017), and conferences at the University of Michigan School of Natural Resources and Environment (2016), Indian Institute for Advanced Study, Simla (2016), and the National Institute for Rural Development, Hyderabad (2017), provided invaluable feedback that helped us refine our data. Critical inputs from the CPR community, especially Kiran Bhatty, Neelanjan Sircar, Arkaja Singh, Kanchi Kohli, Shibani Ghosh, Ambrish Dongre, Manish, Shamindra Nath Roy, Aditya Bhol & Bhanu Joshi helped us greatly in depicting and interpreting our data. The communications team at CPR, including Bipin Nayak, Madhura Dasgupta, Richa Bansal and Dhruv Arora, helped design and layout the report. Samita Chatterjee powerfully illustrated the cover to capture the central theme of the report: serious challenges involved in acquiring land for infrastructure and industrial development in accordance with the rule of law, symbolised by the Supreme Court, architecturally designed by Ganesh Bhikaji Deolalikar in 1950 to represent the scales of justice.

Crucial conversations with Usha Ramanathan, senior law researcher, Nandini Sundar, Professor of Sociology, Delhi School of Economics, Mridula Singh and Abha Joshi at the World Bank, Sagar Rabari, Convenor, Jameen Adhikaar Andolan Gujarat, helped us understand stakeholder perspectives, and opened up new areas of research. Finally, conversations with K P Krishnan, Secretary, Ministry of Skill Development and Entrepreneurship, Deepak Sanan, former Additional Chief Secretary, Government of Himachal Pradesh, and Hukum Singh Meena, Joint Secretary, Department of Land Resources, were indispensable for appreciating the working of the most complex stakeholder in the process of land acquisition, the Government of India.

Namita Wahi

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1. INTRODUCTION

India faces serious challenges in creating development processes that generate economic growth while being socially inclusive, ecologically sustainable, politically feasible, and in accordance with the Rule of Law. Efficient and equitable acquisition of land by the state for development projects, including infrastructure and industry, lies at the heart of these challenges.

The state's power of "eminent domain", inherent in the exercise of its sovereignty allows the state to compulsorily acquire property belonging to private persons for a public purpose and upon payment of *just compensation*, following *procedure* established by law. The twin requirements of *public purpose* and just compensation are based on the rationale that no individual should have to disproportionately bear the burden of supporting the 'public good', which the government, as the representative of the people, legitimately executes. Lawfully established acquisition *procedures* minimise the potential for arbitrary action by individual government officials in compulsory acquisitions of property, including land. Such procedures give land losers a fair hearing as to why their land should not be acquired and whether the compensation assessed for their lands is adequate.[1]

State acquisition of land in India has historically been the subject of considerable contestation. Land is not only an important economic resource and source of livelihoods, it is also central to community identity, history and culture. Unsurprisingly then, throughout India, dispute over land acquisition spans various dimensions of economic, social, and political life. Existing scholarship has examined particular conflicts involving major dams,[2] special economic zones,[3] housing complexes,[4] and industrial projects.[5] But historically systematic and geographically representative data on conflicts over land acquisition has been conspicuous by its absence. This report is an attempt to fill this gap by showcasing findings from a comprehensive and systematic study of Supreme Court cases on land acquisition from 1950-2016.

2. THE CHEQUERED LEGAL TRAJECTORY OF LAND ACQUISITION IN INDIA

Both the colonial and post-colonial Indian state have responded to the political and legal contestation over land acquisition through a series of legislation. Starting with the Bengal Regulation I of 1824 and culminating in the Land Acquisition Act, 1894 (hereinafter the **"Land Acquisition Act"**),[6] the British colonial state adopted and experimented with a variety of procedures for state acquisition of land. The Land Acquisition Act, originally enacted for the territory of British India was, following independence, extended to cover the entire territory of India except for the state of Jammu and Kashmir.[7] The princely states had their own land acquisition laws.[8]

In 1950, when India became a republic by adopting the longest written Constitution in the world, Article 13(2) grandfathered the application of colonial laws, including the Land Acquisition Act, so long as they were not in conflict with the fundamental rights of the people.[9] Consequently, the colonial Land Acquisition Act remained in force for a period of almost 120 years, although it was amended many times during this period.[10]

Article 31 of the Constitution enshrined the requirements of public purpose, procedure, and compensation that condition the exercise of the state's eminent domain power into constitutional protections. However, Article 31 too proved to be fertile ground for political and legal contestation, and suffered numerous amendments,[11] before its abolition as a fundamental right by the Constitution (Forty Fourth Amendment) Act, 1978. The same amendment however, inserted Article 300A in the Constitution. Article 300A provided that no person shall be deprived of his or her property without the authority of a valid law, thereby deleting the requirements of public purpose and compensation from the text of the Constitution.[12] The Supreme Court however, has reinstated these requirements through judicial interpretation.[13]

The Constitution created a federal political structure with a unitary bias. The Seventh Schedule to the Constitution distributed legislative powers between the union and the states, while outlining the "concurrent" jurisdiction of both the union and the states in certain cases.[14] "Land" is a "state" subject, that is, it falls within the legislative domain of states within India's federal system.[15] As a result, there exist widely differentiated legal regimes governing land rights of various categories of individuals and groups across states. However, the "acquisition and requisitioning of property" is a subject in the Concurrent List.[16]

Over the last sixty seven years, as the independent Indian government (both at the centre and the states) pursued a strategy of economic development and social redistribution, more than a hundred land acquisition laws were enacted

to achieve these goals. A majority of these laws were enacted in the first decade post-independence and dealt with particular issues like *zamindari* abolition and agrarian reform, town planning, slum clearance and development, and resettlement of refugees.[17] Most of these laws are still in force today. Apart from laws that dealt directly with land acquisition, several other colonial and post-colonial central and state laws contain provisions for acquisition of land.[18] Post-independence, both the Union and the states made several amendments to the Land Acquisition Act, with the last major amendment in 1984. Yet there exists no systematic study that engages all central and state laws and amendments to the Land Acquisition Act.

Following the 1991 economic reforms involving liberalisation of foreign investment laws, and the inflow of foreign capital, there has been a surge in land acquisition by the state.[19] In 1999, a Disinvestment Ministry was created and specifically charged with the privatisation of state owned industries. Finally, with the enactment of the Special Economic Zones Act, 2005, the acquisition of land by the government for private industry, which had happened in an ad hoc manner in previous decades, became official government policy. Since the late 1990s, massive public outrage and civil society movements over the increasing visibility and severity of the land conflicts translated into legislative efforts, first in 2007, for comprehensive amendment of the Land Acquisition Act,[20] followed by attempts since 2011 to repeal and replace this Act by what eventually became the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[21] (hereinafter the "**LARR Act**"). The reasons for amending the Land Acquisition Act included lack of standing for the people displaced, lack of people's participation in the government decision to take over their land, inadequate compensation and insufficient coverage of those affected by the acquisition, procedural delays and inequities, and governmental non-use of the land acquired. As described later in this report, the LARR Act sought to redress to a greater or lesser extent, all of these problems.

However, within a year of its coming into force, there was an attempt to amend the LARR Act by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014[22] (hereinafter the "**LARR Ordinance**"). The Ordinance was the central government's response to the vehement critique of the LARR Act by state governments[23] and industry,[24] that the Act would stall all land acquisition by making the cost of acquisition prohibitive and the procedures cumbersome beyond measure.[25] Seeking to address these concerns, the LARR Ordinance substantially altered the provisions of the LARR Act by exempting five categories of projects from the consent and social impact assessment provisions of the LARR Act. These categories consisted of defence, rural infrastructure, affordable housing, industrial corridors, and infrastructure projects including Public Private Partnership (PPP).[26]

The Ordinance was re-promulgated on April 3, 2015. Ten days later, the LARR Ordinance, was challenged before the Supreme Court as constituting an "abuse of power" on part of the government.[27] Given extensive opposition to this Ordinance in Parliament, no law was passed to replace the Ordinance in two successive sessions of Parliament. The LARR Ordinance was promulgated a third time on May 30, 2015. A bill to replace the ordinance was referred to a joint parliamentary committee ("The LARR Amendment Bill,2015") comprised of legislators across party lines in June, 2015. On August 28, 2015, at the close of the monsoon session of Parliament, the Ordinance lapsed.[28] Following this lapse, in September 2015, the Supreme Court dismissed the challenge to the LARR Ordinance as infructuous.[29]

On December 14, 2016, the joint Parliamentary Committee was given an eighth extension to submit its report.[30] It appears unlikely that the committee will submit its report.[31] The government's inability to garner parliamentary support to pass the LARR Amendment Bill, 2015, into law, is a testament to the intense and continued political contestation regarding this subject.

In September, 2015, the Vice Chairman of the *Niti Aayog*, a new body set up by the government to advise it on policy matters advocated that in the absence of parliamentary consensus, state governments should go ahead with state amendments to the 2013 law.[32] He referred to the example of the state of Tamil Nadu, which amended the law in January 2015, and exhorted other states to do so. Gujarat and Rajasthan passed amendments to the law in 2016.[33] Other states considering such amendments include Karnataka and Maharashtra.[34] In 2015, the newly created state of Telangana passed several executive orders which complied with the compensation provisions under the LARR Act but deviated from its rehabilitation provisions for construction of some irrigation projects in the state. In January 2017, the High Court for Telangana and Andhra Pradesh invalidated these executive orders for such deviation.[35] Meanwhile, a recent study done by the Rights and Resources Institute confirmed growing land conflict. According to the study,

there are 289 ongoing land conflicts in India in 2016, 163 of which directly involve land acquisition.[36] The study notes that this number only reflects one fourth to one third of actual conflicts in India.

While intense political and legal contestation over land acquisition continues, systematic data to understand the challenges implicated in the process of land acquisition continues to elude us. This report presents findings from a comprehensive and systematic study of Supreme Court cases on land acquisition from 1950-2016,[37] with a view to evaluate the working of the Land Acquisition Act, and the reforms introduced by the LARR Act.

3. METHODOLOGY

This report is based on a quantitative and qualitative analysis of all legal disputes over land acquisition litigated before the Supreme Court of India, one of two constitutional courts in India and the highest court of appeal, over the period 1950-2016. Since the Supreme Court hears cases from all High Courts in the country, this database is representative and comprehensive both in terms of geographical scope and the nature of the legal issues being litigated.

The creation of such a systematic database required both primary and secondary data collection. Primary data sources included Supreme Court cases and interviews with experts and stakeholders. Secondary data sources included reviews of newspaper and journal articles, reports and books on land acquisition.

3.1. Review of existing secondary literature on land acquisition

Much has been written about the Land Acquisition Act, since its inception.[38] Much has also been written about the pros and cons of the changes introduced by the LARR Act.[39] The importance of this study is evident from the historically fraught nature of the debate on land acquisition, and the chequered trajectory of legal reform in this area, which together show that this issue has not been resolved and will not be resolved in the near future. Existing studies have been instructive but limited by time and/or geography, or the issue investigated. Below we note four aggregate studies that interrogated the potential social, economic and political impacts of the provisions of the LARR Act, in light of the functioning of the Land Acquisition Act. All four studies were conducted prior to or contemporaneously with the enactment of the LARR Act in 2013.

The *first* study involved a mapping of all land acquisition related conflicts in 2013 and 2014 by the Rights and Resources Institute. The study noted that a quarter of all of India's districts have ongoing political and legal conflicts over land, and that conflict is growing. It also showed that the largest conflict was over land acquisitions for coal mining and irrigation.[40] This study was important insofar as it highlighted the magnitude of conflict over land, but it did not shed any light on how such conflict might be pre-empted. More recent data from the same Institute indicates that there are currently at least 163 conflicts over state acquisition of land.[41] These recent findings based on media reports and key informant interviews do not indicate the nature of these conflicts, whether legal or extra-legal or both, the findings are also limited to a nine month period in 2016.

The *second* study by Ram Singh, an economist, involved a review of all Punjab and Haryana High Court (305) and Delhi district court judgments (525) on land acquisition over a three year period from 2008-2010.[42] Based on his review, Ram Singh concluded that compulsory acquisition of land by the government was "inherently prone to litigation over compensation, which was both inefficient and socially regressive in its effects".[43] The study concluded that in 86% of the cases, the compensation awards by the district court were greater than the compensation awards by the government. In 63% of the cases before the Punjab and Haryana High Court also, the claimants received a higher compensation. The study also cited a few illustrative examples of cases to claim that the compensation issue was ubiquitous across the country. The study noted problems in calculating the true market value of the acquired land, and suggested that voluntary market transactions in land might reduce the intensity of litigation on this issue.[44] This study was highly instructive on the issue of compensation but was limited both in terms of the time period studied (3 years), and its geographical scope (Delhi, Punjab and Haryana).

The *third* unpublished study by TV Somanathan,[45] a former bureaucrat in the Prime Minister's office, examined land costs and compensation awards in Chennai, in the context of land acquisition for the Chennai metro rail project. Somanathan concluded that land formed a significant component of the project cost (11% without accounting for government owned land and 20% if one included this valuation), and that courts in Chennai were likely to award four times the compensation typically awarded by the government. This conclusion was based on a study of collectors' awards in Chennai over the period 1975-2003. In other pieces, co-authored with Devesh Kapur, a political scientist and Arvind Subramaniam, currently the Chief

Economic Advisor, Somanathan highlighted the scarcity of land as a key impediment to development, and stressed that land related issues need to move to the forefront of India's policy agenda.[46] While Somanathan's study covered a much longer time period (28 years), it was again limited in its geographical scope (Chennai), and the level of court under review (civil court).

The *fourth* study by Sanjoy Chakravorty, a geographer and urban studies specialist, evaluated land markets in India, and described how the compensation provisions under the LARR Act, would affect land markets under this law and make them too expensive.[47] Briefly, Chakravorty argued that over the last decade, India has entered a permanent regime of high land prices. This has been driven by an increasing supply of money, high income inequalities, and scarcity of land. Chakravorty's analysis was based on land prices reported in newspapers over the period 2010 and 2011, which indicated that Indian urban land prices ranged from Rs.1.4 to Rs.253 crore per acre. Analysing Residential Price Index data based on home mortgage figures of banks from 15 cities during the period 2007-2010, Chakravorty concluded that the price of urban land has increased fivefold from 2001 to 2011. Based on news reports and studies of rural land prices, he concluded that rural land prices have increased by 5 to 10 times during the same period of time. In light of this, he concluded that the proposed compensation formula in the LARR Act was unsustainable.

Though limited to post 2007 data, this study was also instructive. However, the data that Chakravorty presented in his book did not bear out his conclusion about the unsustainability of the compensation provisions of the LARR Act in entirety. For instance, the data on reported land prices is no indicator that such prices are actually paid by the government for land acquisition. In fact, due to evasion of registration fees, most lands are undervalued before the government, and therefore, more often than not, the government would pay less than the market value of the land on a willing buyer, willing seller basis, as reported in the newspapers. Moreover, as our research shows, the government has typically used circle rates to calculate compensation under the Land Acquisition Act, which do not reflect the market value. Contrary to Chakravorty, and criticism by both government and industry, both Ram Singh and Somanathan concluded that the compensation provisions in the LARR Act were not only sustainable but realistic.

However, all three studies by Chakravorty, Ram Singh and Somanathan were limited to an examination of only one issue, namely compensation, and therefore underlined the need for a holistic and systematic study of disputes relating to all aspects of land acquisition, not limited in terms of geography and time. This Report based on a study of all Supreme Court cases on land acquisition for the period 1950-2016 attempts to fill this gap. Since the Supreme Court hears cases from all High Courts in the country, this database is comprehensive and representative both in terms of geographical scope and the nature of the legal issues being litigated.

3.2. Research Design

3.2.1. Search and accumulation of all relevant Supreme Court cases on land acquisition

At the outset, we created a primary dataset of all relevant Supreme Court cases involving land acquisition disputes. This in turn involved two steps. The first step was to choose online archives from which we could extract the relevant cases. The most comprehensive, most used, most easily accessible, online legal archives of Supreme Court cases are SCC Online and *Manupatra*. We used *Manupatra* as the primary archive and SCC online as the secondary archive to verify the cases collected on *Manupatra*. The second step was to devise search terms that would enable us to create a comprehensive dataset of all relevant cases for the study. We searched for all cases where "land acquisition" was mentioned anywhere in the judgment, in the process collecting a total of 2520 cases on *Manupatra*. We then cross checked the *Manupatra* cases with the ones we collected from SCC Online. In this process, we found an additional 546 cases on SCC Online. So, the total number of cases in the primary dataset was 3066.

3.2.2. Preparation of a preliminary questionnaire for review of all the cases

We then devised a preliminary questionnaire along the following three lines of inquiry. First, we inquired into the procedural and jurisdictional aspects of the litigation, then we examined the substantive legal issues in contest, and finally, we attempted to get a sense of the distribution of litigation across geography, time and applicable statutes.

3.2.3. Finalising the questionnaire

We then finalised the questionnaire based on interviews with stakeholders and a sample review of the cases. Both at the outset of the project, and throughout its duration, we had discussions with academics who had worked with

large datasets, and interviews with various stakeholders, including government officials, researchers, industry and civil society groups.[48] We followed an empirical approach with limited coded responses (yes or no), or (specific responses to specific questions), but supplemented these coded entries with subjective details and nuances of each case.

3.2.4. Systematic review of the cases

The final step was to conduct a systematic review of all the 3066 cases and to create a final dataset of only land acquisition cases. The systematic review was conducted in several stages involving multiple questionnaires. Throughout the exercise, quality checks of the data were routinely conducted to ensure accuracy given multiple respondents. Of the 3066 cases, only 1269 cases made it to the final dataset of land acquisition cases. The remaining 1797 cases were excluded for the following reasons:

- they were irrelevant to the inquiry because they didn't involve any challenge to the state's power to acquire property in land but had nevertheless been picked up in our original data searches;
- they were land reform cases, which involved large-scale programmes of social reform as opposed to piecemeal acquisitions of land for individual projects;
- they related to the deprivation of property rights not related to land, especially with respect to nationalisation of industries.

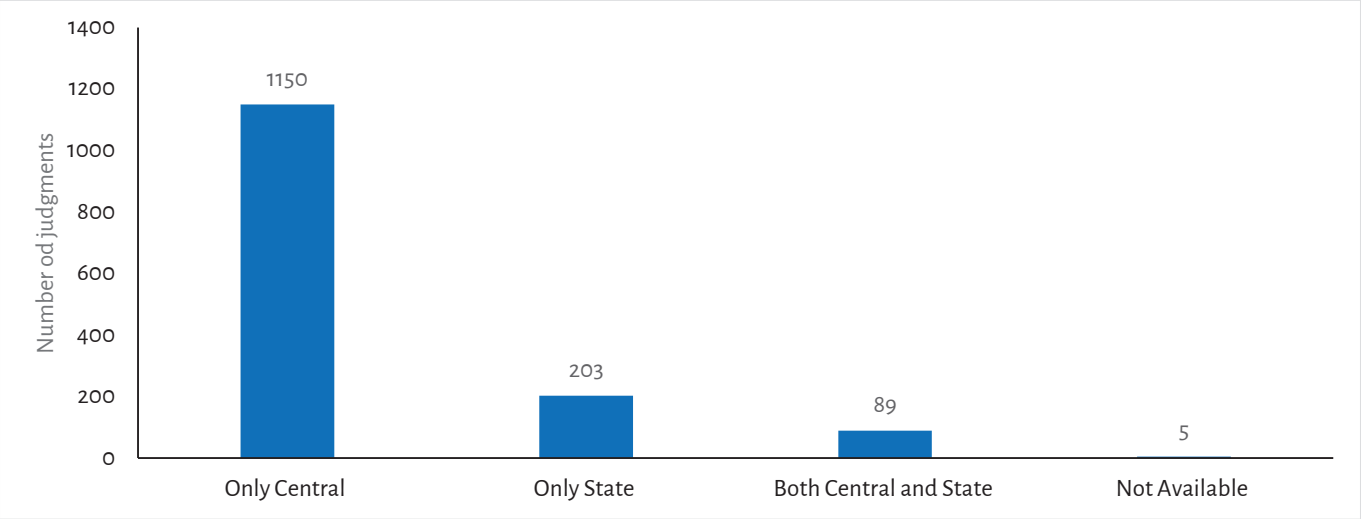
The final dataset of 1269 cases involved acquisitions, wherein litigation before the Supreme Court was concluded and final judgment rendered under the Land Acquisition Act and other acquisition statutes before December 31, 2015. We also have a second smaller dataset of 280 cases that were decided under the LARR Act, 2013, for the period January 2014 to December 2016.

4. UNDERSTANDING LAND ACQUISITION DISPUTES IN INDIA: FROM THE LAND ACQUISITION ACT TO THE LARR ACT

In our dataset of 1269 cases involving litigation under the Land Acquisition Act, we found challenges to acquisitions made under 15 central and 87 state statutes (see Figure 1). Nevertheless, a little over 87% of the cases involved litigation under the Land Acquisition Act (see Figure 2). Thus, it is clear that the bulk of the disputed acquisitions before the Supreme Court since 1950 were made under the 1894 Act. But a relative comparison of the provisions of the Land Acquisition Act vis-à-vis other statutes reveals that the provisions and procedures under the 1894 Act tend to be more favourable to litigants than those under other laws.[49] So, it is not the particularly draconian nature of the Land Acquisition Act that is responsible for extensive land acquisition disputes under that law as compared to other laws. Instead, we can reasonably infer from the high percentage of litigation under the Land Acquisition Act, that despite the plethora of central and state land acquisition laws, perhaps the vast majority of all acquisitions are being done under the Land Acquisition Act, 1894. This raises a question about whether the government does in fact need so many laws of land acquisition in the first place, but a considered response to this question is beyond the scope of this study.

