**PRE PROMOTION STATUTORY TRAINING PROGRAM**

FOR

**SENIOR CIVIL JUDGES/JUDICIAL MAGISTRATES/ ALLA ILLAQA QAZI**

(February 16, 2026 – April 10, 2026)

---

# Research Article

***Topic***

# Adjudicating Land Acquisition Disputes: Balancing Development and Individual Rights.

---


***Submitted By:***

***Imranullah***

*RAS-LJCP*-Supreme court of Pakistan

Participant


***Submitted To***

***Khyber Pakhtunkhwa Judicial Academy***

**2026**

# Adjudicating Land Acquisition Disputes: Balancing Development and Individual Rights.

**Imran Ullah[1] (RAS-LJCP)**


## Abstract

This research article analyses the enigma of correlation between development and individual rights while adjudicating upon disputes arising out of land acquisition. The judicial paradigm that evolved periodically has given rise to an incessant steam of dissonance on both sides of the equation. An ever-increasing graph of litigation on the subject exhibits that neither the owner of the acquired land seems satisfied with the compensation awarded nor the acquiring entity candidly comply with the award determined by the referee court. The research identifies the core predicaments ascending from compulsory acquisition and how best these can be bridged for the benefit of both sides to achieve the paramount intent of the enactment. Using the method of doctrinal research, this study examines relevant provisions of Land Acquisition Act, 1984, Constitution of the Islamic Republic of Pakistan, 1973, jurisprudence developed thereon, celebrated judicial precedents, and germane literature to assess the current legal arrangement. At the conclusion, it is determined that statute and jurisprudence evolved thereon ensures the phenomenon of development to run concurrently with individual rights and it is for the courts to balance this equilibrium in true sense.



## Key words

Acquisition, Eminent Domain, Public Purpose, Development, individual Right, Transparent procedure, Market Value, Compensation, Urgency.


## 1. Introduction.

The right of ownership is "absolute", finds its roots in *"Cuius est solum, eius est esque ad coelum et an infores[2]"* owner of the land enjoys his right of ownership from height of the sky till its depth. The doctrine is also called *"ad coelum"* nevertheless, the principal has an exception in the form *"salus populi supreme lex[3]"* it is the interest of the public which is the supreme law. In this context, the governing principle behind the concept of compulsory acquisition is to legitimize the state's power to acquire private owned land for public purposes

1 Resident Additional Secretary, Law and Justice Commission. imranullahcj@gmail.com

2 https://en.wikipedia.org/wiki/Cuius_est_solum,_eius_est_usque_ad_coelum_et_ad_inferos

3 https://en.wikipedia.org/w/index.php

but with lawful authority, and to ensure compensation to the owner[4]. Notwithstanding the existence of statutes, courts face formidable challenges when the process of acquisition is tested on the yardsticks of legitimacy of public utility, valuation of compensation, fairness and procedural conformity. Disparity between these poles not only frustrates the purpose of the enactment but also torments the affected person(s) on one hand while on the other, burdens state institutions with never ending litigation. This article examines the adjudicatory trends and seeks to understand whether the act has achieved to maintain a balance between the scope of development and individual rights through adjudication.

## 2. Research Scope

Land acquisition Act, 1894 has not only prescribed solemn legal architecture for acquisition of land but it too has devised mechanism for the award of compensation to the affected person(s). Nevertheless, a persistent problem relates to the distinction between development and individual rights; triggering disputes particularly concerning the amount of compensation awarded. To ascertain whether market value was calculated in accordance with the mandate of law often becomes a predicament. Similarly, the evidentiary standards defined to determine the justifiable market value have also given rise to wide debate. The courts are duty-bound to harmonize the need for development on one hand while on the other to ensure fairness with individual rights.

The significance of this research article lies in its endeavor to examine how courts interpret and apply the act in practice with reference to conjunction of development with individual rights. Understanding interpretive tendency is significant to enhance judicial coherence and to ensure that the legislative intent of the act is adequately accomplished.