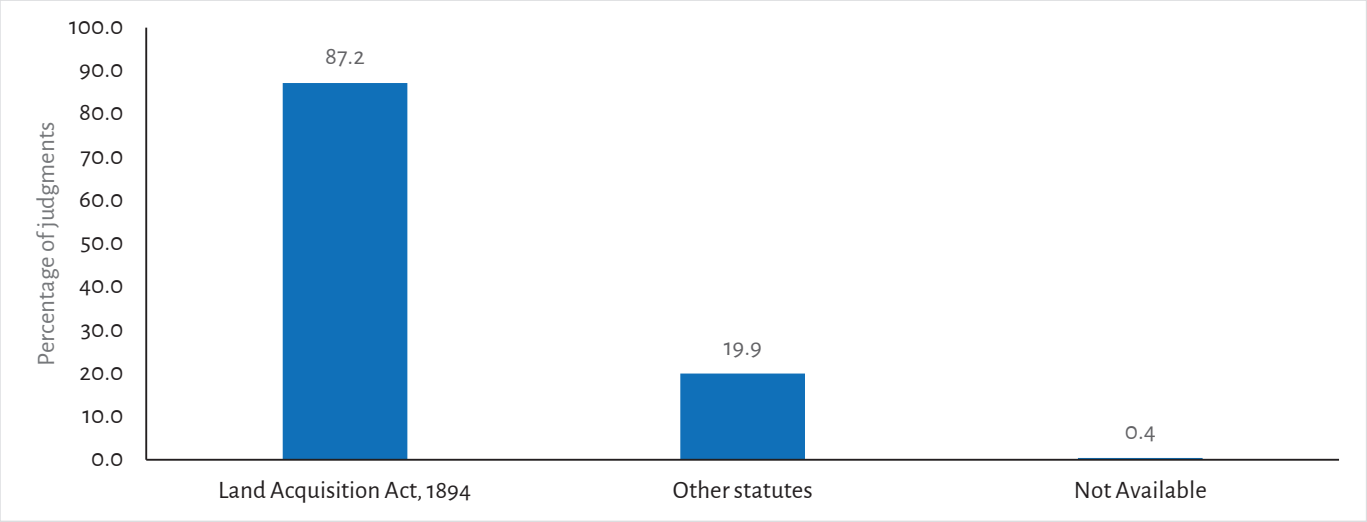
As the main actor in the land acquisition story however, a brief overview of the scheme of the Land Acquisition

Figure 1: Central and state statute wise distribution of judgments



Note : There is an overlap across entries and thus the aggregate is higher than 1269.

Figure 2: Incidence of Land Acquisition Act in total Supreme Court litigation



Note : There is an overlap across entries and thus the aggregate is higher than 100%.

Act, and the conventional narrative about its defects that prompted its repeal may be useful at this stage.

4.1. An overview of the legal framework of the Land Acquisition Act

The Land Acquisition Act outlined the *purposes* for which the government may acquire land belonging to private individuals, the *procedure* that must be followed for such acquisition, and computation of *compensation* for such acquisition.

Procedure

The *procedure* for acquisition consisted of the following six steps. *First*, the government notifies that land is needed or likely to be needed for a public purpose.[50] *Second*, the Government directs the Collector, as its representative, to hold an inquiry into the objections, which may be raised by "persons interested" in the land notified.[51] "Persons interested" encompass all persons who can claim an interest in compensation for acquisition of land under the Act based on the applicable legal framework, including persons interested in an easement affecting the land.[52] *Third*, once the enquiry is completed and all objections are heard, the government issues a final declaration that the land is being acquired for a public purpose.[53] *Fourth*, the Collector then proceeds with the acquisition, including marking and measuring the land to be acquired,[54] and also notifying all persons interested to appear before him and to stake their claims for compensation of land proposed to be acquired.[55] *Fifth*, the Collector holds an enquiry where he hears objections about the valuation of the land and passes a final award of compensation and its apportionment between the claimants.[56] The right of the owner of the land is extinguished when Government takes possession of the land after an award of compensation is made. Once possession of the land has been taken, the land vests in the government free of all claims on the land.[57] *Sixth*, the Collector is mandated to pay compensation to the land losers immediately after the land is acquired, except when the land losers refuse to accept the compensation, or title to the land is disputed.[58] The Collector could however with the sanction of the appropriate government provide land for land, or set off the compensation payable against remission of land revenue with respect to other lands belonging to the land losers.[59]

Urgency Exception

The exception to these linear and straightforward procedures of acquisition came in the form of the *urgency* clause. In situations of *urgency* as declared by the central or state government, the Collector could take possession of the land before making the award of compensation.[60] There was no definition of "urgency" under the Act leaving the determination of the same to the subjective discretion of the appropriate government. In urgent cases, the Collector could also issue the declaration of acquisition without hearing any objections from persons interested in the Act,[61] thereby completely excluding the due process requirements of public participation in the acquisition processes that were embedded in the law. However, when the Collector took possession of the land without paying compensation, the Collector was mandated to pay interest at the rate of 9% per annum from the time of taking possession of the land till the time such compensation was paid.[62]

Public Purpose

The Act defined *public purpose* to include the provision and planned development of village sites, provision of land for a state owned or controlled corporation, residential development for the poor and landless, people displaced by calamities, educational, housing, health or slum clearance schemes and premises for public offices.[63] The Act also provided that land may be acquired for the use of companies for the above purposes, or if the work is 'likely to prove useful to the public.'[64] The legislative history of the Land Acquisition Act indicates that the law was not intended for the "acquisition of land for all companies". Acquisition of land for companies was legitimate only if the public could directly use the works carried out by the company. This was specified so that the government could not use the Act in furtherance of "private speculations".[65]

Compensation

The Act prescribed that compensation for land acquisitions must be computed at the market value of the land acquired. The legislative history of the Act indicates that the Select Committee contemplated including a definition of market value in the Act but eventually decided against it since the High Courts had been interpreting it to mean the price between a "willing buyer and willing seller" without difficulty.[66] In addition, the Act mandated compensation to land losers for any damage sustained by the 'person interested' as a result of the acquisition, for instance due to the severing of land from other land, the drop in profits or earnings of the person, and reasonable expenses for relocation if that became necessary as a result of the acquisition.[67] The Act further provided that a *solatium* or 'solace' amount should be paid to the land loser in addition to the market value of the land in light of the compulsory nature of the acquisition.[68] Prior to 1984, this amount was 15%, post amendment in 1984; this amount was increased to 30%. Finally, the value of any property such as buildings, irrigation works, trees, etc. was also mandated to be paid to the land losers.[69] The Act however, expressly proscribed the intended use of the land from being taken into account for computing market value.[70] That is, if agricultural land was acquired for commercial use, compensation would be paid based on the prevailing market price for agricultural land and not its commercial use. All disputes regarding these processes were to be settled in civil courts.[71]

In an unusual provision introduced by the 1984 amendment to the Land Acquisition Act, which highly incentivised the land loser to litigate, where a dispute was referred to the civil court, the Act mandated the Court in every case, whether or not the court increased the compensation awarded by the Collector, to award in addition to the market value, an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing from the date of publication of the original notification to the time the Collector took possession of the land or paid compensation, whichever was earlier.[72] Moreover, if the Court increased the compensation amount from that awarded by the Collector, then it could in its discretion direct the Collector to pay interest at the rate of nine per cent from the time that possession was taken and the time that the excess compensation was paid in court, provided that this period did not exceed one year. In case this period exceeded one year, for every subsequent year, the court could award additional interest at the rate of fifteen per cent per annum on the excess compensation awarded by it.[73] If the collector failed to pay the land losers compensation for their land prior to taking possession of the land, the Collector was mandated to pay an additional interest of nine per cent per annum for the time period between the date of taking possession of the land and the actual payment of the compensation.[74]

From the above review, it is clear that incentives to litigate the compensation awarded by the collector were embedded within the text of the law. But what also emerges is that the law itself recognised that the compensation awarded by the collector did not represent a just compensation, and sought to remedy this through the courts. In other words, instead of the civil court exercising an exceptional oversight role in case the land acquisition process undertaken by the executive did not justly compensate the land losers, the Act envisioned the civil court as routinely intervening to secure just compensation to the land losers.

4.2 . The conventional narrative about the Land Acquisition Act: the need for reform[75]

The working of the Land Acquisition Act had revealed five major problems that led to tremendous and widespread public discontent.[76] *First*, the Act only recognised the rights and interests of land titleholders or those who could claim an easement interest in the land. In doing so, it failed to take into account the interests of those who while not holding title to the land were nevertheless, dependent on it for their livelihood. Interestingly, in 1958, the Bihar government had raised this issue before the Law Commission during the commission's review of the Land Acquisition Act with respect to labourers and others who lost their livelihoods because of the construction of the Mayurkashi Reservoir in the state. The commission did not make any recommendations on this issue but noted that this was an 'important question of policy' that deserved

careful consideration inasmuch as the loss suffered by the person was a 'direct result of the acquisition of land.'[77]
Second, the Act contained only an inclusive definition of 'public purpose' and the Supreme Court consistently deferred to legislative determination of what constituted a public purpose. In successive cases, the Supreme Court held that the expression 'public purpose' was 'elastic and could only be developed through a process of judicial inclusion and exclusion in keeping with the changes in time, the state of society and its needs.'[78] The court rejected the notion that 'public purpose' meant 'public use'. Instead, all that the government needed to show was that the acquisition benefitted the "public or a section of the public in some way." Therefore, acquisitions benefiting particular individuals or entities could satisfy the requirement of public purpose so long as they were in furtherance of a scheme of public benefit or utility.[79]

However, with respect to land acquisitions for companies, at the outset, the Supreme Court laid down a different test. In 1959, the Supreme Court held that work executed by the company must be "directly useful" to the public, like a school or a hospital. It was insufficient that the "product of the work" was directly useful to the public.[80] Moreover, the court would scrutinise whether the government's declaration of 'public purpose' when acquiring land on behalf of companies met this test.[81] This was a strict scrutiny test that was criticised by the government as 'judicial usurpation' of executive functions. In 1962, however, the Supreme Court made a U-turn and held the government's declaration of "public purpose" when acquiring land on behalf of companies was "conclusive evidence" of such a purpose, and that the court would not intervene unless there was a fraud or colourable exercise of power by the government.[82] The court also held that a nominal contribution by the government towards the expenses of acquisition on behalf of a company would make it a "public purpose" acquisition. This permissive interpretation allowed the government to bypass the stricter procedure for land acquisition on behalf of companies outlined in Part VII of the Act and avail of the easier procedure outlined in Part II of the Act, merely by "declaring" such an acquisition to be for a "public purpose", and making a token contribution to the expense of acquisition.[83]

The *third* problem arose because of the legal requirement that those deprived of their land rights must be paid a fair equivalent of the value of the land as compensation. While the right to property remained a fundamental right, the Supreme Court took the compensation requirement seriously, insisting in its early decisions that the compensation payable in case of compulsory acquisitions be the market equivalent of the value of the land.[84] However, through a series of constitutional amendments, Parliament substantially ousted judicial review of the quantum of compensation payable in individual cases and ultimately post 1978 deleted this requirement from the text of the Constitution. This resulted in a culture of payment of less than the market value for compensation, facilitated by inaccurate land records, rampant undervaluation of sale deeds and absence of land markets in many rural areas.[85]

The *fourth* problem arose from the lack of people's consent and participation in the deprivation of their lands, and the absence of any requirement on part of the government to assess the often devastating social impact of land acquisition projects. Moreover, the protracted procedural delays and the misuse of the urgency clause in the implementation of acquisition proceedings demonstrated lack of government accountability in conducting acquisitions according to the rule of law.[86]

A *fifth* problem arose because, as noted in the Tenth Law Commission Report, there existed wide variation in the provisions for acquisition in various state laws, including on the definition of public purpose, the relevant date for determination of the market value of the land, the principles for determining compensation, and the appointment of tribunals to determine compensation payable and adjudicate disputes.[87] This created a situation whereby the central and state governments could apply differential principles of compensation for acquisition of land situated in the same state according to the object of acquisition and their subjective discretion, thereby creating manifest injustice.

From the above review, evidently, there existed a serious imbalance of power between the state and individuals with respect to the process of land acquisition under the Land Acquisition Act. This imbalance existed at two levels, *first* at the level of legislation as embedded in the text of the law and *second*, at the level of executive implementation of the law. The disempowerment of livelihood losers, sanctioning the bypassing of due process procedures even for titleholders by the invocation of the urgency clause, and the discretion to pick and choose different procedures with differential safeguards, together tilted the balance hugely in favour of the state and against the individual land losers. Add to that, executive non-compliance with stipulated due process requirements of public hearing and calculation

of compensation, and we ended up with a law in action that was not merely imbalanced against the land losers but truly draconian. Legal reform introduced through the amendments made in 1962 and 1984 alleviated some of the hardship but the scales remained heavily tilted in favour of the state.

4.3 . The LARR Act, 2013: Redressing the Imbalance, attempting a just Law

The LARR Act made the following changes to the contentious provisions of the Land Acquisition Act.

First, by defining "persons interested" as those having an interest in the land, including tenancy and easement rights, as opposed to actual title, and "affected family" as those dependent on the land for their primary source of livelihood, the law broadened the group of people to be compensated from title holders to livelihood losers.[88]

Second, the LARR Act included a detailed listing of purposes that would constitute "public purpose"[89] ostensibly to curb government discretion in pursuing acquisition for illegitimate public purposes.

Third, the LARR Act introduced provisions for consent of persons interested in the land before land acquisition may be done, 70% for acquisitions made directly by the government, and 80% for public private partnerships.[90] The LARR Act contains detailed provisions for social impact assessment of projects before land is acquired, which seeks to ensure greater public participation in acquisition proceedings. The law also provides for appraisal of the Social Impact Assessment report by an independent expert group, composed of social science experts and representatives of gram panchayats or village assemblies.[91] This independent expert group has the capacity to make recommendations but such recommendations are not binding on the committee that undertakes the social impact assessment, which committee is composed solely of bureaucrats. Acquisitions made under the urgency clause were exempt from such assessments.[92]

Fourth, the LARR Act sought to curb the misuse of the urgency clause by limiting the invocation of the urgency clause to situations involving India's defence, national security or for emergencies due to natural calamities, and any other emergency with the approval of Parliament.[93]

Fifth, the LARR Act prescribed a formula of enhanced compensation for the acquisition of land that came to twice the value of the average of registered sale deeds in rural areas, and four times the value of the average of registered sale deeds in the urban areas. This amount includes the *solatium* amount that was paid on top of the market value under the Land Acquisition Act, which was increased from 30% to 100% of the market value.[94] Moreover, the LARR Act also provides for rehabilitation and resettlement awards. These awards include the provision of a constructed house in place of the house lost through acquisition of land. It also provides in certain cases but not all for the grant of land in place of the land acquired.[95]

Finally, Section 24 of the LARR Act also retrospectively applied the provisions of that Act to pending acquisitions under the Land Acquisition Act, provided certain conditions were met. This provision is analysed in detail later in this report.

The fundamental underlying premises of the LARR Act were two fold. The *first* was that legislation can redress the imbalance of power between the state and the individual. *Second*, the state could best mediate between individual land losers and private industry.[96] Our research shows that the first is only partially true and casts considerable scepticism on the second position.

5. EVALUATING THE CONVENTIONAL NARRATIVE REGARDING THE LAND ACQUISITION ACT

5.1. Processes, timelines and volume of litigation

The Supreme Court of India is the highest court of appeal in the country and has both original and appellate jurisdiction. Article 32 of the Constitution empowers a litigant to approach the Court directly in case of violation of any of the fundamental rights. The Court will then issue orders for the enforcement of fundamental rights. The appellate jurisdiction of the Supreme Court can be invoked in two instances. First, in civil or criminal appeals from any judgment or final order of a High Court, where the Court grants certificate that the case involves one or more of the following:

- substantial questions of law as to the interpretation of the Constitution;
- a substantial question of law of general importance, which in the opinion of the High Court needs to be decided by the Supreme Court. [97]

Finally, through a unique provision called the Special Leave Petition ("**SLP**"), the Constitution empowers the Supreme Court to hear appeals from any judgment, decree,

determination, sentence or order, in any cause or matter passed or made by any court or tribunal within the territory of India.[98]

With respect to our dataset of 1269 land acquisition cases, one third of all cases over time were brought to the Supreme Court through civil appeal. However, SLPs have been by far the preferred mode for approaching the court accounting for a little over 60 percent of all cases (see Figure 3). Interestingly, a decadal analysis of the cases shows that for the first three decades (1950-1979), there were more civil appeals than SLPs decided by the Supreme Court in land acquisition cases. But this trend was reversed over the next three decades (1980-2015), especially in the 1990s, when the number of SLP cases decided by the Supreme Court was seven times the number of decided civil appeals (see Figure 4). The litigants may have filed these SLPs both for the purposes of final determination of a dispute as well as for interim relief or for decision on a narrow point of law. Less than two percent of the total cases were brought directly before the Supreme Court as involving violations of the fundamental right to property. This low number is not surprising considering the abolition of the fundamental right to property in 1978.

Unlike many constitutional courts,[99] the Indian Supreme

Figure 3: Manner of appeal to Supreme Court

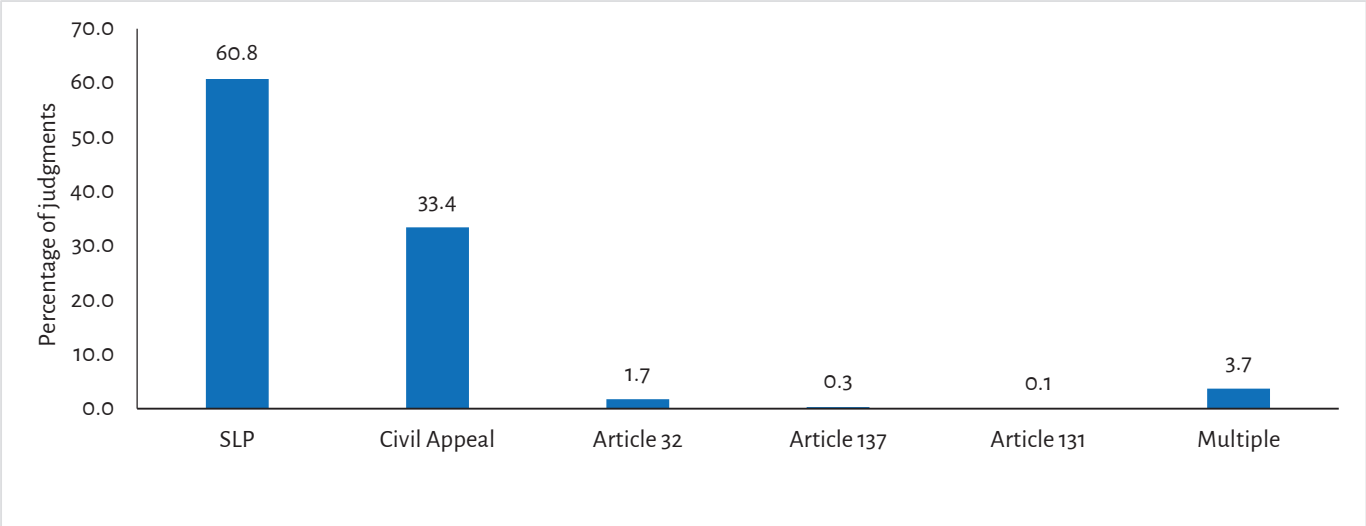
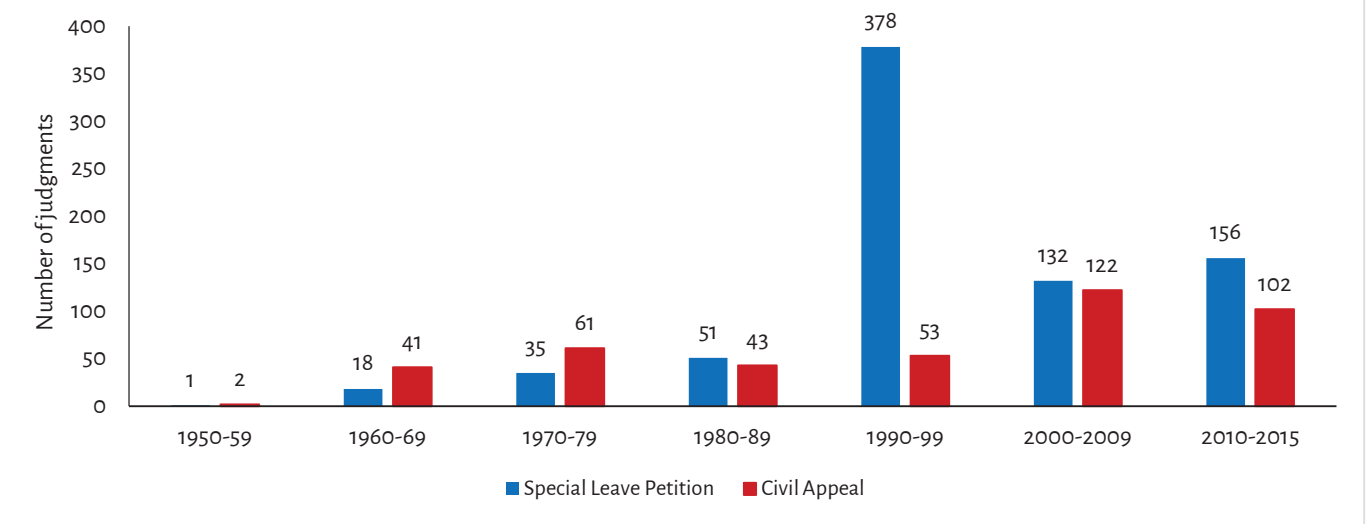
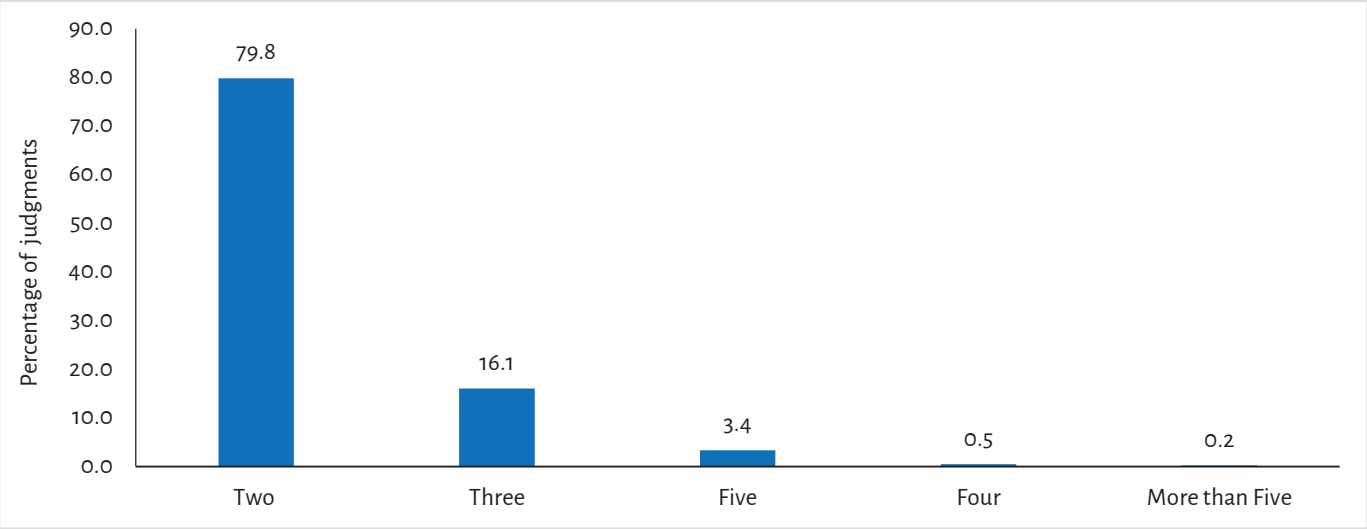


Figure 4: Decade wise manner of appeal to Supreme Court



Court does not sit *en banc* but in benches of two, three or five, and on rare occasions four (see Figure 5). The sanctioned bench strength of the Supreme Court governed by the Supreme Court (Number of Judges) Act, 1956 has increased from 8 in 1950 to 31 in 2008. Nearly 80 percent of all cases were decided by benches of two judges. This was not unusual because especially in the last three decades, the Supreme Court usually sits in benches of two due to its increasing workload. The Court only sits in larger benches in cases involving questions of constitutional importance. 78% of all cases were decided in the last two and a half

Figure 5: Number of judges presiding



decades. More than one third of all cases were decided in the 1990s decade (1990-1999) (see Figure 6). A possible explanation for this can be found in court management of cases. The Supreme Court reorganised its docket in the 1990s and started bunching matters and disposing them off more expeditiously.[100] This is corroborated also by the yearly analysis of the cases which reveals that by far the maximum number of cases were decided in the consecutive years 1995 and 1996, 115 and 130 cases respectively (see Figure 7).

The average life of the case measured from the date of

Figure 6: Decade wise distribution of judgments

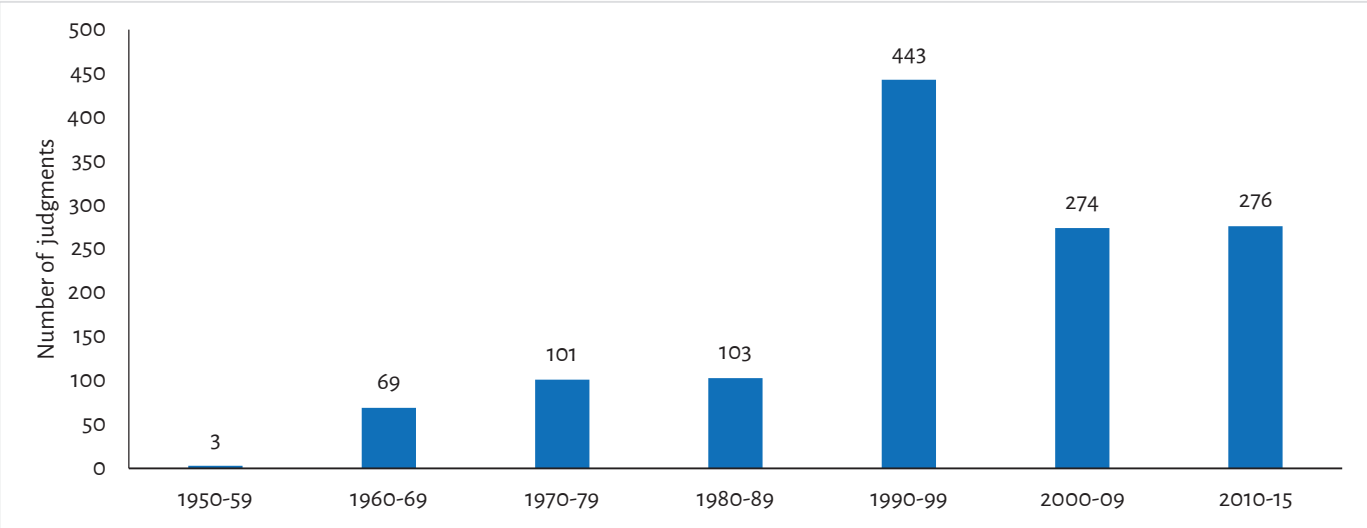
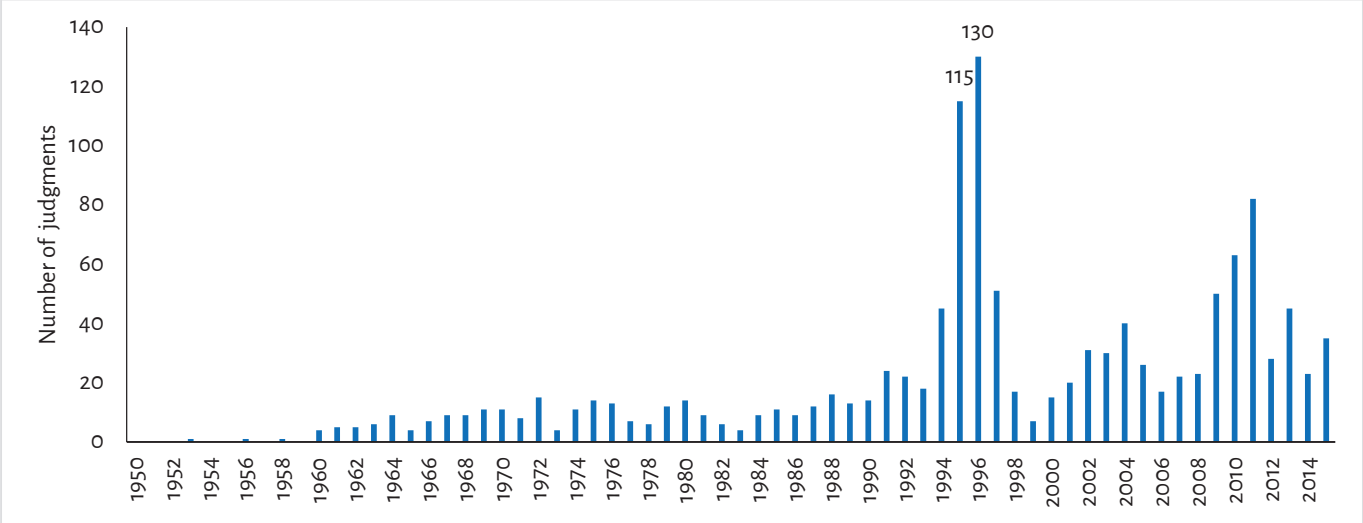


Figure 7: Year wise distribution of judgments

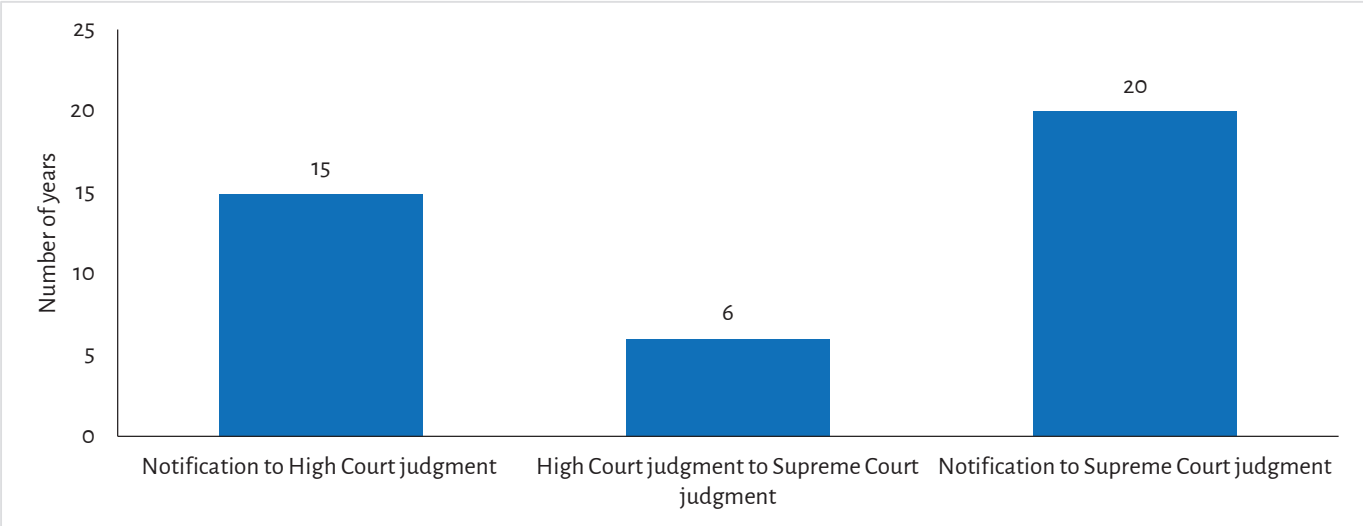


notification of acquisition proceedings to the date of judgments rendered by the High Court and the Supreme Court was extremely long. The average time period between the notification of acquisition[101] and the High Court judgment was almost fifteen years. The average time period between the High Court and Supreme Court judgments was six years, and the time taken on average, between the initiation of land acquisition proceedings and the Supreme Court judgment was as long as 20 years (see Figure 8). These timelines do not imply that all cases analysed had moved into litigation at the notification stage itself. A large number of cases involved significant time lags between the time of notification and the date of initiation of the litigation, primarily because the government did not pursue the acquisition for several months or years after issuing the original notification. Occasionally, there were delays by petitioners in bringing their claims outside the limitation period prescribed by the law.

Nevertheless, the figures for average litigation time period between the High Court and the Supreme Court and total time period for a case to be decided by the Supreme Court compares unfavourably with average time periods for all cases reviewed by research organisation Daksh in a survey of 40 lakh cases.[102] The extensive time period involved in land acquisition litigation indicates the extent of inefficiency in both executive and judicial proceedings in land acquisition cases. This in turn underscores the urgent need for eliminating incentives to litigate by ensuring that the text of the law does not incentivise litigation and that the executive adheres to the rule of law in acquiring land. Moreover, since "justice delayed is justice denied", our study also highlights the need for judicial reform, so as to minimise the long pendency of cases in courts.

A decadal analysis of duration of litigation before the

Figure 8: Average judgment time period



Note: Notification refers to initiation of land acquisition proceedings.

Supreme Court indicates that there is a steady rise in the average litigation time period between the issuance of land acquisition notification and the High Court judgment and High Court, and between the High Court judgment and the Supreme Court judgment . Interestingly however, there is a steady decline in the average litigation time period between the High Court and the Supreme Court since the beginning of the 1990s (see Figure 9). This is again likely due to the Supreme Court's reorganisation of its docket and expeditious disposal of cases starting from the 1990s. The takeaway from this is that similar judicial reforms in lower courts can greatly improve access to justice through speedy disposal of cases.

There is a popular belief that there has been a surge in land acquisition and acquisition related conflicts since the late 1990s. The decadal distribution of data on the date of notification shows that there has been steady increase in the land notified for acquisition by the state from the 1950s to the 1990s. Putting together the data on the average life of a land acquisition case before the Supreme Court and the fact that 78% of all cases were decided during the period 1990-2016, it is clear that most of the cases reviewed in this study involved acquisitions that were initiated during the decades, 1960-1989 (see Figure 10). Therefore, much of the litigation involving acquisitions that were initiated in the post millennium era have likely not yet been decided by the Supreme Court. Consequently, we cannot reliably confirm from our dataset that there has been an abnormal increase in land acquisition or land acquisition related litigation in the post millennium era.

The Supreme Court more often than not (approximately

Figure 9: Decade wise average judgment time period

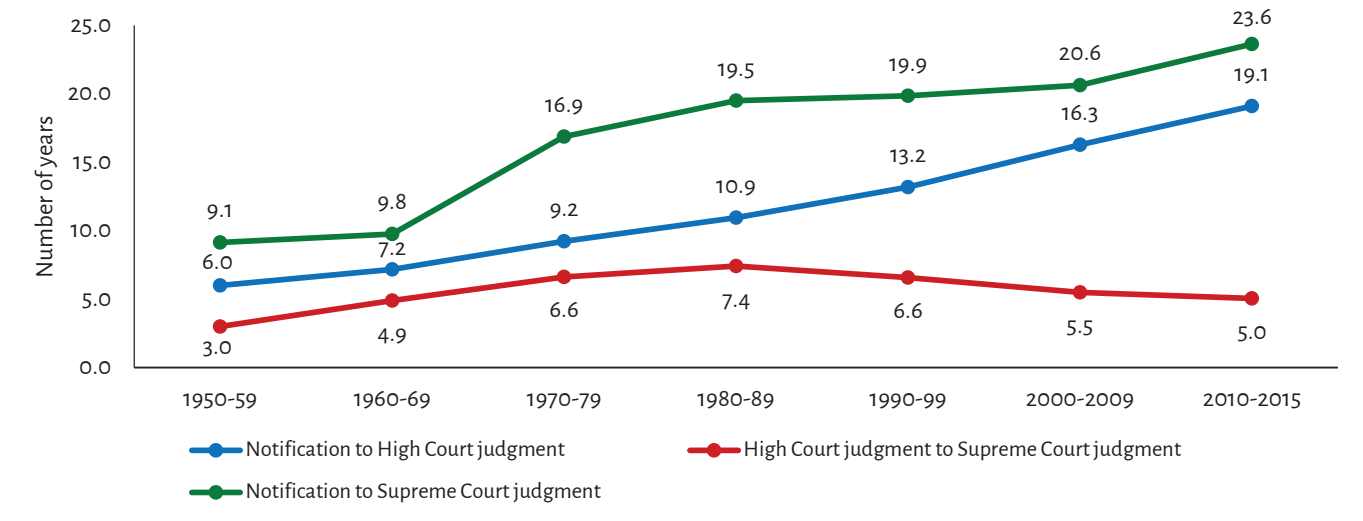
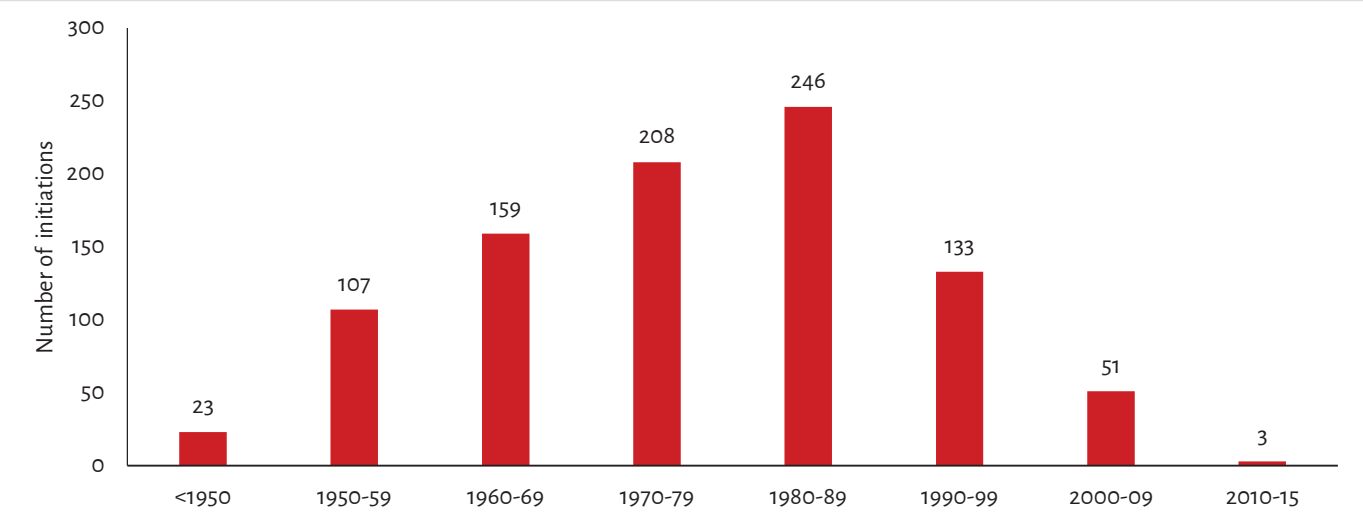


Figure 10: Decade wise distribution of initiation of land acquisition proceedings



53%) bunches land acquisition cases brought before it by litigants (see Figure 11). This is done to decide cases involving either common principles of law or common facts more efficiently. Disaggregating the bunch petitions gives us a sense of the total volume of litigation. 1269 cases decided by the Supreme Court involved a total of 13,884 petitions by individual litigants. This is just the tip of the iceberg of all land acquisition litigation, since only a fraction of cases make it before the Supreme Court due to cost and access barriers as well as the court's gatekeeping. From this, however, we can gauge the extent of litigation before the judiciary. Putting together the extent of the litigation and the inefficiency of the litigation process, it is clear that any future legal or policy reform must seek to reduce the extent of disputes and litigation in the land acquisition process. The total geographical area litigated within the dataset based on all the cases for which information was available is 3, 74,688 acres or approximately 1.5 lakh hectares.

A little over 70% of all cases before the Court involved multiple parties - both private as well as government (see Figure 12). Multiple private parties before the Court in these cases can be attributed to the fact that typical land acquisition proceedings involve large areas of land with several individual parcels and litigants find it beneficial to combine resources when litigating against the government. The existence of multiple government parties is understandable because a litigant often arraigns multiple state agencies in a dispute such as the collector, the town planning, and state development agencies (see Figure 13).

Figure 11: Bunch matters

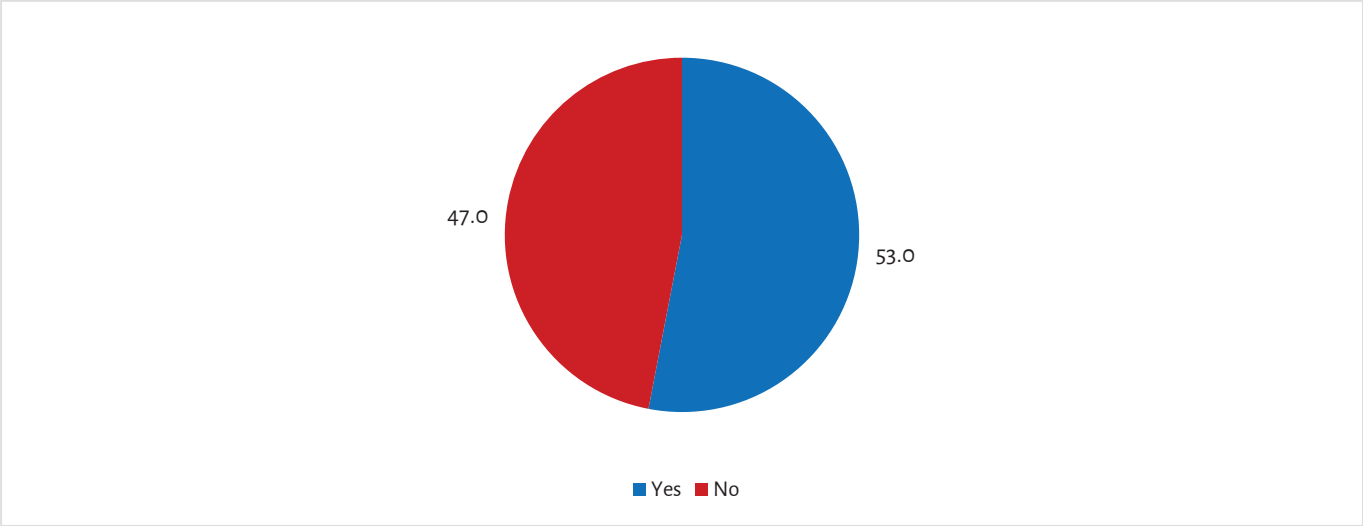
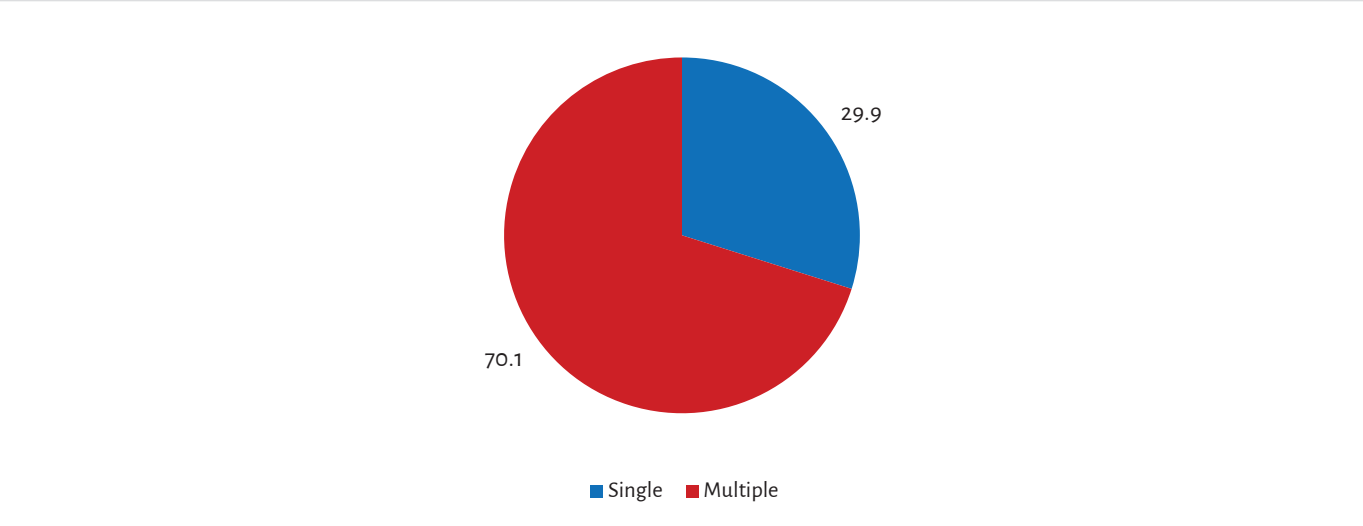