## 3. Research Objective

The fundamental reflection of the study is to examine adjudicatory mechanism under the Land Acquisition Act, 1894 and analyze how effective balance is maintained by the courts between the development and individual rights during adjudication.

Besides, the specific objectives are:

- To examine the procedural law governing land acquisition.
- To analyze Jurisprudence and interpretation of the act in precedents.
- To identify challenges faced by courts while maintaining equilibrium.

4 https://en.wikipedia.org/wiki/Eminent_domain

- To determine the effectiveness of the Land Acquisition Act, 1984 in weighing both ends.

## 4. Literature Review

The authority of the Government to acquire right of ownership in private land from private owners, without consent for public purpose, on payment of compensation is called land acquisition.[5]. This concept is also recognized in some regions as the eminent domain, i.e. taking away and enforced acquisition with just compensation[6]. Definition of "public Purpose" largely denotes the use of property for the advantage of public or to serve the interest of masses which is then examined under statutory authority by Courts[7]. The concept nevertheless varies among jurisdictions, in many whereof, the term is specifically defined and includes; Transportational means such as, construction of canals, making of bridges and highways, raising of railways and roads; construction of buildings for Companies, hospitals, schools, religious centers; utility functions like source of water supply, sewage system, provision of electricity and gas; facilitation centers like, gardens and sports facilities, and finally for the purpose of defense mechanism. Whereas others have left its scope undefined so it may have a wider utility instead. The tool to gauge the intent behind any acquisition is the credible evidence that is essential to prove whether prosperity of acquisition to public will overcome agonies of the affected or otherwise[8].

The most intricate of all is "compensation" for land acquired and loses suffered. The longstanding jurisprudence developed on this in many jurisdictions supports that amount of award is to be considered in juxtaposition to the yardstick ensuring that masses may not be strapped or embellished (Keith, 2008)[9]. Principle is also defined in the world bank literature, and it suggests that, the affected persons shall be provided with an equal environment or slightly better thereof, in which they were placed at the time of acquisition to achieve the objective of the enactment[10]. The issue of compensation thus revolves around two very pertinent questions; compensation for loss be awarded to whom? and how this amount be determined? the legal framework for recognition of these aspects is most of the times vague, as rights remain unclear and vulnerable resultantly, many compulsory acquisition laws are incompatible to respond

5 https://www.fao.org/4/i0506e/i0506e00.pdf

6 https://www.law.cornell.edu/wex/eminent_domain

7 https://www.law.cornell.edu/wex/public_use

8 See for example, Cambodia's Law on Expropriation, 2010, Article 9,

9 Simon Keith, compulsory Acquisition of land and compensation (FAO, 2008)

10 World Bank Operational Policy 4.12 on Involuntary Resettlement, paragraph 2(c)

effectively to the challenges of valuation and compensation[11]. The award shall in clear terms contain, that how many interested persons are there and it shall also be ensured that they are duly served with notices. The mode and manner of their service is also essential to be mentioned.

Similarly, the prevalent legislative perspective of market value, is amount agreed upon between seller and buyer with free-will on credible market analysis (Keith, 2008). But it's intricate as a few jurisdictions may not provide for true market assessment. In India, the market value is defined by refence to the sale deeds in same vicinity in respect whereof transaction is made[12]. The replacement of cost is yet another challenge and as defined by international norms, it is an appropriate benchmark for valuation of asset[13]. Finaly, the procedure plays a vital function in maintaining an equilibrium between development and rights of the affected.[14]