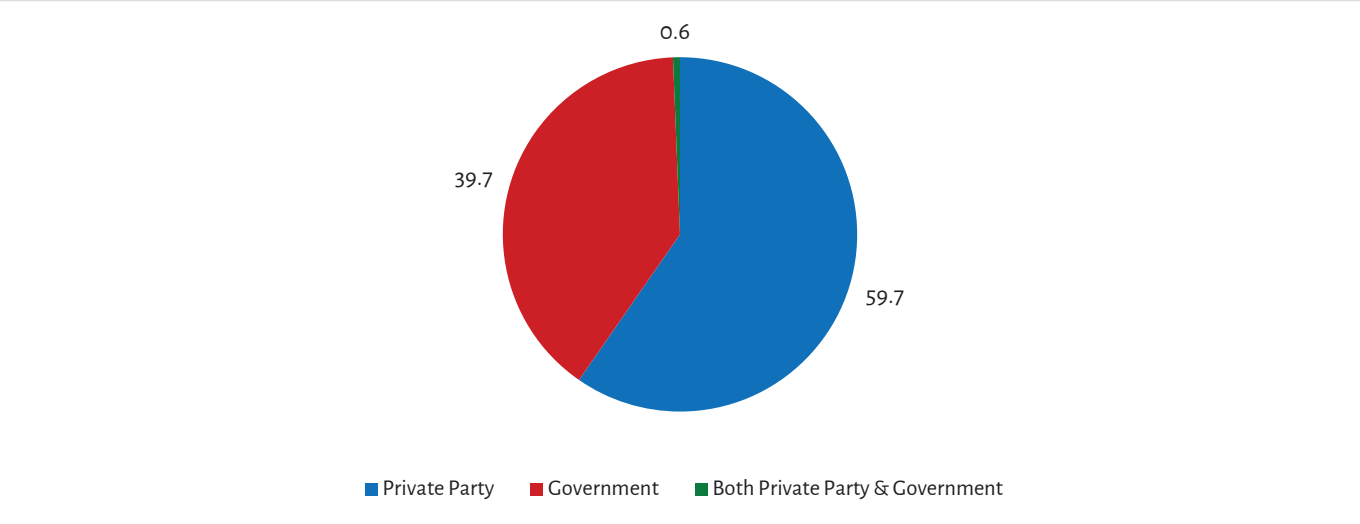
Figure 12: Profile of parties



Almost 60% of all cases before the Supreme Court were brought by private parties. This does not necessarily mean that these claimants lost their claims in the High Court or any other court below but certainly indicates that the private parties subjectively believed that they had an incentive to litigate their claims before the Supreme Court in hope of a better outcome.

In the next section, we describe the Supreme Court's adjudication of the substantive legal issues before it and ascertain whether the private litigants' hopes were vindicated by the Court.

Figure 13: Profile of Appellant



5.2. Core legal disputes

Our second set of findings reviewed the four provisions of the Land Acquisition Act, *namely, public purpose, compensation, the procedure of acquisition* and *the urgency clause*, which had been altered by the LARR Act, and that had been the subject of intense contestation prior to and at the time of drafting of the LARR Act.

The emerging narrative is that the claims before the Supreme Court have been largely brought by two categories of land losers.

The *first* category of land losers consists of those who accept the legitimacy of the land acquisition process, but want to be fairly compensated for their loss according to the rule of law (63.4%).

The *second* category of land losers is comprised of those who question the legitimacy of the acquisition process and are unwilling to give up their land. Such land losers contest the constitutionality of the applicable land acquisition statute (5%), or what is more ubiquitous, the legality of the procedure by which their land was acquired under the applicable land acquisition statute (34%), or both. Both sets of land losers in the second category, also bring overlapping claims to the legitimacy of purposes for which the land was being acquired (6.2%) or the invocation of the urgency clause in the pursuit of such acquisition. (5.6%).

A small percentage of cases (1.5%) also feature an overlap between the first and second categories.

5.2.1. Those who accept the legitimacy of the acquisition process but seek fair compensation

63.4% of the total cases in our dataset numbering 805 cases, that is roughly two thirds of all cases involved claims by land losers seeking enhanced compensation under the Land Acquisition Act or applicable land acquisition statute. As mentioned in section 4.1, compensation under the Land Acquisition Act consisted broadly of the following elements.

Market Value of the land + 30% *Solatium* + Several categories of Interest + (possibly) rehabilitation

Our analysis shows that litigants have approached the Supreme Court to not only contest the market value of the land acquired, but also the award of *solatium*, or the additional amount of twelve percent of the market value that the court is mandated to pay, or the interest or any combination of these components.

a. Unpacking compensation claims

Market Value: Over two thirds of all cases (67.3%) involved contest to the calculation and payment of the actual market value for the land, whether in terms of the principle on which such calculation was made, or the manner in which it was paid, or both (see Figure 14). Most of these claims involved a challenge to the principle on which the government had computed compensation (approximately 64%), while a small set (approximately 5%) of the cases involved a challenge to the manner in which parties were compensated. Roughly 1% of cases involved a challenge to both manner and principle. This category also included cases involving claims for enhanced compensation based on court awards made to other successful petitioners affected by the same land acquisition.

Here, the term *principle* means the basis on which the compensation was computed. The most common basis of challenge arose from the collector's use of circle rates as opposed to registered sale deeds in the area as the basis for calculating the compensation, when such circle rates were much lower than the prevailing market value of the land. In addition, it also included factual determinations by the court that relevant sale deeds or a requisite number of sale deeds were not taken into consideration while computing the market value.

The term *manner* includes both the manner and form of payment of compensation. So, this would include instances of deferred compensation, where the government pays compensation in the form of government bonds or cash certificates rather than cash, or payment of compensation in instalments. This also includes cases of apportionment of compensation between parties.

Solatium: Approximately 13% of the claims involved a challenge to the *solatium* payable. These included for instance, claims for increased *solatium* under the Land Acquisition Act, or for payment of *solatium* in acquisitions made under other laws which did not have an earmarked provision for the award of *solatium*.

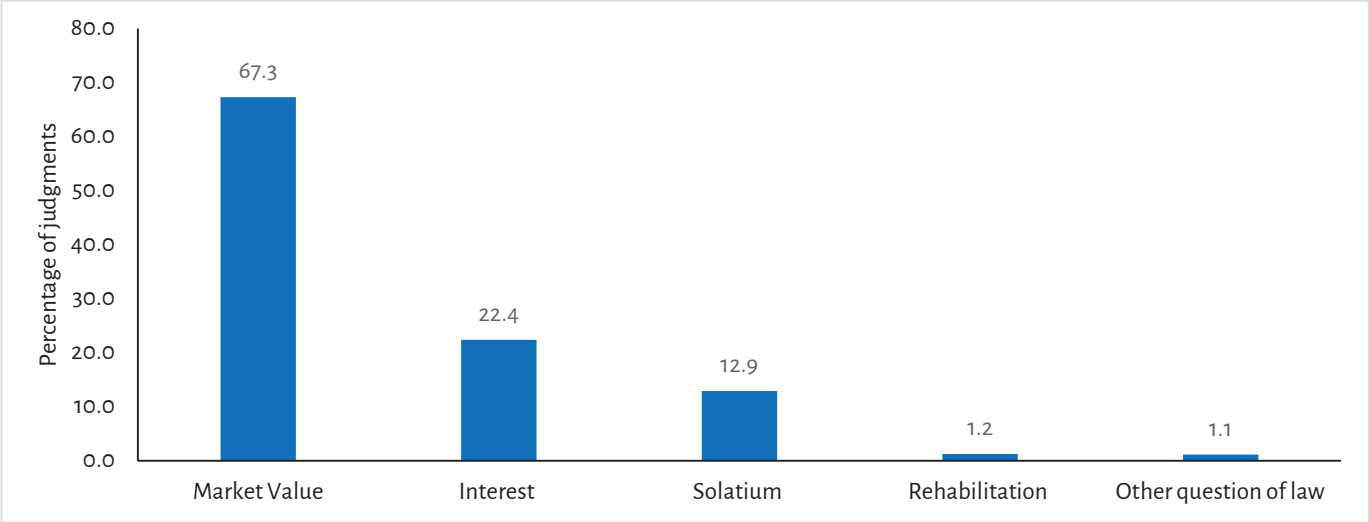
Interest: Approximately 22% of the cases also involved challenges to the payment of interest on the award of excess compensation under the various interest provisions of the Land Acquisition Act or vis-à-vis the award of the additional amount of twelve percent on the market value and various questions of law as to the interpretation and applicability of these provisions.

A little over ninety percent of the cases pertaining to *solatium* and interest were brought post the 1984 amendment to the Land Acquisition Act, in large part because of the retrospective application of the enhanced interest and *solatium* rates to certain acquisitions pending at the time of such amendment.

Rehabilitation: Unsurprisingly, in the absence of any mandatory rehabilitation provisions in the Land Acquisition Act, only a little over 1% of the cases, numbering ten, involved such claims.

A small percentage of claims involved two or more of these four components of compensation.

Figure 14: Distribution of challenges to fair compensation



Note : There is an overlap across entries and thus the aggregate is higher than 100%.

Other questions of law: The remaining 1 percent of cases involved other questions of law. This set included questions as to whether a subsequent purchaser of land that was the subject of acquisition or the beneficiary of the government acquired land, whether a statutory corporation or a company, could also intervene in compensation proceedings.[103] This set also included claims relating to bars on litigation pursuant to the limitation provision under the Land Acquisition Act.

b. Trends in compensation awards

Of the 547 cases for which we have information available about the change in compensation amount from the original award to the reference court, in 86.5% of the cases, the civil court or the Reference Court increased the compensation awarded by the government. The maximum increase in compensation at this stage was as much as 108 times the compensation awarded by the collectors whereas the average increase was approximately 4 times and the median increase was approximately 1.6 times (see Table 1).

Assuming that the Reference Court would have corrected any errors in computation of the compensation, we would not expect similar increases at the appeals stage before the High Court and the Supreme Court. Nevertheless, in almost 45% of the cases, the High Court increased the compensation beyond what was awarded by the Reference Court. Also, in 31% of the cases, the Supreme Court increased the compensation awarded by the High Court but these cases did not necessarily involve an increase in compensation at the High Court level.

Of the 593 cases, for which information is available for the increase in compensation from the Reference court to the High Court, we find that where the High Court increased the compensation payable (272), on average it doubled the compensation awarded by the Reference Court, with the maximum recorded increase as much as 70 times. In those cases where the Supreme Court increased the compensation awarded by the High Court the maximum increase was 145 times, whereas the average increase was six times, and median increase was twice.

The data for change in compensation at the Reference Court level shows a high incentive to litigate the compensation award made by the Collector (see Figure 15). As mentioned, this incentive is inbuilt in the text of the Land Acquisition Act, insofar as the Act provides that whether or not the litigant is successful, the court should award an amount equal to 12% of the market value to the litigant for the period from the date of notification to the date of taking possession of the land. More importantly, these cases show that the Collector, as a representative of the government, and the Court are clearly at variance in their understanding of how market value of the land must be computed. A qualitative analysis of the cases reveals that the Supreme Court has since the 1990s reiterated in case after case,[104] that the market value should be determined by reference to the sale deeds of land in the area, but the Collector continues to apply the circle rates in defiance of the court orders. 7% of all cases involving compensation challenges implicated this issue. In key informant interviews with state government and central government officials, it became clear that there are broadly

Table 1: Descriptive statistics for change in compensation from original award to Reference court, High Court, and Supreme Court respectively

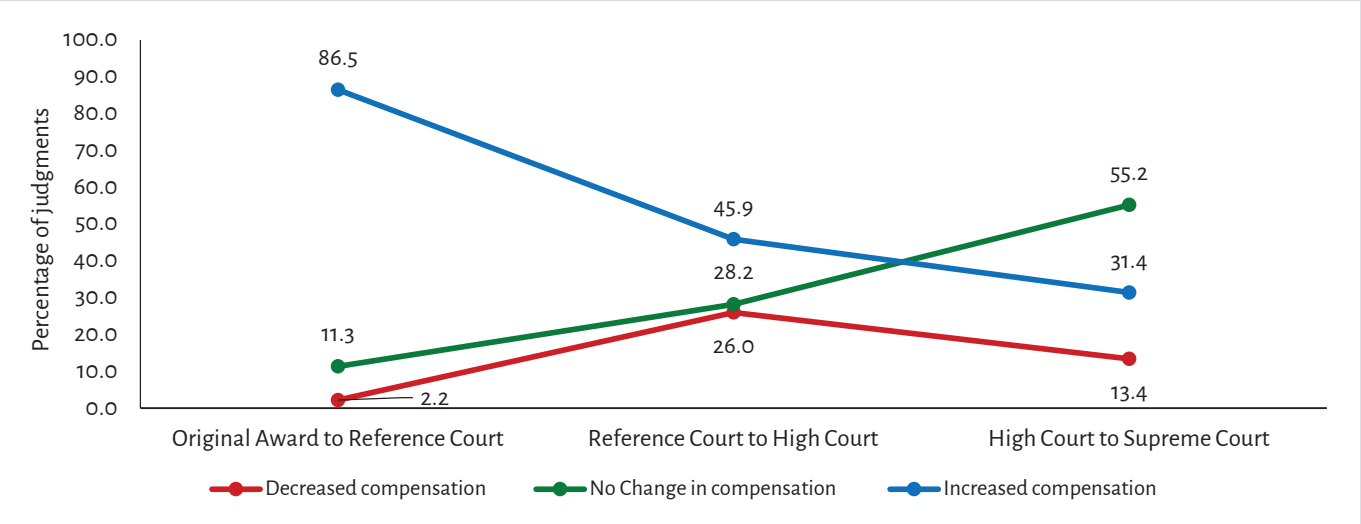
	Original Award to Reference Court	Reference Court to High Court	High Court to Supreme Court	Original Award to Supreme Court
Number of cases	547	593	589	445
Negative change	12	154	79	7
No change	62	167	325	46
Positive change	473	272	185	392
Minimum (in %)	-89.3	-95.9	-91.3	-85.7
Maximum (in %)	10830.0	7145.1	14585.7	15677.2
Median (in %)	158.1	0.0	0.0	180.4
Mean (in %)	433.2	100.7	117.6	602.6
Standard deviation (in %)	909.2	486.7	1100.9	1397.9

two reasons why collectors have violated court orders over the last two decades. The first is lack of awareness of the Supreme Court orders. Many officials we interviewed insisted that circle rates were the appropriate basis to compute the fair market value because they had never heard of the Supreme Court decisions. Obviously there is a gap between the law as pronounced by the Court and that received in the government's administrative manuals. Those who were aware of this judicial precedent stated that despite this knowledge, they found it safer to apply the circle rates, even though they agreed that these rates do not indicate the fair market value, because the circle rates represent an objective number and obviate the need for a subjective inquiry into the values recorded by sale deeds. Subjective determinations of market value, especially if these values were much higher than the circle rates opened the officer's conduct upto scrutiny by the Vigilance Department. As eloquently put by one official, "you don't follow the law, you only get abused by the Court. But if you try to follow it, you might go to Jail." It is for the same reason, that is, fear of being open to investigation, the official explained, that the government appeals all the cases that it loses like an automaton, whether or not there is any merit in or likelihood of success in such cases.

From the above review, it is clear that insofar as the LARR Act mandates the collector to calculate compensation based on an average of the registered sale deeds in the area as opposed to circle rates,[105] the compensation provisions of the Act only embodied within the text of the law what was already established by judicial precedent. Moreover, the increase in compensation provided under the LARR Act, through the enhancement of the *solatium* award from 30 to 100% and provision of an additional multiplier of 2 in rural areas where land markets are not as developed, were a welcome move insofar as they brought the entitlements under the law more in accordance with current realities. The compensation formula provided under the LARR Act mirrors our findings regarding the average percentage increases of compensation from the Collector's award to the Reference Court. Our Reference Court figures showing an 86.5% likelihood of increase at the Reference Court level are also in uncanny agreement with the 86% likelihood of increase at the same level for Delhi ADJ awards reported by Ram Singh in his study. In light of our data, repeated claims made by government, industry and scholars like Chakravorty that the compensation provisions of the LARR Act would make land acquisition prohibitively costly lack sufficient basis.

The LARR Act however, additionally provides for rehabilitation and resettlement of those displaced in the process of land acquisition, which obviously adds to the cost of acquisition. Nevertheless, where states have used the LARR Act compensation formula, for instance, irrespective of whether the acquisition is done under the LARR act, in Uttar Pradesh for the construction of the Agra-Lucknow expressway and the Lucknow metro rail project, they have averted conflict.[106] Thus, it is clear that the compensation provisions of the LARR Act are sustainable and governments can achieve more efficient and equitable planned development by adhering to, and not trying to circumvent the LARR Act. This again highlights that where people accept the legitimacy of the acquisition process and the legitimacy of the purposes for which land is acquired

Figure 15: Probability of outcome at different levels of courts



by the government, they are willing to part with their land so long as they are fairly compensated for the same.

5.2.2. Those who question the legitimacy of the acquisition process and are unwilling to give up their land

One third of all cases in our dataset involved claims by those land losers who questioned the legitimacy of the land acquisition process or the purposes for which land was acquired and were unwilling to give up their land. Such land losers fall into three categories with some degree of overlap between all of them.

a. Those who challenged the constitutional validity of the land acquisition statute

In a small subset of 63 out of the total dataset of 1269 cases, a mere 5% of all cases, the land losers alleged that the particular statute pursuant to which acquisition was done was unconstitutional either because the legislature, central or state, was not competent to enact the law or because it violated the land losers' fundamental rights to equality or property (see Figure 16). There is a strong presumption in favour of the constitutional validity of statutes, deriving from the fact that Parliament, comprised of the people's elected representatives, must only enact laws that are in compliance with the Constitution. Therefore, a challenge to the constitutional validity of the statute is an assertion that Parliament has failed in its constitutional duty to abide by the rule of law as outlined in the constitutional text. However, as mentioned in section 2, many land acquisition laws in India are of colonial origin and therefore did not undergo parliamentary supervision. In astonishingly consistent figures, both the High Court and the Supreme Court found provisions of land acquisition statutes unconstitutional in almost one third of the cases (31.7% of the total cases where constitutionality was challenged, numbering 20) (see Figures 17a and 17b).

Figure 16: Challenges to constitutional validity of statutes

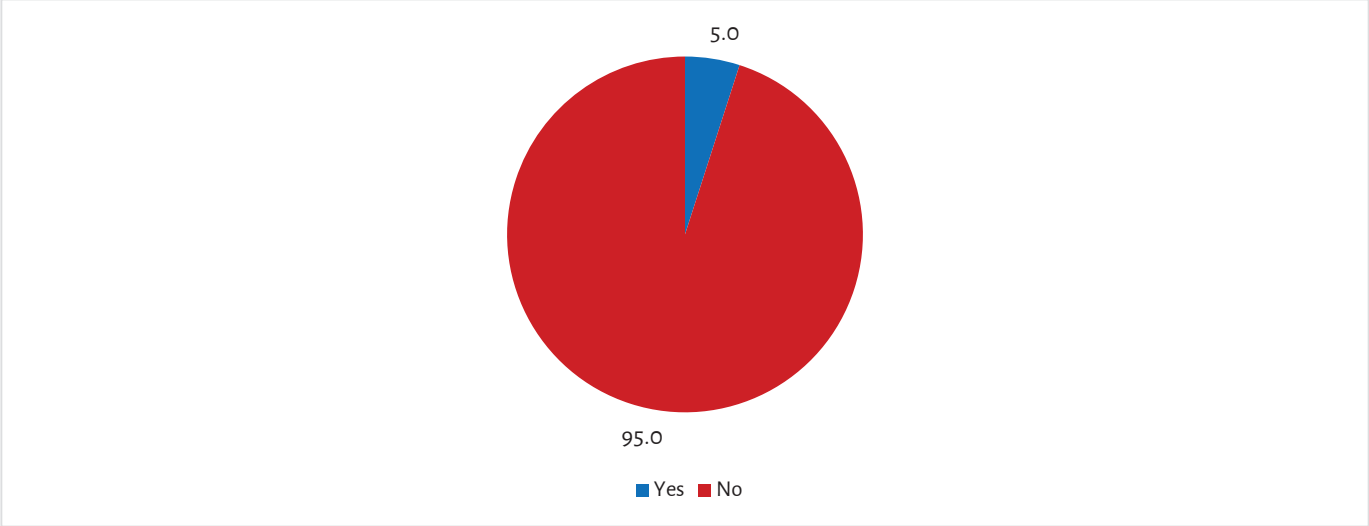


Figure 17a: Whether High Court found statute unconstitutional?