In our jurisdiction, right to enjoy one's ownership is fundamental right defined as "Provision as to property" enshrined in Art. 23, Constitution of the Islamic Republic of Pakistan, safeguarding property right[15]. This protection is further shielded by Art. 24. Nevertheless, acquisition process employed to deprive someone of his property is an exception envisioned by the Constitution, and its process has to be in consonance with the parameters defined in Art. 24(2) and (3) of the constitution. Accordingly, the owners of acquired land can only seek compensation and cannot challenge the validity and sanctity of such acquisition. Akin, adequate compensation is to be awarded to the aggrieved whose property is acquired for public facilitation.[16] Moreover, The Land Acquisition Act, 1894 underlines systematic procedure for acquisition which includes, taking measurement, valuation, payment of award to interested person and provision of reference if dispute arise.[17] Control of landowner succumbs when notification under Section-4 is published.[18] Moreover, from this date the valuation is measured as compensation to be awarded to the owners in lieu of their property, and it includes estimates of actual speculative rise in consequence to improvement already made in the locality

11 See Government of Botswana, Land Policy Review (2003), quoted in R. Knight, Statutory Recognition of Customary Land Rights in Africa, FAO (2010).

12. India: The Draft National Land Acquisition and Rehabilitation & Resettlement Bill, 2011 | Public Private Partnership

13 The Tanzania, Village Land Regulations, section 10.

14 Ghana, State Land Act, No. 125 of 1962, section 6. http:// ghanalegal.com/?id=3&law=63&t=ghana-laws.

15 https://na.gov.pk/uploads/documents/1333523681_951.pdf

16 2004 YLR 608(b)

17 2005 MLD 168

18 AIR 1961 Bom. 129

or in consequence of potentialities for any process.[19] All these elements are indispensable and courts ought to consider these in transparent way to maintain equilibrium.[20]

## 5. Research Methodology.

The doctrinal legal research method is adopted in this study. The focus remained on examining the legal text, the grand norm and precedents. This research primarily emphasizes qualitative analysis of the jurisprudence available on the topic in different jurisdictions, the relevant enactments, celebrated legal verdicts and relevant literature.

The primary sources of research methodology embody views of international jurisdictions, Grand norm of the country, relevant provisions of Land Acquisition Act, 1894 and celebrated landmark legal decisions clarifying the statutory provisions regarding "Adjudicating Land Acquisition Disputes: Balancing Development and individual rights". Among the secondary sources are the manual of laws on the subject, the textbooks, the commentary of M. Mahmood on the subject, the Manuals of Land Acquisition Laws by Chaudhry Muhammad Hussain, and reports forming edifice of reforms.

Content analysis is yet another domain of this research where endeavor is made to analyze how courts apply principles and interpret the legal provisions associated with the subject. The study also aims to comprehend the in-field application of law and its implications with the help of selected celebrated judgments.

## 6. Analysis and discussion.

Land Acquisition Act, 1894 is a special enactment whereby private land is acquired when it is needed for public purpose or for the use of Company after valuation of the compensation to be imbursed to the landowners in lieu thereof. Prime and foremost raison deter thereof is bifold. i.e. to provide for the genuine need of the Government on one hand while on the other to compensate the owners from whom property was taken against their willing consent. Wisdom of legislature behind this enactment is that the persons deprived of their property shall be compensated on the yardstick that they are given gold for gold and not copper for gold. It is also ensured that rights of those persons shall be protected who have lost their ownership rights in adequate manner[21]. Since, the enactment directly infringes the inviolable

19 1999 SCMR 1647

20 2004 YLR 608 (b)

21 PLD 1970 Lah. 321

fundamental right of citizen, it is found on the edifice of "*Salus populi suprema lex*"[22] that the private right of ownership is subservient to the state's legitimate need and courts of law have given benefit to the subjects while construing this established cannon[23].

Moreover, the act has exhaustively defined the procedure of compulsory acquisition with core intent of maintaining fairness at every stage. To comprehend its scheme, the Act consists of fifty-five sections and is divided into eight parts, the preliminaries are part-I whereas acquisition (investigation and objections) covers Part-II including section 4, when notification is published. This divulges the substantial interest of the Government in a specified private property for all intents and purposes. Objections are invited and decided under section 5-A by the Collector. Certificate is then published in official gazette under Section 6. Whereas sections 7 and 8 deal with collector's power to obtain orders from government in respect of acquired land. The purpose of the Government to acquire the land is further strengthened under section 9 and the interested landowners are provided with the option to seek compensation. Similarly, section 11 relates to enquiry regarding measurement and valuation of the property so earmarked for acquisition whereafter, final award is issued. Which is conclusive under section 12 of the Act. Under section 13 the collector can adjourn the proceedings while, under section 14, he can call oral or documentary evidence in support of any claim arising thereto. legitimate Possession of acquired land absolutely vests with the Government under Section-16. Urgency is dealt with under section-17 of the Act and the Government can acquire legitimate and encumbrance free right or ownership through acquisition under section 9. The functions of the collector, who is state's agent and plays pivotal role in acquisition, are not purely administrative but Quasi-judicial.[24] Therefore, while determining the amount of compensation for the aggrieved persons, he is required to maintain neutrality, impartiality and degree of fairness. His decisions shall be based on evidence, in compliance with legal norms and must contain reasons, and it shall not be based merely on discretion Kamranullah (2016). [25]

Under Part-III, the adjudicatory jurisdiction of the Courts is invoked by aggrieved persons through the Collector's office. Reference is submitted by the Collector under section 18 of the enactment. Comprehensive account of the entire procedure is provided to the Court besides findings on the question of limitation by the Collector. The Court will summon

---

[22] Supra Note 2
[23] 1990-MLD-1232
[24] Malik Bashir Ahmed v. The Federation of Pakistan through Secretary Cabinet Division, etc. Writ Petition No. 308 of 2016 Islamabad High Court decided on 15.08.2016.
[25] Kamran ullah v. The Vice Chancellor Abdul Wali Khan University, etc. Writ Petition No. 1973-P/2016.

applicant or any person interested and seek objections from collector in response to the claim of the aggrieved person. Under section-21, right of fair trial is guaranteed to the aggrieved persons. Compensation is determined under sections 23 and 24. While interests are awarded under section 28. Part-IV and Part-V deal with apportionment of compensation and payment thereon respectively while, part-VI pertains to temporary occupation of land. Sections 38 o 44 deal with acquisition of land for Companies and is part-VII. While sections 45 to 55 contain miscellaneous matters such as service of notice etc. and it is the final part of enactment.

The above dissection of the Act unequivocally transpires that the enactment has provided a full-scale procedural apparatus for acquisition of land. In two facit approach, the first one is aimed at ensuring procedure fairness while acquiring land to protect the legitimate interest of the landowners and in latter phase to put the actions so taken into judicial review. This two phased regulation comes into action while acquiring a land for public purpose wherein, the rights and duties of state as well as the individual are clearly defined and guaranteed to meet both ends. In this pursuit of balancing the equilibrium, the policy of law is that the owners shall be paid equitable compensation and where property is compulsorily acquired by the government compensation shall be along with interest.[26]

The courts abound with cases of acquisition where fundamental bone of contention is the cloud cast on market value assessed by the Government. The landowner very frequently challenges that the amount offered doesn't reflect the correct prevailing market value and confusion worse confounds in areas prone to urbanization due to rapid fluctuation of cost owing to expansion and infrastructure development. Section 23 of the Act underlines the factors considered as sine-quo-non; which pertain to determination of compensation. It underscores that valuation on the date of Notification under section 4 will form the basic ground of compensation. Nevertheless, the out-of-date valuation record, low official rates and conservative estimates compel the landowner to rely on commercial potential, transaction of land sold at the same time in vicinity and the future prospering prospect. Fair compensation in lieu of the land acquired is a substantive right attributed to the landowners and for the enforcement of this right, refence is filed in court by invoking section 18 of the Act whereby, the Courts are subjected to re-assess the amount of compensation awarded. Courts while determining this crucial question ought to consider nature of land, its proximity to the road, building site for future potentiality[27]. It shall also consider value of similar land in khasra and