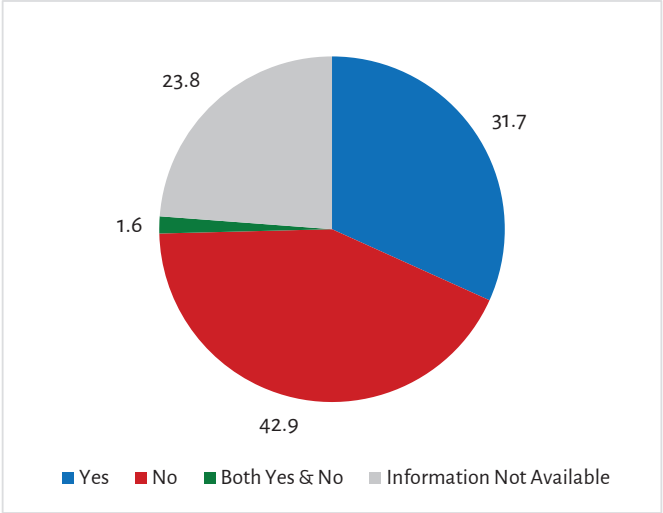
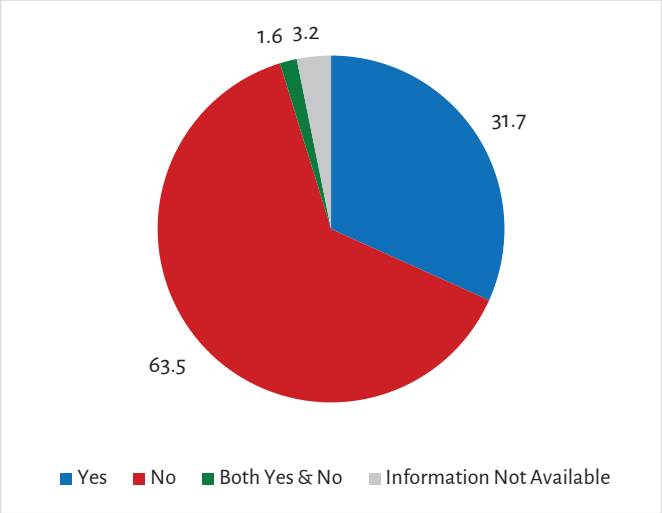


Figure 17b: Whether Supreme Court found statute unconstitutional?

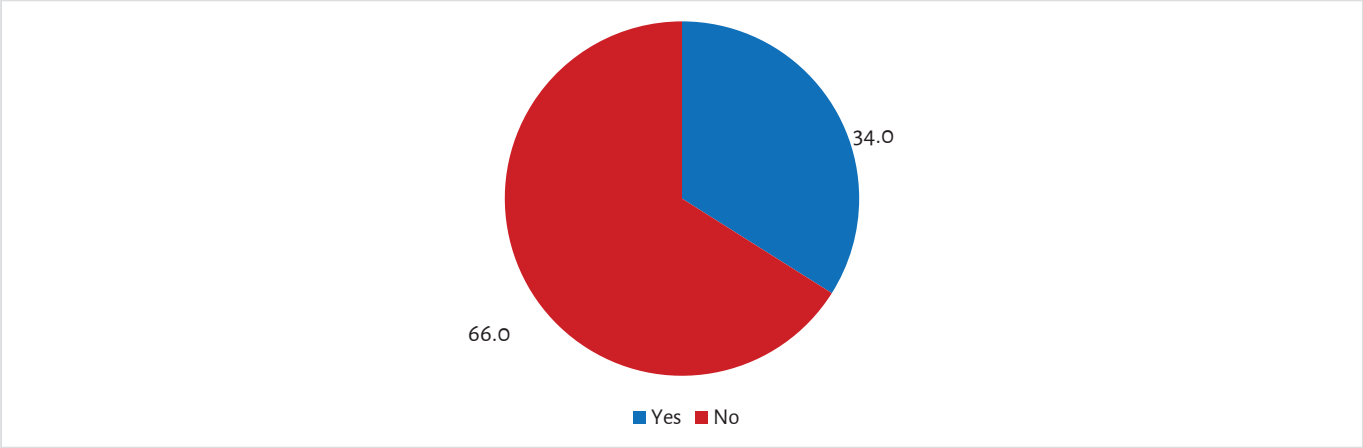


Note : In figures 17a and 17b, the legend "Both Yes & No" describes cases where a statute was found to be unconstitutional in part.

b. Those who accepted the legitimacy of the land acquisition statute but alleged procedural irregularities in the acquisition

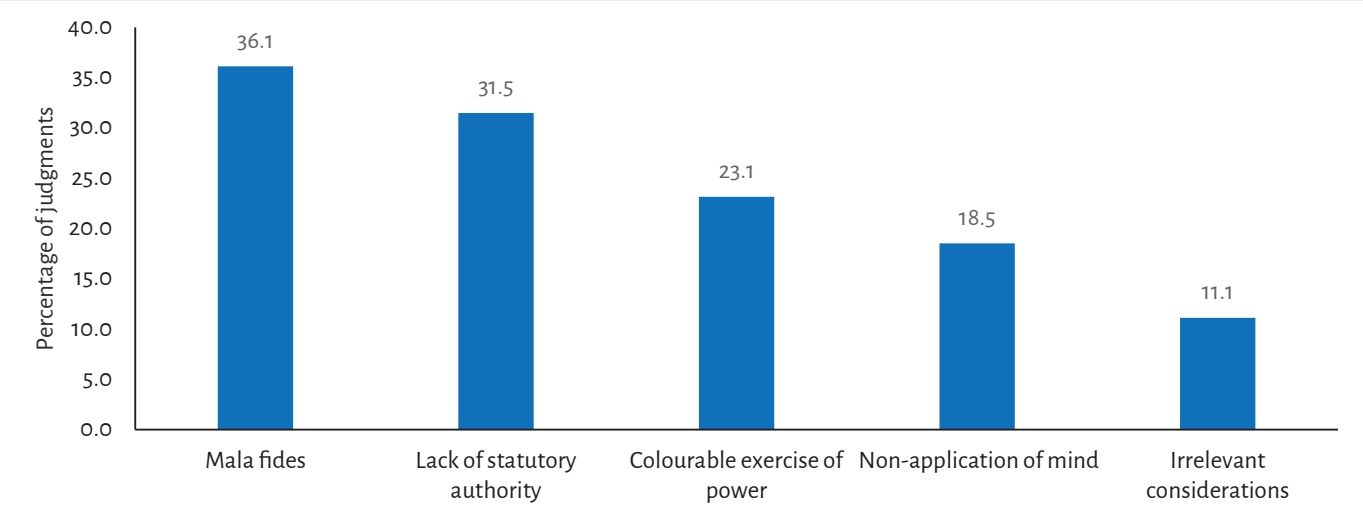
In a much larger subset of 34% of the total dataset of 1269 cases, numbering 431 cases, petitioners accepted the legitimacy of the land acquisition statute,[107] but alleged that the stipulated procedures had not been followed in their case (see Figure 18). Unlike the challenge to the constitutional validity of a statute in the first set, where the petitioners' alleged non-compliance with the rule of law by Parliament, in this second set of cases, petitioners' accept the legitimacy of the land acquisition law enacted by Parliament or passed by the British colonial state but allege that it is the executive or government, represented by the agency of the Collector, which has failed to abide by the Rule of Law. Administrative law is the body of law that regulates the actions of executive or government officials. The government performs legislative or rule making, executive or administrative, as well as adjudicatory or quasi-judicial functions. Therefore, these cases may be described as those where the petitioners challenge the legitimacy of executive action with respect to all three types of executive functions.

Figure 18: Challenges to procedural irregularities



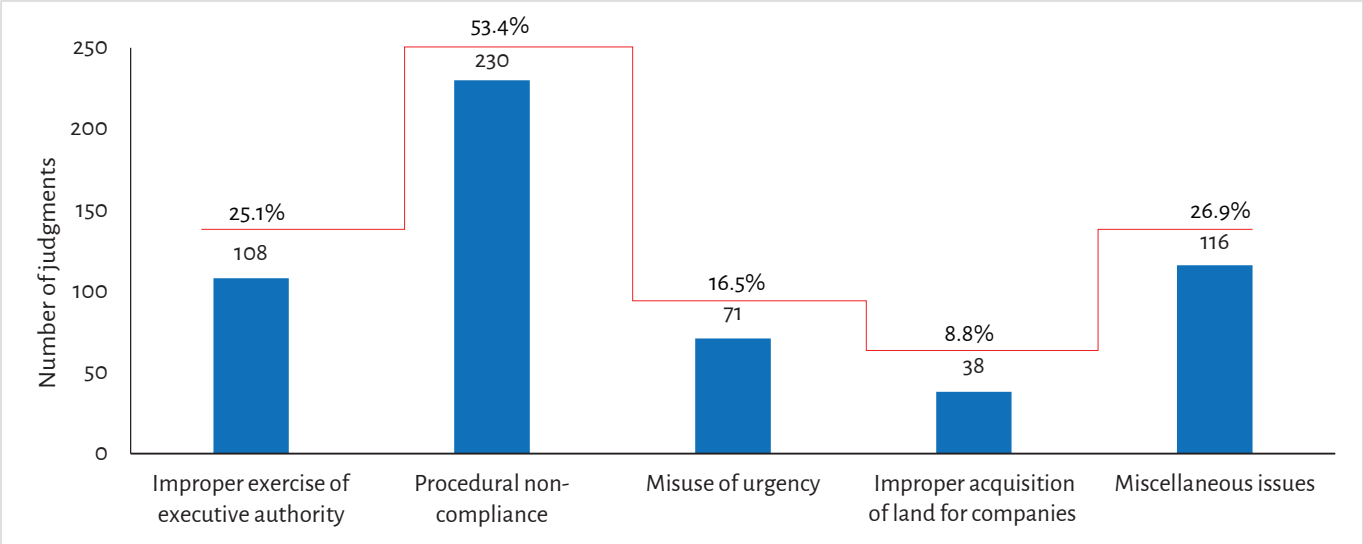
Within this set, the first subset of challenges, implicating one fourth of all cases related to the improper exercise of executive authority in the application of the land acquisition procedures. The first category of cases within this subset accounting for about half of all cases alleged that the Collector or the acquiring authority had acted outside the scope of his statutory authority, either when such authority was completely absent (31.5% of cases) or where there was a colourable exercise of power (23%),. The second and larger category involved cases where petitioners accepted executive authority, but alleged that such authority had been improperly exercised, either with malicious intent or *mala fide* (36%), or where there was no application of mind by the Collector (18.5%), or where the Collector took irrelevant considerations into account (11%) (see Figure 19).

Figure 19: Distribution of challenges to improper exercise of executive authority



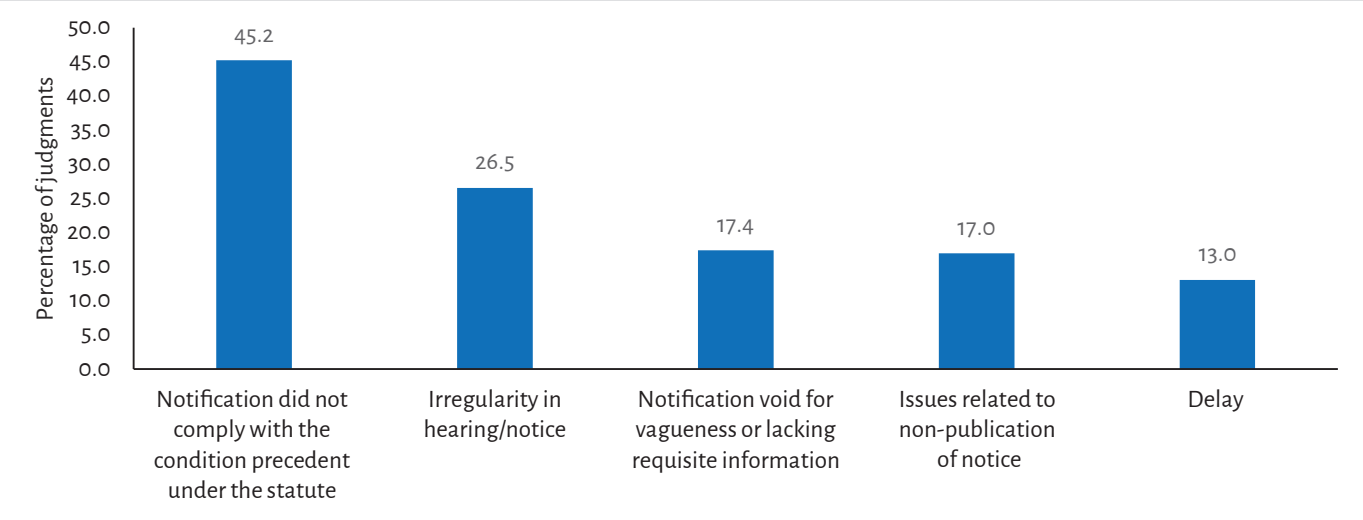
Note : There is an overlap across entries and thus the aggregate is higher than 100%.

Figure 20: Distribution of challenges to procedural irregularities



Note : There is an overlap across entries and thus the aggregate is higher than 100%.

Figure 21: Distribution of challenges to procedural non-compliance



Note : There is an overlap across entries and thus the aggregate is higher than 100%.

Figure 22a: Whether challenge to procedural irregularities upheld by High Court?

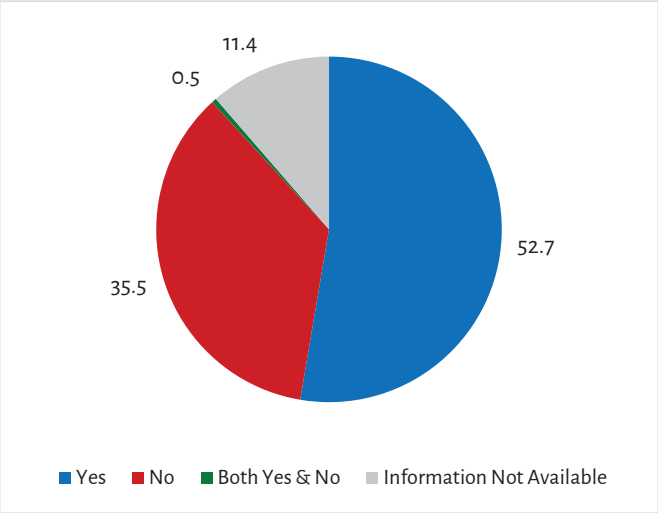
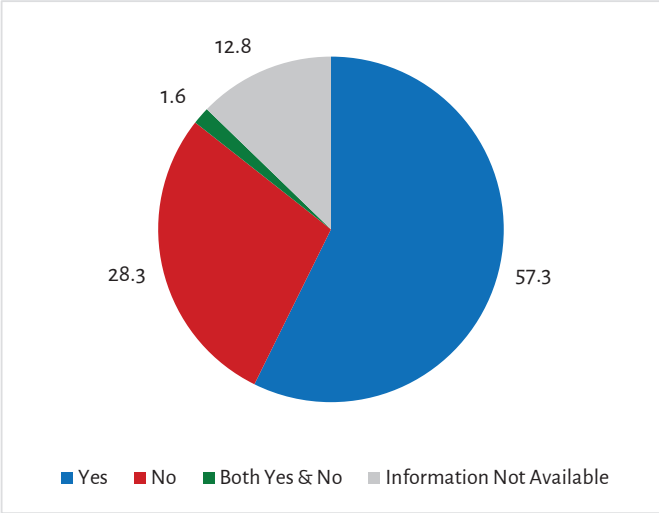


Figure 22b: Whether challenge to procedural irregularities upheld by Supreme Court?



Note : In figures 22a and 22b, the legend "Both Yes &No" refers to cases where the procedure was only partially invalidated.

A review of these cases reveals that some of them show a motivated, others a wanton disregard of the rule of law. It is abundantly clear that newer or more legislation cannot bring about necessary changes in executive behaviour that would obviate litigation on these issues. Instead, what is needed is greater and more effective transparency and accountability within the administrative apparatus, through comprehensive and sustained administrative and bureaucratic reforms.

The *second* subset of challenges comprising a little over half of the total category of cases (53.4%) (see Figure 20), alleged non-compliance with stipulated procedures for acquisition as described in section 4.1 of this Report. Here, almost half of the cases alleged that the government proceeded with the acquisition without complying with precedent procedures in the land acquisition statute (45%). Other cases alleged irregularities in the notice given to and/or hearing of the persons interested (26.5%), or stated that the notice was not published in accordance with procedure (17%), or that the land acquisition notification was vague and did not include necessary information stipulated by the statute (17.4%). Finally, 13% of the cases also alleged delays in compliance with the stipulated procedures under the land acquisition statute (see Figure 21).

In our key informant interviews with government officials, they bemoaned the lack of basic skills of the Collector's support staff in carrying out the executive functions stipulated under the Act, noting that this subset of cases involved errors due to incompetence rather than malfeasance. These kinds of errors are precisely the sort of things that are impossible to fix through legislation, but can be fixed quite easily through a sustained financial and logistical commitment to building state capacity, including appropriate skills training of government officials and staff.

The *third* subset of challenges, comprising 16.5% of all cases, alleged misuse of the urgency clause in bypassing the acquisition procedures stipulated in the statute.

Finally, the *fourth* subset of cases involved challenges to the processes of acquisition of land by the state for companies. Interestingly, contrary to the primacy of this issue in the conventional narrative on land acquisition surrounding the drafting of the LARR Act, only 8.8% of the cases, over the last 66 years numbering 71, involved such challenges.

Again, in somewhat consistent figures, in a majority of the cases where petitioners accepted the legitimacy of the acquisition statute, but challenged irregularities in the application of the acquisition procedures in their individual case, both the High Court (approximately 53% of the cases) and the Supreme Court (approximately 57.3% of the cases), upheld petitioners' claims. This again confirms the petitioners' incentive to litigate these cases (see Figures 22a & 22b)

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c. Those who questioned the legitimacy of the purposes for which land was acquired

The third category of cases comprising 6.2% of the total dataset (79/1269) questioned the legitimacy of the purposes for which the land was acquired as not being "public purposes" (see Figure 23). In only 13 cases, that is about 1% of the total dataset of cases, did the Supreme Court invalidate the acquisition on grounds of violating the requirements of public purpose (see Figure 24). While the Supreme Court has historically adopted a highly

Figure 23: Whether legitimacy of public purpose challenged?

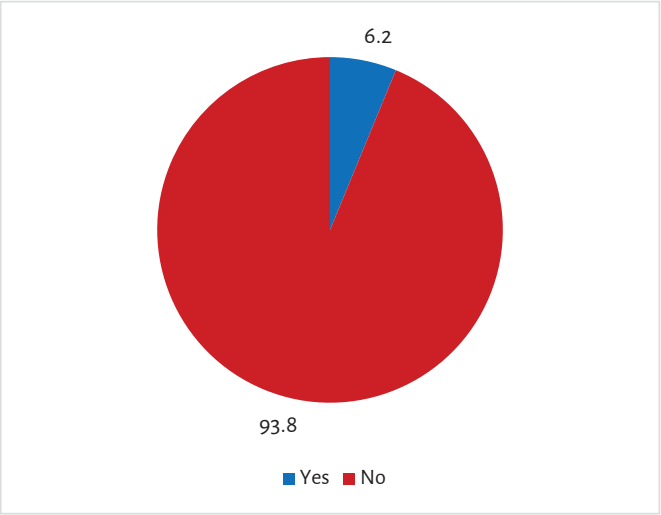
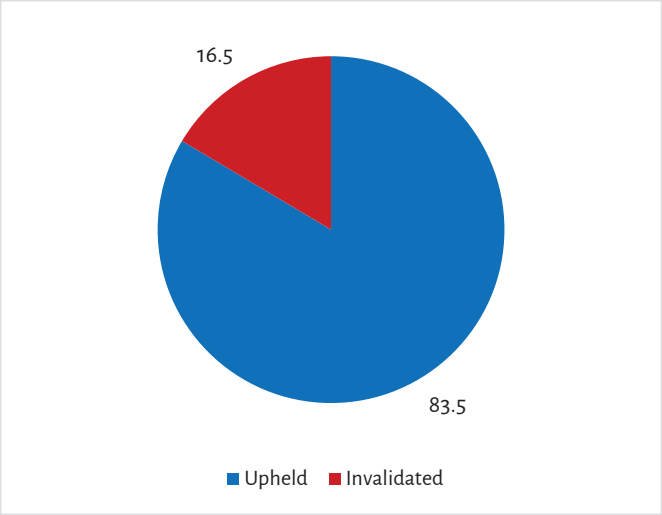


Figure 24: How did the Supreme Court decide challenge to public purpose?



deferential review of what constitutes a "public purpose", scant litigation on this issue shows that it has not been a highly contentious issue over time.

The reasons for this become clear when we review the purposes for which land has been acquired by the government over the last sixty six years. Out of the total dataset of 1269 cases, roughly 30% of the judgments contained no information about the purpose of acquisition. Out of the remaining 70% judgments, where such information was available, the largest number of contested acquisitions was for six purposes:

- planned development (approximately 16%);
- housing (approximately 9%);
- industry (approximately 8%);
- infrastructure (approximately 6%);
- defence (approximately 5%); and
- educational institutions (approximately 3%) (see Figure 25)

These together constitute almost half of all litigated land acquisition cases in the entire dataset. Most of these broad categories fall within the functions of a modern welfare state.

Planned development usually refers to acquisitions where land has been taken for the construction of a complex with both residential and commercial aspects, and where the government seeks to improve the overall infrastructure in the area. The statutes under which land has been acquired for these purposes are mostly state Town Planning laws and the Land Acquisition Act.

Subsumed within the category *industrial purposes* are acquisitions for individual factories as well as for industrial parks and corridors.