[26] AIR 1928 PC 287
[27] Ghullam Yahya vs WAPDA, 2016 YLR 1786

Mouza situated besides to acquired land in fair and transparent manner. It is also noteworthy to add that the amount to be paid to the owner for acquiring his land is not termed as "price" thereof, but "compensation" thereto and the later term is always interpreted as higher in sum than the former. This is because numerous factors have to be considered while forcing owner to part with his property as against making payment to willing seller. Nonetheless, this burden of proving the entitlement to higher rate of compensation squarely lays on the shoulder of the landowner which he shall establish conclusively before the Court.[28]

Second foremost question posed before the Courts is the inherent conflict between rapid development and procedural fairness. The specific urgency clause in the Act under section 17 recognizes the urgency of the government to move on with the acquisition on urgent basis for public projects such as road, dams, housing schemes and infrastructure. Moreover, delays in such cases often result in cost escalation, stalled development and public inconvenience. Per contra, this phenomenon has direct adverse effects upon the rights of the landowners guaranteed to them under section 5(a), right of audience, right of compensation based on fair market valuation and above-all right to authenticity and fairness of procedure. In these circumstances, the court are primarily burdened to adjudicate upon the question "whether the invocation of urgency was genuine or merely a tool to bypass safeguards". The role of the courts in adjudicating upon this pivotal question lies in approach to ensure that right to development in no way surpasses the rules of natural justice and become arbitrary and oppressive. The recent jurisprudence on the point recognizes the need of compulsory acquisition for development but its legitimacy is gauged on the yardsticks of transparency and fairness of procedure and respect for affected persons. The acquisition lacking these basic minimum standards compromises its legal sanctity.

In correlation to above, yet another question most common and associated thereto that is examined by the Courts is "whether the Government in reality acquiring a piece of land for public purpose or otherwise" the genuineness of the intent is determined by the cause coupled with mode and manner adopted for such acquisition. Sections 4 and 6 of the Act ensures that these be followed in true letter and spirit to maintain true balance between the cause and affects it will have on right of the aggrieved persons.[29] Likewise, compliance of section 5-A, right of audience of the land owners, procedure conformity with sections 4, 5 and 9 of the Act to the extent of compensation in relation to its commensuration with market value, unnecessary delay

[28] 1990 SCMR 899, 1999 SCMR1615, 2000 SCMR 1322
[29] https://www.revenue.kp.gov.pk/wp-content/uploads/2020/08/The-Land-Acquisition-Act-1894.pdf

11-A and 11-B subverting the genuine intent are to be assessed while determining balance between two side. In line with above, another argument for determination before the Courts in such stratagem is part-acquisition of land which is challenged by the landowners on the premise that such part acquisition was detrimental and that acquisition of entire property was essential instead. Contrary to this, the onus on the acquiring entity is that the unacquired portion of property can be of benefit and reasonable utility for the landowners. Section 49 of the Act defines this principle, and it is also hindsight of the legislature that division of property shall not be in such a way to make the portion left completely abortive or useless. Courts in such circumstances are required to clearly examine whether the remaining portion retains significant value or otherwise. This is irrefragably a corrective mechanism which is bolstered by statutory provision in order to ensure that development objective is achieved not at the cost of imposing disproportionate hardship and that the residual of the individual is meaningfully protected.

## 7. Findings.

The research undergone reveals that the very intent of Land Acquisition Act, 1894 is twofold, on one hand, it aims to ensure that the state is able to secure land required for public purpose while on the other, it safeguards the individual rights from arbitrariness and malice thus intending to maintain a smooth symphony between the two. This symphonic approach receives its backing from the Constitutional provisions enumerated in Article 23 and 24, of the Constitution. Key findings concerning adjudication under Land Acquisition and balancing development with individual rights are.