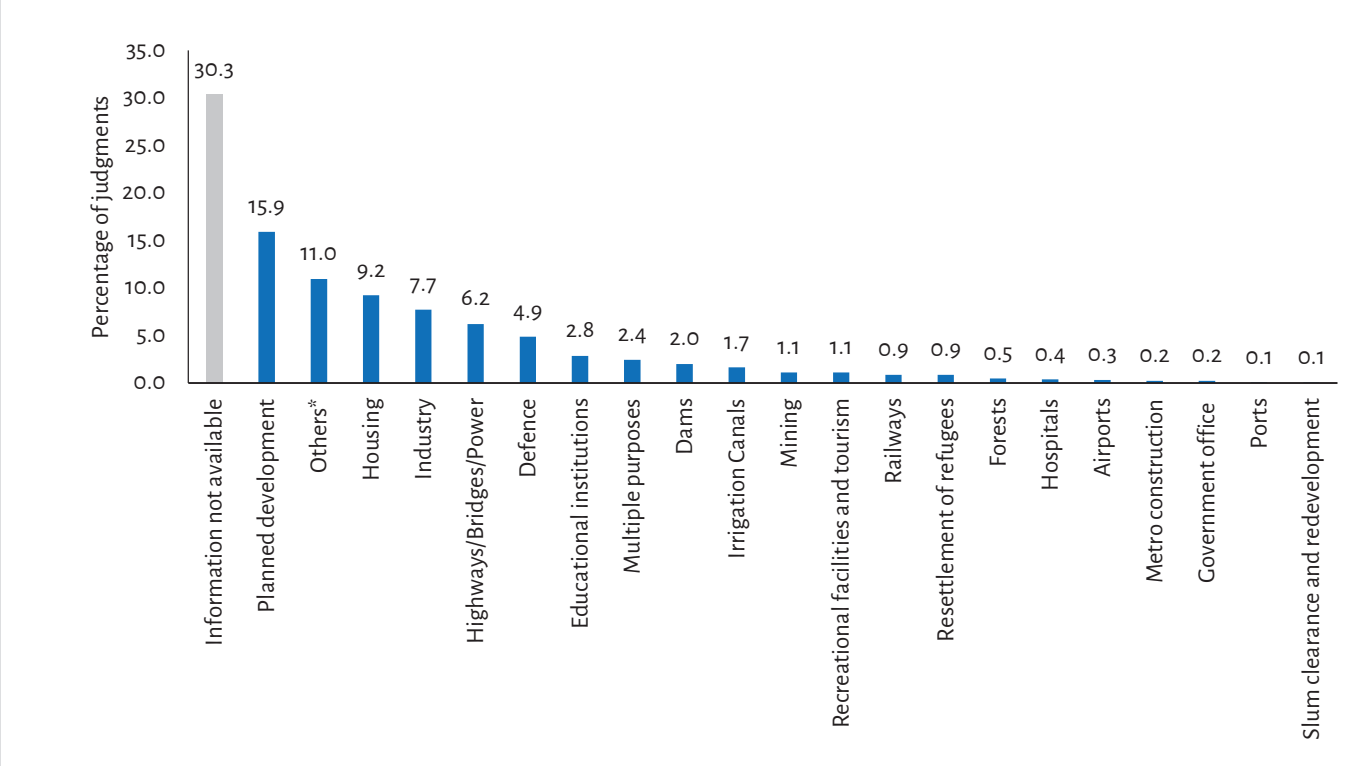
Three fourths of all acquisitions within the *housing* category were for providing affordable housing for the socially and economically weaker sections of society, whereas the remaining one fourth were for government and private residential housing (see Figure 26).

Land acquisition for *infrastructure* includes acquisitions for the construction of highways, roads and bridges and power plants.

From the above review, it is clear that planned development, which in essence signifies urbanisation, along with infrastructure and industrial growth are the major reasons for land acquisition and contestation regarding land acquisition. Insofar, as the failed LARR Ordinance sought to exclude these categories of cases from the consent and social impact assessment provisions of the Land Acquisition Act, it would have eviscerated much of the legal reform intended by the LARR Act. It is for the same reason that state government attempts to do the same through state amendments to the LARR Act must be pre-empted.

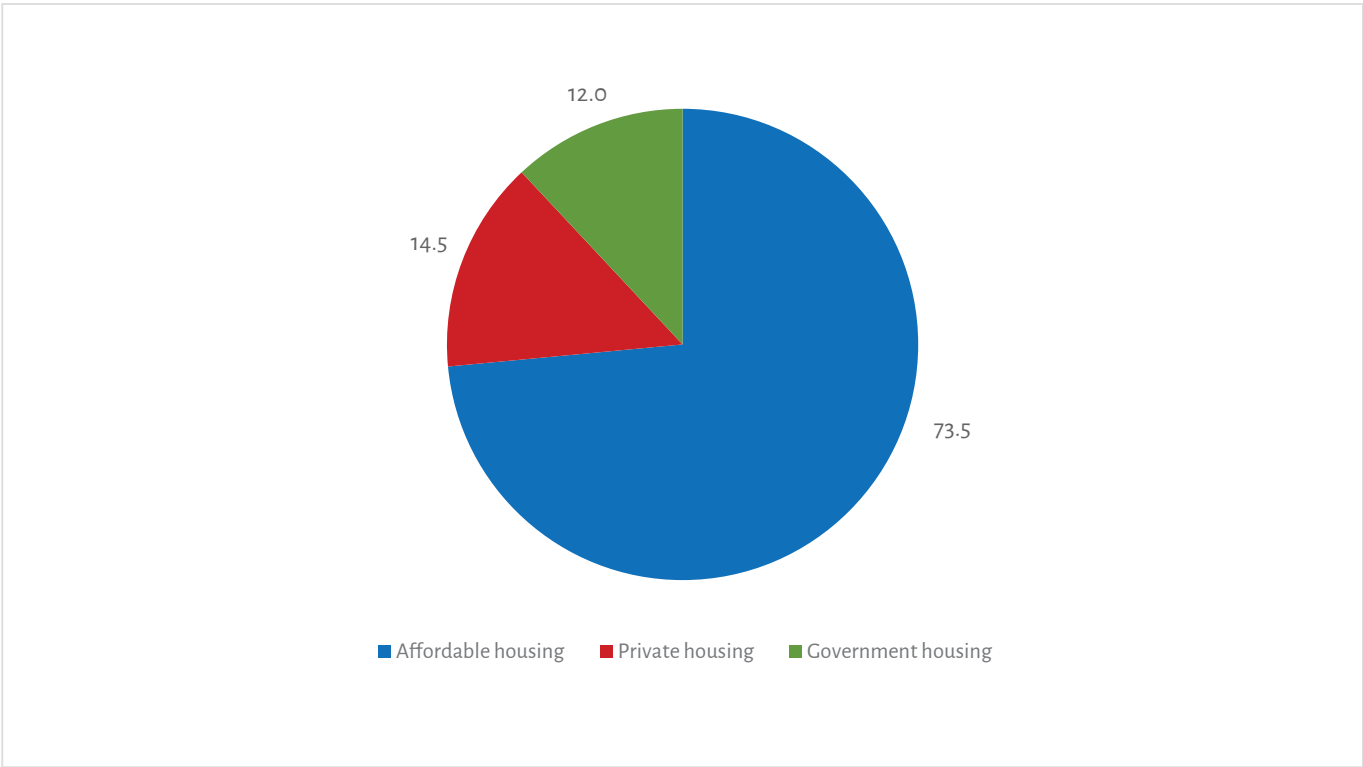
Interestingly, even though dams (2%), irrigation canals (1.6%), and mining (1.1%) have been historically known to cause massive displacement, and are also recorded as the source of major land conflict in the RRI database, they together account for less than 5% of the total Supreme Court litigation.

Figure 25: Purpose wise distribution of judgments



Note : The category "others" includes acquisitions for establishing godowns, transport depots, grain markets, police stations, fire stations, post offices, museums, oil refineries, research centres, public utility services, reservoirs and tanks, jails etc.

Figure 26: Distribution of litigation of housing related acquisitions



5.3. State wise distribution of litigation

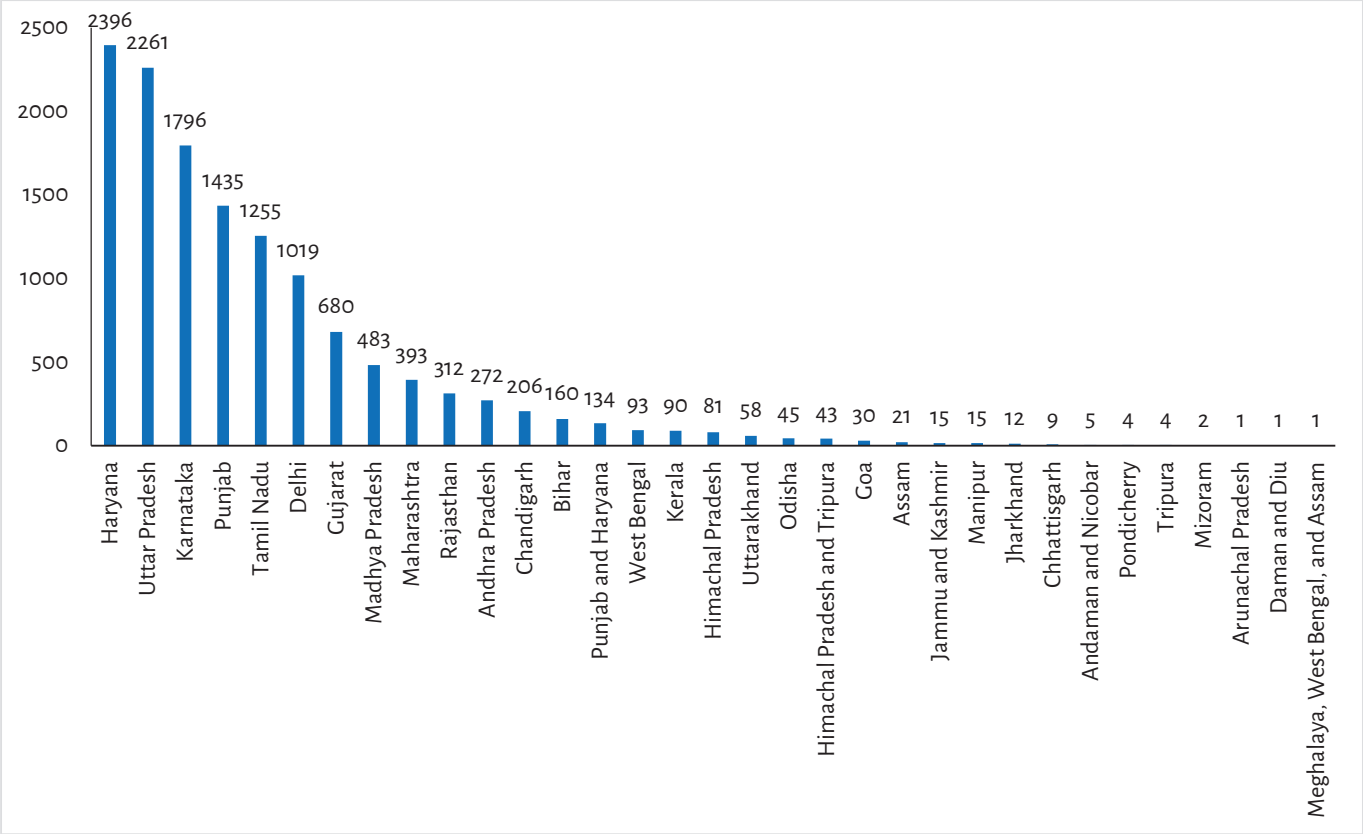
A *state wise* distribution of litigant petitions shows that five states, namely Haryana, Uttar Pradesh, Karnataka, Punjab, Tamil Nadu, and Delhi, account for almost three fourths (73%) of all litigation before the Supreme Court over the last sixty six years. While Uttar Pradesh is the most populous state in the country and geographically the fourth largest, the presence of relatively small states like Haryana, Punjab and Delhi, at the top of the list shows that geographical and population size do not account for the extent of litigation (see Figure 27).

There are two broad thematic explanations for this litigation. The first and most obvious reason is *proximity to the Supreme Court*. Since the Supreme Court is located in New Delhi, land losers in Delhi, and those in proximate states like Punjab, Haryana, and Uttar Pradesh, have the easiest access to the Court and ability to file claims. When we disaggregate the litigation data at the district level, Gautam Budh Nagar or NOIDA, Gurgaon, Faridabad, and Ghaziabad, all bordering Delhi, feature in the top ten highest litigation districts in the country (see Figure 28). Districts in Delhi should also have featured in the list given that the state of Delhi has the sixth highest litigation amongst all states and union territories. But the cases do not provide us information at the district level for litigation from Delhi.

However, access to Supreme Court is facilitated not merely by proximity but also "deep pockets". Anecdotal evidence of the high fees charged by Supreme Court lawyers, especially "Senior Advocates" abounds. More importantly, based on the average life of a case as reported in our data, for a case to reach the Supreme Court, it would have been litigated for an average prior period of 15 years. The ability to sustain litigation over such a long period of time within the judicial system indicates deep pockets.

This brings us to the second reason which explains the larger dataset: the twin phenomena of *urbanisation* and *industrial development*. The top 20 districts that account for almost half of all litigation (47%) are all highly urbanised districts

Figure 27: State and Union Territory wise distribution of number of petitions



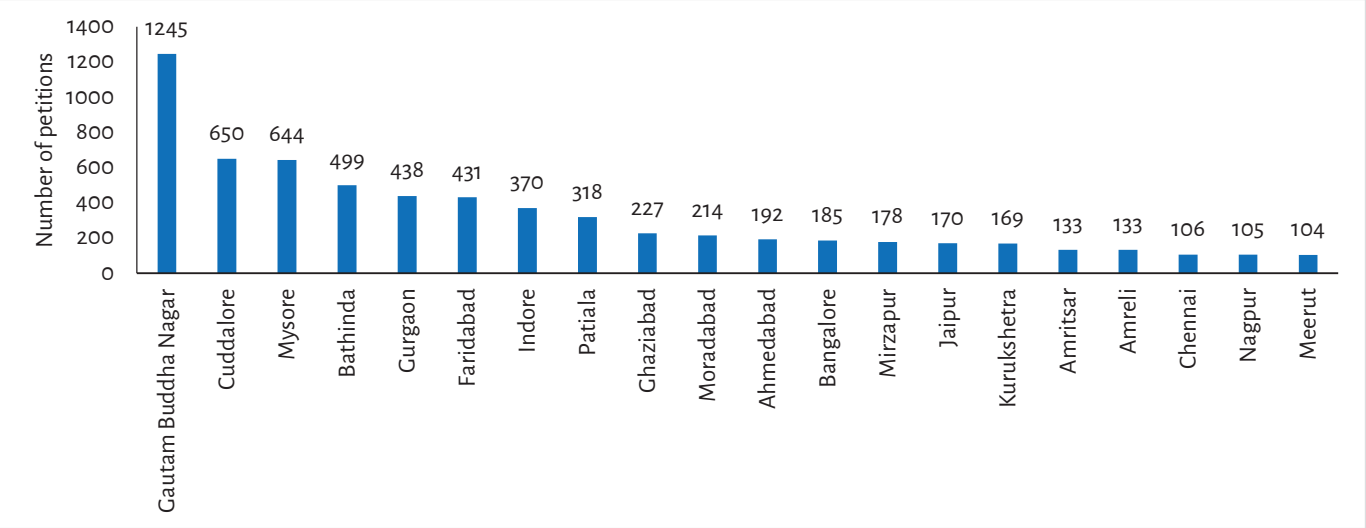
or state capitals. NOIDA leads the pack, with twice as much litigation as the next two contenders, Cuddalore in Tamil Nadu, and Mysore in Karnataka. The top twenty litigation districts also include Ahmedabad, Jaipur, Bangalore, and Chennai which are all state capitals (see Figure 28). Major urban centres in Punjab, namely Bathinda, Patiala and Amritsar, and commercial and industrial hubs like Indore in Madhya Pradesh and Nagpur in Maharashtra also show high levels of litigation. (see Figure 28). Obviously, land in *peri* urban areas that is acquired for the purposes of urbanisation and industrial development is of higher value than land in remote rural areas, and title holders of such land have greater incentive and ability to litigate.

This point becomes clearer when we look at the 2016 RRI land conflicts data, which shows that maximum conflicts are prevalent in those states and districts where in our study we have found little or no litigation. Since only titleholders could bring claims under the Land Acquisition Act, litigation insofar as it signifies the ability to bring claims is a sign of legal empowerment as well as faith in and access to courts. The provisions of the LARR Act insofar as they extend the ability to bring claims to livelihood losers along with land title holders can therefore be expected to increase litigation before the courts, if the government persists with non-compliance with the rule of law. Since persistent and prolonged litigation is both inefficient and iniquitous, the government must be induced through serious administrative reforms, including skills development and accountability measures to comply with the rule of law as outlined in the LARR Act.

When we disaggregate the data state wise based on the two categories of litigation claims described in section 4.3.2 above, we find that the states of Punjab and Haryana top the list of the category of claimants who are willing to part with their land so long as they are fairly compensated for the same (see Figure 29). However, with respect to the second category of land losers who question the legitimacy of the land acquisition process and are unwilling to part with their land, the states of Uttar Pradesh and Karnataka top the list.

Apart from the *urbanisation* and *proximity* to Delhi narratives, the extent of litigation (10%) in the state of Punjab, the granary of India, can be attributed both to the quantum of land acquired (approximately one fourth of the total geographical area litigated) as well as the fact that land titleholders do not wish to part with their valuable agricultural land unless they are compensated commensurate to what they know the land will yield when it is developed. That is, they accept the legitimacy of the development process only so long as they have a share of the development pie.

Figure 28: District wise distribution of number of petitions



Note: This figure represents only those districts which have more than 100 petitions.

In the states of Uttar Pradesh in the north and Karnataka in the south, however, the emerging narrative of the land acquisition process is one where disregard for the rule of law and procedural irregularities are more widespread as compared to other states (see Figure 29). Land losers in these states are going to court because they do not trust the legitimacy of the acquisition process conducted by the state government. Thus, this Report highlights the need for state specific interventions to address the problem of non-compliance with land acquisition procedures in these states.

Interestingly, when we disaggregate the data based on the extent of geographical area litigated in each state for the cases where such information is available, Rajasthan, which leads the pack, with 30% of the total geographical area litigated (see Figure 30), only accounts for 2.2% of the total litigation before the Supreme Court. Similarly, even though 11% of all geographical area litigated lies in the states of Madhya Pradesh and West Bengal, both states together account for only 4% of the litigation. (see Figure 30). Contrast this with Haryana which accounts for only 3.7% of the geographical area litigated, but accounts for 17% of all litigation. (see images 1 and 2). Finally, states like Andhra Pradesh, Telangana, Chhattisgarh and Jharkhand that have been recently ranked high on "economic freedom"[108] indices show low levels of litigation.

Figure 29: State and Union Territory wise distribution of number of petitions based on categories of challenge

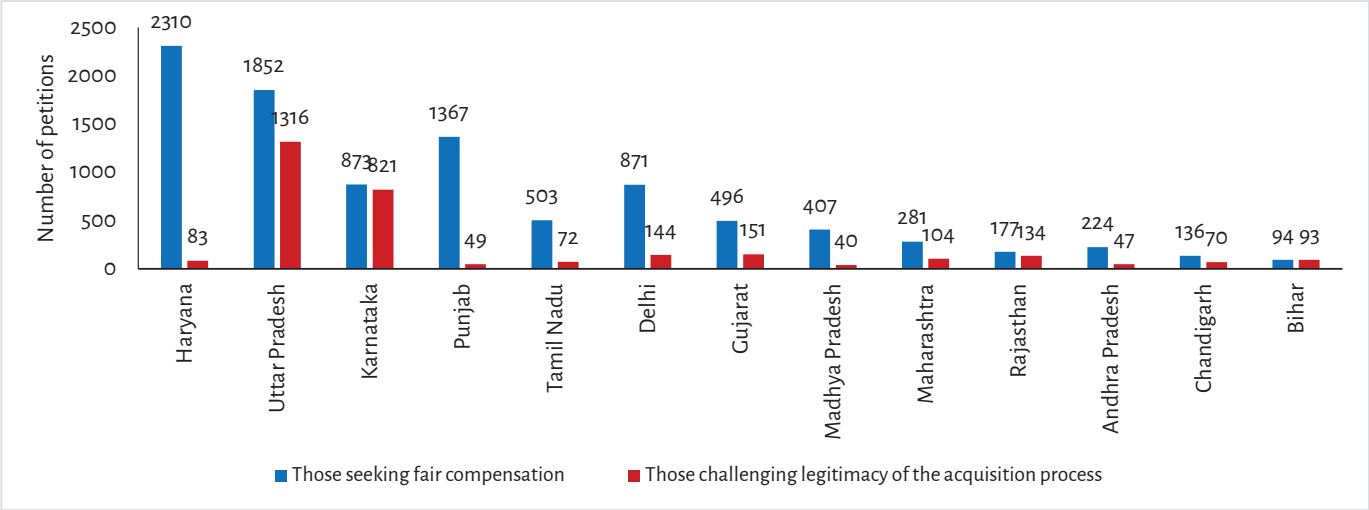
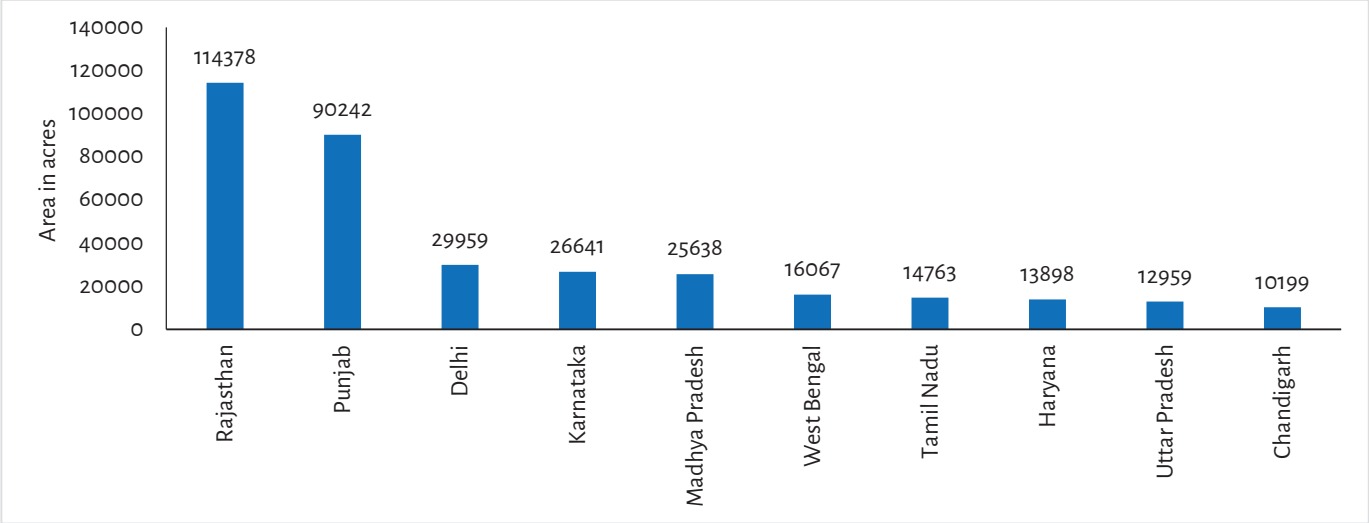


Figure 30: State and Union Territory wise distribution of geographical area litigated



Note: This figure represents only those states where more than 10,000 acres of geographical area was litigated.

Image 1: State and Union Territory wise representation of number of petitions

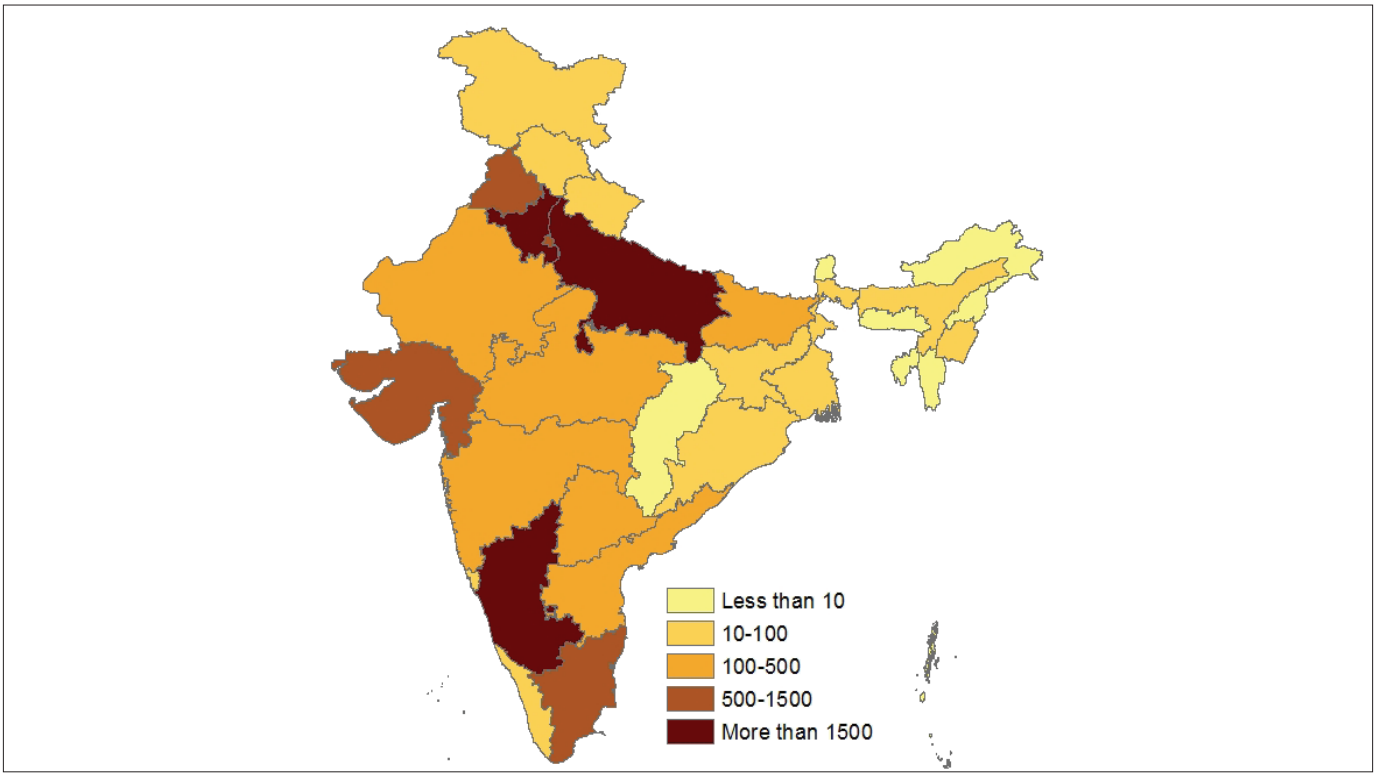


Image 2: State and Union Territory wise representation of geographical area litigated (in acres)

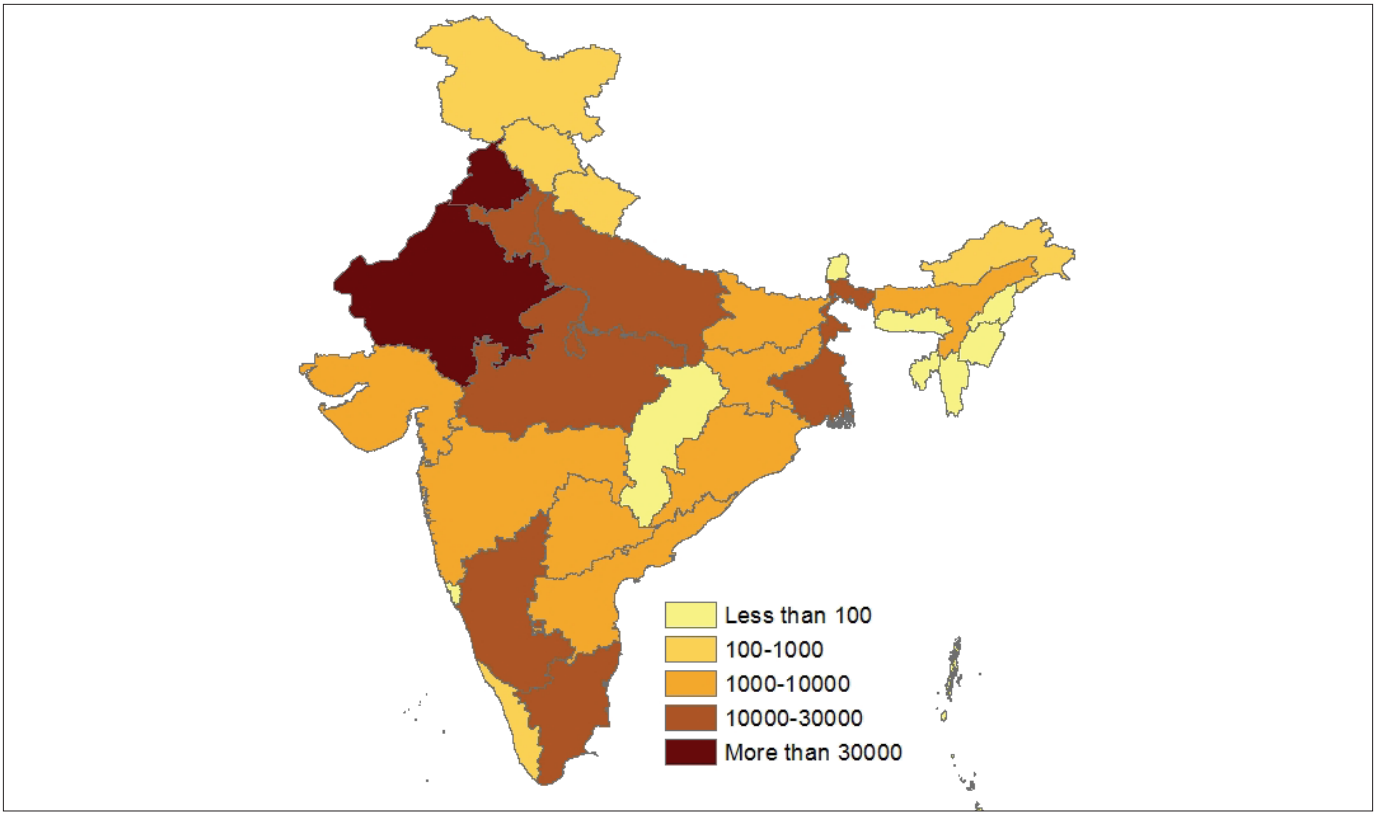
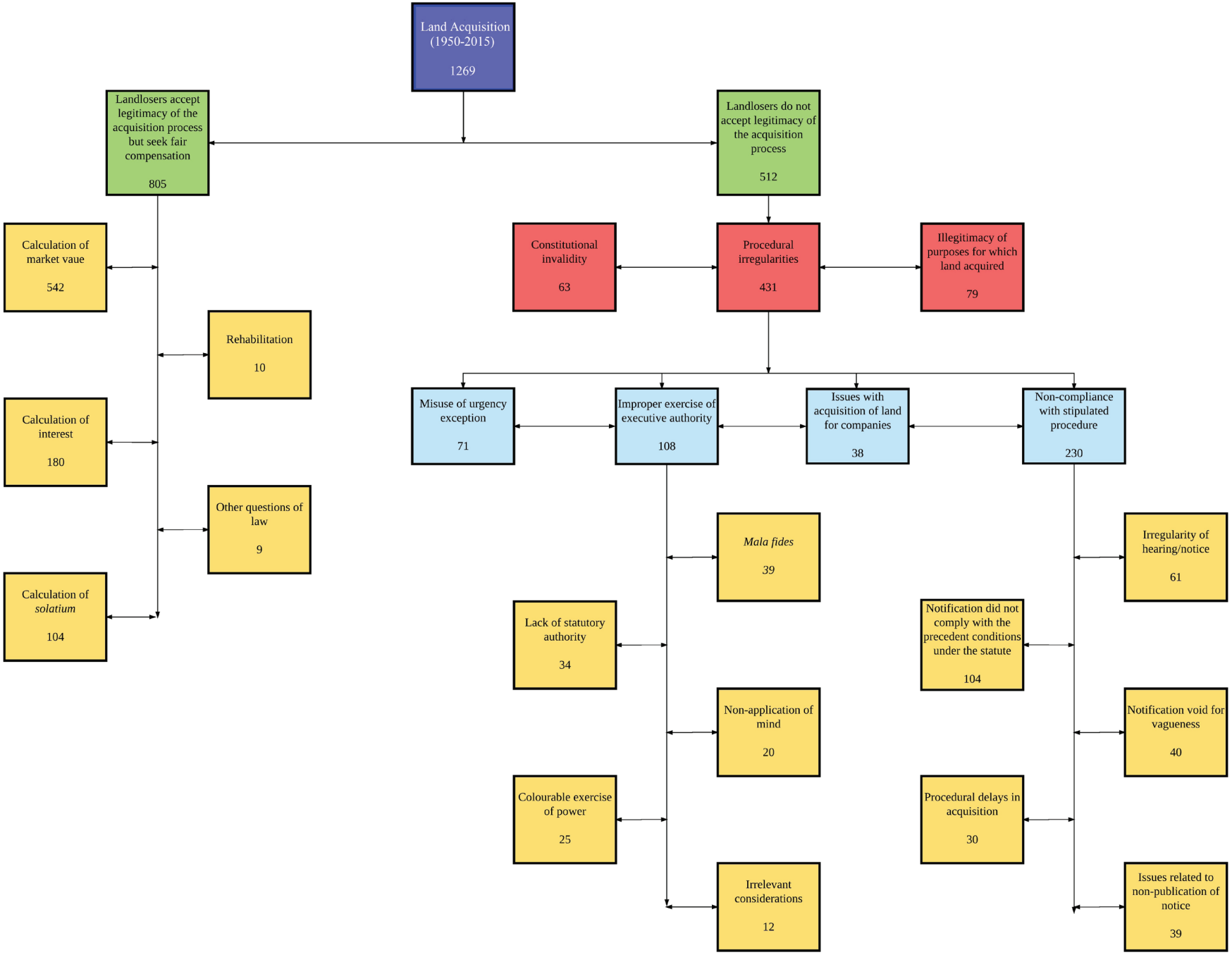


Chart 1: An overview of land acquisition litigation claims before the Supreme Court of India



5.4. Evaluating litigation under the LARR Act: Retrospective operation opens floodgates

On January 1, 2014, the LARR Act came into force. Section 24 of the LARR Act retrospectively applies the provisions of the Act to acquisitions pending under the Land Acquisition Act with a view to redressing historical injustices under older land acquisition laws.[109] In case of a pending land acquisition proceeding, where a compensation award has been passed under the old land acquisition law, then the acquisition will proceed as per the provisions of the old law.[110] However, in the following cases even though acquisition has been initiated under the old Act, the provisions of the LARR Act would apply.

- Where an award of compensation has not yet been made, the land losers would be entitled to compensation under the LARR.[111]
- Where an award of compensation was made five years before the commencement of the LARR Act, but either physical possession of land was not taken or compensation not paid, then the earlier land acquisition proceedings will lapse, and the acquiring authority may initiate proceedings under the LARR Act.[112]
- Where an award of compensation was made under the old Act but a "majority" of the land losers have not accepted the compensation awarded, the awardees would be entitled to compensation as per provisions of the new Act.[113]

In this section, we review cases decided under the LARR Act over a period of three years from 2014 to 2016, a total of 280 cases. About half of these cases were brought before the Court under its SLP jurisdiction, while almost all of the remaining half came before the Supreme Court as part of the Court's civil appeals process (see Figure 31). Only 14% of these cases were bunch matters.

Figure 31: Manner of appeal to Supreme court in cases litigated under the LARR Act

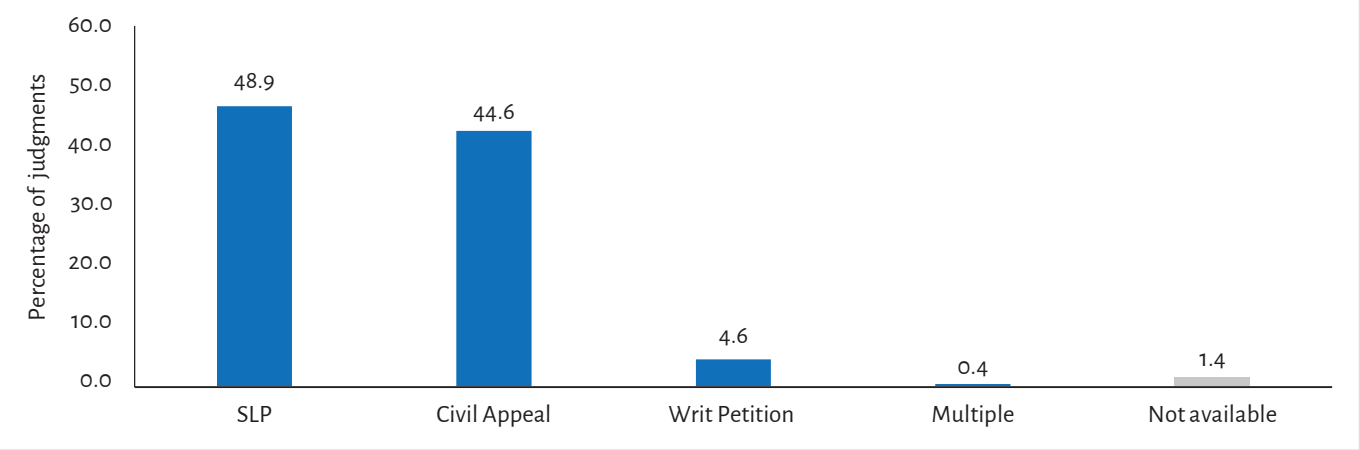


Figure 32: Distribution of pending acquisitions under existing land acquisition laws

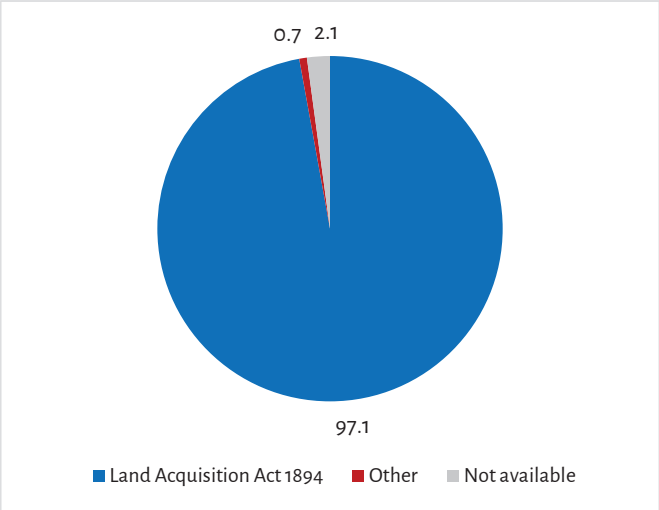
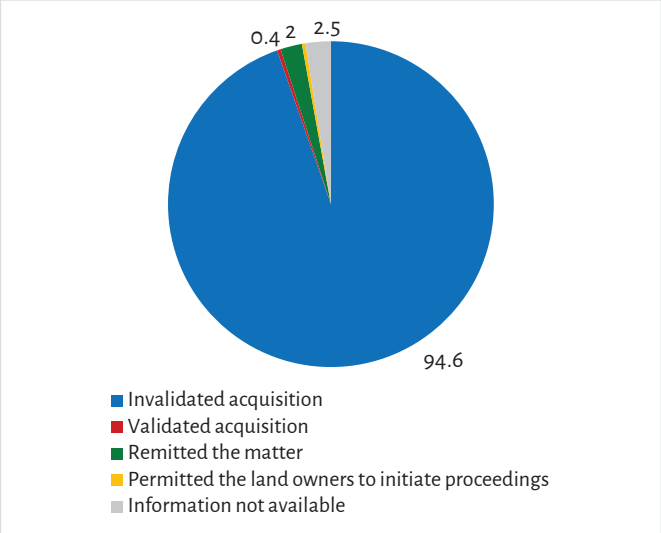


Figure 33: How did the Supreme Court decide?



All but 8 cases were brought under section 24 of the LARR Act, which perhaps explains how quickly they have been finally decided by the Supreme Court. 97% of these cases involved acquisitions made under the Land Acquisition Act (see Figure 32), where the award of compensation was made five years prior to the commencement of the LARR Act. Almost 83% of the challenges before the Supreme Court involved instances where no compensation had been paid to the land losers, 2% of the cases involved instances where compensation had been paid to the land losers but the acquiring authority had not taken physical possession of the land. Approximately 11% of the cases involved instances where neither compensation was paid, nor had the acquiring authority taken physical possession of the land.

In an overwhelming 95% of the cases, the Supreme Court invalidated the acquisition proceedings. In 2% of the cases, it remitted the matter back to the High Court and in a single case, it permitted the landowners to initiate proceedings in the appropriate forum. (see Figure 32)

If the above review is any sign of what we are to expect from the LARR Act, and there is every reason to believe it is, litigation will undoubtedly increase and the Court is likely to quash many more pending acquisitions under the Land Acquisition Act and other acquisition laws. That 200 of the 280 decided cases involved the Delhi Development Authority highlights the importance of the proximity factor in understanding the distribution of land acquisition litigation before the Supreme Court. However, this also suggests that we may see an increasing volume of litigation from less proximate locations in the coming years.

The other provisions of the LARR Act remain untested at this time especially since much government effort has been focused on circumventing the provisions of the LARR Act. A recent study shows that state governments are diluting the provisions of the LARR Act by passing rules for implementation of the Act under section 109.[114] However, if the recent judgment of the AP High Court is a sign of what to expect, courts will not look kindly on executive subversion of the rule of law embodied in the LARR Act.

CONCLUSION

The process of land acquisition in India has been the source of increasing political and legal contestation for almost two hundred years. This stems from the inherently coercive nature of the process, which creates a severe imbalance in power between the state and land losers. Our review of Supreme Court litigation since the time India became a constitutional republic in 1950 shows that while much of this imbalance was created within the very text of the Land Acquisition Act, a considerable part of it could also be attributed to executive non-compliance with the rule of law. The result was a situation of great inequity for the land losers.

A section of land losers, namely title holders, who were legally empowered to bring claims under the Land Acquisition Act sought to redress this imbalance and secure more equitable outcomes through litigation. The vast majority of land losers, both livelihood losers, and those who had property interests other than title that were not recognised by the Land Acquisition Act, remained victims of the land acquisition process. However, because of the extraordinary long pendency of court cases, litigation did not sufficiently mitigate the inequities for land losers and insofar as it stalled legitimate development projects, it also resulted in a highly inefficient system of land acquisition for the government. Therefore, reform of the existing Land Acquisition Act was necessary.

The provisions of the LARR Act insofar as they empower livelihood losers along with titleholders to bring claims for compensation and rehabilitation, bring compensation requirements in accordance with existing reality, and introduce requirements of consent and social impact assessment, are steps in the right direction for redressing the imbalance of power that was built into the Land Acquisition Act. Nevertheless, our study highlights that legal reform is a necessary but not a sufficient precondition for ensuring greater equity and efficiency within the land acquisition process. In the absence of administrative and bureaucratic reforms, the introduction of the LARR Act will not succeed in eliminating inequities and inefficiencies embedded within the implementation of existing land acquisition procedures. In fact, the increase in procedural requirements under the LARR Act implies an even greater need for securing executive compliance with the rule of law, in order to translate the equities intended by these additional procedures into reality for land losers.

Such administrative reforms include building of state capacity to meaningfully comply with the increased procedural requirements stipulated by the LARR Act, and designing institutional structures that incentivise such compliance with the rule of law. This in turn requires a serious mind set shift toward accepting the reform enshrined in the LARR Act, and not subverting it as we have seen in both legislation and delegated legislation introduced by the central government and various state governments since the time the LARR Act came into force. Litigation helps channelise political contestation of state action into legal as opposed to extra legal disputes. Therefore, by empowering hitherto disempowered land losers to bring claims under the LARR Act, the Act will help pre-empt extra-legal conflict. Since conflict inevitably stalls or derails legitimate development projects, it is in the interests of government to comply with, and not subvert the LARR Act.