First, the Act provides a standardized operational mechanism for land acquisition. Significance is given primarily to fairness while exercising the power of acquisition. The genuineness of public purpose couple with award of compensation both remains the burning issues in most cases before the courts. The very intent of Sections 4, 5-A, 6, 17, 18, 23, 31 and 49 is clear demonstration of the fact that disputes originate when need of acquisition encounter individual rights.

Secondly, the research suggests that the leading safeguards for affected persons are evident from their right to objection under Section 5-A and the right to file a judicial reference regarding compensation under section 18 of the Act. The very objective of these provisions is that development phenomenon is not a free-end executive action as per its whims but it shall pass the test of procedural conformity and most importantly,

judicial scrutiny. Nevertheless, the provision to acquire in urgency under section 17 recognizes the right of the state immediately and prioritizes to ensure faster acquisition.

Thirdly, the findings establish that the true efficacy of the Act does not position predominantly upon the textual framework but upon genuine approach of the institution towards the end. The international jurisprudence developed on the subject consistently underscores that compulsory acquisition derives its authenticity when it passes the test of transparency, fair valuation, good governance and safeguard against arbitrariness. Thus, it is not only administrative discipline but consistent judicial discipline which is sine quo non for the efficacious execution of this enactment, and the proceedings shall be transparent, in compliance with the Constitutional mandate and participatory.

Finally, the research determines with clarity that the Land Acquisition Act, 1894 and the jurisprudence evolved on it, clearly permit development in unequivocal terms but only through a process that derives validity from genuineness, compensation and procedure accountability. This balance of equilibrium is in fact, maintaining a delicate balance between the two, i.e. considerable delay and inordinate haste, and this is indispensable, as former may result in stalling development while latter may violate the individual rights. The doors of the court are knocked questioning the acquisition of controversies arising out of above disproportionateness and it is for the Court to maintain this arch balance and achieve the object and intent of the law in its true letter and spirit.

## 8. References.

**Books/Articles/Reports**

The Land Acquisition Act, 1894 commentary of M. Mahmood

Manuals of Land Acquisition Laws by Ch. Muhammad Hussain

Simon Keith, Compulsory Acquisition of Land and Compensation (FAO, 2008)

The Food and Agricultural Organization, compulsory acquisition of land and compensation

The Statutory recognition of Customary Land Rights in Africa, FAO (2010)

## Statutes

Constitution of the Islamic Republic of Pakistan, 1973.

Land Acquisition Act, 1894.

Goverenment of India, The Draft National Land Acquisition and Rehabilitation & Resettlement Bill, 2011.

State of Ghana, State Land Act, No. 125 of 1962.

## Web sources

Black's law dictionary (11th edition)

Brooms legal maxims

Wikipedia

Encyclopedia Brittanica

## Precedents

Inglewood Pulp and Paper Co Ltd. V. New Brunswick Electric Power Commission (AIR 1928 Privy Council 287)

Yeshwantrao Govindrao, appellant v. the Collector Nagpur (AIR 1961 Bom. 129)

Land Acquisition Collector etc. v. Abdul Waheed Chaudhry etc. (2004 YLR 608-b)

Mir Afzal v. Land Acquisition Collector/ Assistant Commissioner, Saddar Islamabad Capital Territory. (2005 MLD 168)

Murad Khan through his widow and others v. Land Acquisition Collector, Peshawar and others (1999 SCMR 1647)

Col. Bashir Hussain etc v. Land Acquisition Collector, Lahore Improvement Trust etc. (PLD 1970 Lah. 321)

Nawabzada Muhammad Saeed Khan v. The Collector Land Acquisition, Multan etc. (1990-MLD-1232)

Ghullam Yahya and others v. WAPDA through Chairman and etc. (2016 YLR 1786)

Province of Punjab through Collector Sheikhupura and other v. Akber Ali and others. (1990 SCMR 899)

Land Acquisition Collector Rawalpindi and others v. DINA and others (1999 SCMR 1615)

Collector Land Acquisition, Mardan and others v. Nawabzada M. Ayub Khan and others (2000 SCMR 1322)