More holistic legal and administrative reforms relating to existing land administration, including updating of land records to reflect accurate title and other property rights with respect to land and accurate reporting of land value in registering land transactions, are indispensable for ensuring greater equity and efficiency in land acquisition processes.

Due to the retrospective operation of the LARR Act, we expect a spike in land acquisition litigation in the coming years. This is corroborated by our three year review of litigation since the LARR Act came into force. However, this spike is not unusual. Our research has shown that over the past sixty seven years every amendment to the Land Acquisition Act was followed by a sharp increase in litigation in its immediate aftermath as individual land losers sought to claim the benefits of the legal reform. But as mentioned earlier, litigation insofar as it pre-empts extra-legal conflict may not always be a socially regressive outcome.

Determining the extent to which the new land acquisition procedures under the LARR Act, with respect to consent, social impact assessment, public purpose, compensation and rehabilitation, have been hitherto applied and/or litigated is beyond the scope of our study. All we can say is that the Supreme Court has not adjudicated litigation with respect to these issues thus far. Given the lengthy time period between the initiation of the land acquisition proceedings and the final adjudication of disputes by the High Court and the Supreme Court as described in our study, it will be a few years before we can meaningfully assess litigation under the LARR Act, and comment on the efficacy of the new procedures outlined by the Act in securing equitable outcomes for land losers.

Our findings have also highlighted the extraordinary long pendency of land related litigation in courts in India. Since "justice delayed is justice denied", this long pendency is both iniquitous and inefficient. Though not the main aim of the study, the inequities and inefficiencies of the judicial process, seen especially in the working of the lower courts and the limited access to the Supreme Court, certainly suggest the need for administrative reforms within the judiciary to reduce such pendency and to improve access to courts.

Our study has revealed that urbanisation and industrial development, and proximity and access to courts are common factors that explain the incidence of litigation across the country. These insights are however preliminary and beg further investigation for a fuller understanding of the variations in litigation patterns across different states. This is a ripe area for further research by legal and social science scholars. Perhaps some of the answers may emerge from a more comprehensive evaluation of the textual provisions and actual implementation of the eighty seven state laws of land acquisition.

Finally, litigation is only one aspect of political contestation relating to land. Vast areas of the country, particularly rural areas, and areas governed by the Fifth and Sixth Schedules of the Constitution, show high political conflict over land but very low levels of litigation. This is likely because land losers in these areas usually do not possess individual titles to the land and were therefore disempowered from bringing claims under the Land Acquisition Act, facilitated also by the abolition of the constitutional right to property in 1978. The LARR Act will likely channelise some of this contestation into litigation, but more holistic legal and administrative reforms may be necessary to systematically redress the causes of such conflict in accordance with the rule of law. Our work on the "constitutional right to property" and "land rights in the scheduled areas" projects aims to provide further insights for mitigating land conflict and displacement of vulnerable individuals and groups, particularly in the scheduled areas of India. Only then will we be able to create politically and socially feasible economic development for the vast majority of Indians.

NOTES

1. Namita Wahi, "Land Acquisition, Development and the Constitution", 642 *Seminar Magazine* (February 2012) available at http://india-seminar.com/2013/642/642_namita_wahi.htm (Visited on January 17, 2017).

2. G Seetharaman & CR Sukumar, "Land-related conflicts fester despite landmark legislation", *The Economic Times* (December 04, 2016) available at http://economictimes.indiatimes.com/articleshow/55779348.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (Visited on January 17, 2017); K Balagopal, "Land unrest in Andhra Pradesh-III: Illegal acquisition in tribal areas", 42(40) *Economic and Political Weekly* 4029-4034 (October 06, 2007); T.F Homer-Dixon, "Environmental scarcities and violent conflict: Evidence from cases", 19(1) *International Security* 5-40 (1994).

3. P. Sampat, "The 'Goan Impasse': Land rights and resistance to SEZs in Goa, India", 42(3-4) *Journal of Peasant Studies* 765-790 (2015); M. Levien, "Special economic zones and accumulation by dispossession in India", 11(4) *Journal of Agrarian Change* 454-483 (2011); M. Levien, "The land question: special economic zones and the political economy of dispossession in India", 39(3-4) *The Journal of Peasant Studies* 933-969 (2012).

4. B. Sanyal and V. Mukhija, "Institutional pluralism and housing delivery: A case of unforeseen conflicts in Mumbai, India", 29(12) *World Development* 2043-2057 (2001); M.H. Zérah, "Conflict between green space preservation and housing needs: The case of the Sanjay Gandhi National Park in Mumbai", 24(2) Cities 122-132 (2007).

5. H.P. Bedi and L. Tillin, "Inter-state competition, land conflicts and resistance in India", 43(2) *Oxford Development Studies* 194-211 (2015); V. Narain, "Growing city, shrinking hinterland: land acquisition, transition and conflict in peri-urban Gurgaon, India", 21(2) *Environment and Urbanization* 501-512 (2009).

6. Atul M. Setalvad, "A Study into Certain Aspects of the Land Acquisition Act, 1894", 13(1) *Journal of the Indian Law Institute* 1, 2 (January-March 1971).

7. Tenth Report of the Law Commission of India, "Law of Acquisition and Requisitioning of Land", (1958).

8. For instance, the Mysore Land Acquisition Act, 1894, the Hyderabad Land Acquisition Act, 1899 and the Travancore Land Acquisition Act, 1914.

9. Part III of the Constitution outlines the fundamental rights to life (Article 21), liberty (Article 19), equality (Article 14) and property (Article 31). The Forty Fourth Constitutional Amendment, 1978 abolished the fundamental right to property but retained it as a constitutional right in Article 300A.

10. The Land Acquisition Act, 1894 was amended by Act 9 of 1910, 4 and 10 of 1914, 17 of 1919, 33 of 1920, 19 of 1921, 38 of 1923, 10 of 1924, 16 of 1933, 1 of 1938, 31 of 1962, 13 of 1967, 56 of 1974, 38 of 1978, 68 of 1984 and 19 of 1988, see Tenth Report of the Law Commission, *supra* note 7, at 3.

11. These include the First (1951), Fourth (1955), Seventh (1956), Seventeenth (1964), Twenty Fourth (1971), Twenty Fifth (1972), Twenty Sixth (1972), Twenty Ninth (1972), Thirty Fourth (1974), and Thirty Ninth (1975) constitutional amendments. For details about the chequered legal trajectory of the fundamental right to property, see Namita Wahi, "Property" in OXFORD HANDBOOK ON THE INDIAN CONSTITUTION, 943 (Sujit Choudhry, Madhav Khosla, and Pratap Bhanu Mehta ed(s), 2016) at 944.

12. Wahi, *supra* note 11; Namita Wahi, "State, Private Property and the Supreme Court", 29:19 *Frontline Magazine* (2012).

13. *K T Plantation Private Limited* v. *State of Karnataka*, (2011) 9 SCC 1; *Super Cassettes Industries Limited* v. *Music Broadcast Private Limited*, (2012) 5 SCC 488; Wahi, *supra* note 11, at 960.

14. The "Union List" consists of those subjects on which only Parliament or the union legislature is empowered to legislate; List II or the "State List" consists of those subjects on which only the state legislatures can legislate, and finally, List III or the "Concurrent List" consists of those subjects on which both the union and state legislatures are empowered to legislate.

15. Entry 18, List II of the Constitution, provides, "Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonisation."

16. Entry 42, List III of the Constitution provides, "Acquisition and requisitioning of property."

17. Wahi, *supra* note 1.

18. The colonial laws included for instance, the Telegraphs Act, 1885, the Railways Act, 1890, the Electricity Act, 1910, and the Forest Act, 1927. The Railways and Electricity Acts have now been repealed and replaced by the Railways Act, 1989 and the Electricity Act, 2003, both of which also contain provisions for land acquisition. Laws enacted post-independence included, for instance, the Damodar Valley Corporation Act, 1948, the Slum Areas (Improvement and Clearance) Act, 1956 and the Coal Bearing Areas (Acquisition and Development) Act, 1957.

19. M. Ghatak, and P. Ghosh, "The land acquisition bill: a critique and a proposal", 46(41) *Economic and Political Weekly* 65-72 (2011).

20. See, the Land Acquisition (Amendment) Bill, 2007.

21. See, Namita Wahi, "Equity of Land Acquisition", *The New Indian Express* (November 29, 2011) available at http://www.newindianexpress.com/opinion/article250235.

ece?service=print (Visited on January 20, 2017); Namita Wahi, "Compromise over land takeover", *The New Indian Express* (September 11, 2013) available at http://www.newindianexpress.com/opinion/Compromise-over-land-takeover/2013/09/11/article1778031.ece?service=print (Visited on January 20, 2017).

22. Namita Wahi, "Lay of the Land", *The Indian Express* (March 18, 2015) available at http://indianexpress.com/article/opinion/columns/lay-of-the-land (Visited on January 20, 2017).

23. "Proposed land acquisition bill seen as a retrograde step" *The Hindu Business Line* (November 15, 2011) available at http://www.thehindubusinessline.com/economy/article2627420.ece (Visited on February 25, 2017).

24. Prabhakar Sinal, "Builders call land acquisition bill anti-development" *Times of India* (September 7, 2011) available at http://timesofindia.indiatimes.com/business/india-business/Builders-call-land-acquisition-bill-anti-development/articleshow/9889205.cms?referral=PM; "Industry against proposed law on land acquisition" *The Hindu* (November 14, 2011) available at http://www.thehindu.com/business/Industry/industry-against-proposed-law-on-land-acquisition/article2627611.ece (Visited on February 25, 2017).

25. Nigam Prusty and Krishna N. Das, "India considers emergency orders to ease land deals, auction minerals" *Reuters* (December 29, 2014) available at https://www.reuters.com/article/india-reform-idUSL3N0UD1MM20141229 (Visited on January 20, 2017).

26. Section 10A of the LARR Ordinance, 2014.

27. Shreeja Sen, "SC issues notice to Centre on petition against land ordinance", *LiveMint* (April 13, 2015) available at http://www.livemint.com/Politics/Ts8tD7CJYGZDklRVKOmGIM/SC-issues-notice-to-Centre-in-petition-against-land-acquisit.html?utm_content=buffer1de22&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer (Visited on January 20, 2017).

28. Nistula Hebbar, "Land Ordinance allowed to lapse", *The Hindu* (August 29, 2015) available at http://www.thehindu.com/news/national/land-ordinance-allowed-to-lapse/article7592054.ece (Visited on January 20, 2017).

29. "Supreme Court accepts the centre's stand, dispose of pleas on land ordinance", *The Economic Times* (September 24, 2015) available at http://articles.economictimes.indiatimes.com/2015-09-24/news/66854664_1_land-acquisition-ordinance-re-promulgation-ordinance-terming (Visited on February 12, 2016).

30. "Panel on Land Bill given 8th extension", *The Hindu* (December 14, 2016) available at http://www.thehindu.com/news/national/Panel-on-Land-Bill-given-8th-extension/article16805122.ece (Visited on February 16, 2017).

31. Interview with Mr. Jairam Ramesh, former Minister for Rural Development (April 13, 2016).

32. "Land Act bit draconian, frame own laws: Arvind Panagriya to States", *The Economic Times* (September 10, 2015) available at http://articles.economictimes.indiatimes.com/2015-09-10/news/66397001_1_land-acquisition-act-niti-aayog-vice-chairman-tamil-nadu (Visited on February 16, 2017).

33. Mahesh Langa, "Gujarat passes diluted land acquisition bill", The Hindu (April 01, 2016) available at http://www.thehindu.com/news/national/other-states/gujarat-passes-diluted-land-acquisition-bill/article8419242.ece (Visited on February 16, 2017).

34. Anil Sasi, "Centre's bill on hold, states move on land acquisition", *The Indian Express* (December 25, 2015) available at http://indianexpress.com/article/india/india-news-india/centres-bill-on-hold-states-move-on-land-acquisition/ (Visited on February 16, 2017).

35. *Kondakandla Yadaiah* v. *State of Telangana*, W .P. No. 25036 of 2016.

36. Rights and Resources Initiative, "Land Conflicts in India: An Interim Analysis", (November 2016) available at http://rightsandresources.org/wp-content/uploads/2016/11/Land-Conflicts-in-India-An-Interim-Analysis_November-2016.pdf http://www.landconflictwatch.org/node/498/all/all/all/all/51 (Visited on February 25, 2017).

37. The dataset of 2016 cases includes all cases under the LARR Act but may not include all cases under the Land Acquisition Act.

38. For instance, see Mohammed Asif, "Land Acquisition Act: Need for an Alternative Paradigm", 34(25) *Economic and Political Weekly* 1564 (1999); Setalvad, *supra* note 6.

39. For instance, see PRS Legislative Research, "All about the Land Acquisition Debate", (2011-2017) available at http://www.prsindia.org/pages/land-acquisition-debate-139/ (Visited on February 16, 2017); Bhavdeep Kang, "2013 Land Act: Historical Injustice Corrected", *DNA* (October 2, 2015) available at http://www.dnaindia.com/analysis/column-2013-land-act-historical-injustice-corrected-2130745 (Visited on February 16, 2017).

40. Rights and Resources Initiative, "As Modi Government in India Proceeds with Economic Development Agenda, New Map Tracking Land Disputes Shows Disturbing Pattern of Conflicts with Local People", (November 25, 2014) available at http://www.rightsandresources.org/news/as-modi-government-in-india-proceeds-with-economic-development-agenda-new-map-tracking-land-disputes-shows-disturbing-rise-in-conflicts-with-local-people/ (Visited on February 16, 2017).

41. Rights and Resources Initiative, *supra* note 36.

42. Ram Singh, "Inefficiency and abuse of compulsory land acquisition: An Enquiry into the way forward", 47(19) *Economic and Political Weekly* 46 (2012); see also Ram Singh, "Litigation over Eminent Domain Compensation", International Growth Centre Working paper (September 2013).

43. Singh, *id* at 46.

44. Singh, *id*. at 49-50.

45. Study available in the form of a Microsoft Power Point presentation and Meeting Notes on file with the CPR Land Rights Initiative.

46. Devesh Kapur, Arvind Subramaniam, and T.V. Somanathan, "Land Shackled- I", *Business Standard* (July 20, 2014) available at http://www.business-standard.com/article/opinion/devesh-kapur-t-v-somanathan-arvind-subramanian-land-shackled-i-114072000708_1.html (Visited on February 16, 2017).

47. Sanjoy Chakravorty, THE PRICE OF LAND: ACQUISITION, CONFLICT, CONSEQUENCE (1st edn., 2013).

48. Our research benefited from discussions with Pratap Bhanu Mehta, Siri Gloppen, Nick Robinson, Tom Keck, Deepak Sanan, K.P. Krishnan, Abha Joshi, Partha Mukhopadhyay and Kiran Bhatty.

49. *P. Vajravelu Mudaliar* v. *Special Deputy Collector, Madras*, AIR 1965 SC 1017; *Balammal and others*. v. *State of Madras*, AIR 1968 SC 1425; *Municipal Corporation* v. *K.N.Palshikar*, AIR 1969 SC 579; *Union of India* v. *Swaran Singh and Ors.* (1998) 8 SCC 593; *Defence Estate Officer* v. *Syed Abdul Aseem*, (2015) 12 SCC 294.

50. Section 4, Land Acquisition Act, 1894.

51. Section 5, Land Acquisition Act, 1894.

52. Section 3(b), Land Acquisition Act, 1894.

53. Section 6, Land Acquisition Act, 1894.

54. Section 8, Land Acquisition Act, 1894.

55. Section 9, Land Acquisition Act, 1894.

56. Sections 11 and 12, Land Acquisition Act, 1894.

57. Section 16, Land Acquisition Act, 1894.

58. Section 31(1), Land Acquisition Act, 1894.

59. Section 31(2), Land Acquisition Act, 1894.

60. Section 17(1), Land Acquisition Act, 1894.

61. Section 17(4), Land Acquisition Act, 1894.

62. Section 34, Land Acquisition Act, 1894.

63. Section 3(f), Land Acquisition Act, 1894.

64. Part VII, Section 39, Land Acquisition Act, 1894.

65. "Abstract of the Proceedings of the Council of the Governor General of India: Land Acquisition Amendment Bill", Part VI, Gazette of India, March 12, 1892, at 28. See also, Namita Wahi, "How Singur Turned the Tide on Land Acquisition in India", The Wire (September 28, 2016) available at https://thewire.in/68984/singur-turned-tides/ (Visited on February 16, 2017).

66. Tenth Report of the Law Commission, *supra* note 7, at 25.

67. Section 23(1), Land Acquisition Act, 1894.

68. Section 23(2), Land Acquisition Act, 1894.

69. Section 23(1), Land Acquisition Act, 1894.

70. Section 24, Land Acquisition Act, 1894.

71. Section 18, Land Acquisition Act, 1894.

72. Section 23(1A), Land Acquisition Act, 1894.

73. Section 28, Land Acquisition Act, 1894.

74. Section 34, Land Acquisition Act, 1894.

75. This section has been taken from Wahi, *supra* note 1.

76. Jairam Ramesh and Muhammad Khan, LEGISLATING FOR JUSTICE: THE MAKING OF THE 2013 LAND ACQUISITION LAW (2015).

77. Tenth Report of the Law Commission, *supra* note 7.

78. *Surya Pal Singh* v. *State of Uttar Pradesh*, [1952] SCR 1056, 1073; *State of Bihar* v. *Kameshwar Singh*, AIR 1952 SC 252.

79. *Thambiran Padayachi* v. *State of Madras*, AIR 1952 Mad 75; *State of Bombay* v. *Nanji*, [1956] SCR 18; *Bhagwat Dayal* v. *Union of India*, AIR 1959 Punj 544.

80. *R. L. Arora* v. *State of Uttar Pradesh*, AIR 1964 SC 1230.

81. *Id*.

82. *Somavanti* v. *State of Punjab*, AIR 1963 SC 151.

83. Wahi, *supra* note 65.

84. *State of West Bengal* v. *Bela Banerjee*, AIR 1954 SC 170; see also, Wahi, *supra* note 11.

85. Ramesh, *supra* note 76.

86. *Id*.

87. Tenth Report of the Law Commission, *supra* note 7, at 16-20.

88. Section 3(x), LARR Act, 2013.

89. Section 2, LARR Act, 2013.

90. Section 2(2)(b), LARR Act, 2013.

91. Sections 5-8, LARR Act, 2013.

92. Section 9, LARR Act, 2013.

93. Section 40(2), LARR Act, 2013.

94. Section 30, LARR Act, 2013.

95. Second Schedule, LARR Act, 2013.

96. Ramesh, *supra* note 76; statements made by Muhammad Khan, OSD to the Minister for Rural Development in several conferences relating to the LARR Act.

97. Articles 132-133, THE CONSTITUTION OF INDIA.

98. Article 136, THE CONSTITUTION OF INDIA.

99. For instance, the Supreme Court of the United States and the South African Constitutional Court.

100. Abhishek Manu Singhvi, "Beating the Backlog: Less talk, more action" (2007) 2 *SCC J-9*.

101. In the Land Acquisition Act, this corresponds to the date of issuance of the Section 4 notification.

102. The Daksh "Rule of Law" project has analysed 40 lakh cases pending in various courts across the country. Daksh data reveals that the average judicial pendency before subordinate courts in India is 6 years, and before the High Court is 3 years. For cases decided by the Supreme Court, the average time a litigant spends in court is 13 years, see, Harish Narsappa, "The long, expensive road to Justice", *India Today* (April 27, 2016) available at http://indiatoday.intoday.in/story/judicial-system-judiciary-cji-law-cases-the-long-expensive-road-to-justice/1/652784.html (Visited on February 16, 2017)

103. *Deep Chand* v. *State of Uttar Pradesh*, AIR 1959 SC 648; *Gurjoginder Singh* v. *Jaswant Kaur*, (1994) 2 SCC 368; *Bihar State Electric Board* v. *State of Bihar*, (1994) Supp. (3) SCC 743; *Draupadi Dharmada Trust* v. *Daya Shankar* (2010) 15 SCC 799; *Delhi Development Authority* v. *Bhola Nath Sharma* (2011) 2 SCC 54.

104. *Jawajee Naganatham* v. *Revenue Divisional Officer*, (1994) 4 SCC 595; *Painder Singh* v. *Union of India*, (1995) 5 SCC 310; *Ranvir Singh* v. *Union of India*, AIR 2005 SC 3467; *Thakur Kuldip Singh* v. *Union of India* and others, AIR 2010 SC 1272.

105. Section 26, LARR Act, 2013.

106. Swati Mathur, "India's longest e-way tells a story of land acquisition feat", *The Times of India* (May 28, 2015) available at http://timesofindia.indiatimes.com/india/Indias-longest-e-way-tells-a-story-of-land-acquisition-feat/articleshow/47451496.cms (Visited on February 16, 2017); "Land acquisition simplified in Uttar Pradesh", *The Financial Express* (March 18, 2015) available at http://www.financialexpress.com/economy/land-acquisition-simplified-in-uttar-pradesh/55068/ (Visited on February 16, 2017).

107. Out of this subset of cases, 27 cases that involved challenges to the legitimacy of the land acquisition procedures, also involved a challenge to the constitutional validity of the applicable land acquisition statute.

108. This is taken from the "Assessment of State Implementation of Business Reforms 2015-16", available at http://eodb.dipp.gov.in/Press%20Release.pdf (Visited on February 21, 2016).

109. Ramesh, *supra* note 76.

110. Section 24(1)(a), LARR Act, 2013.

111. Section 24(1)(b), LARR Act, 2013.

112. Section 24(2), LARR Act, 2013.

113. Proviso to section 24(2), LARR Act, 2013.

114. Kanchi Kohli and Debayan Gupta, "Mapping dilutions in a Central Law: A Comparative Analysis of State Level Rules made under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013" CPR Working Paper Series, available at file: https://scroll.in/article/827183/andhra-pradesh-is-changing-land-acquisition-procedures-even-before-the-national-law-is-passed (Visited on February 25, 2016).

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