

A REVIEW OF LAND ASSEMBLY MODELS FOR INFRASTRUCTURE PROJECTS DEVELOPMENT IN INDIA

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ABSTRACT

Infrastructure development is a crucial factor in driving a country's economic progress. India, being a developing nation that aims for becoming a \$ 5 trillion economy, possesses a substantial potential for infrastructure development that will fuel its economic growth. This importance is realised by Government of India (GOI) which is evident in its ambitious infrastructural objectives such as building national highway network of two lakh km by 2025, increasing the number of airports to two hundred twenty and establishing thirty-five Multi-Modal Logistics Parks (MMLPs), etc. Land is an essential requirement for the development of infrastructure and to accomplish the objectives of rapid infrastructure development, it is important to assemble land at a rapid pace. Thus, it becomes crucial to understand the process and techniques of land assembly that are followed in India. Hence, this paper describes the various land assembly techniques that are implemented in India in addition to compulsory land acquisition and presents a comparative analysis of their merits and demerits.

Keywords: Infrastructure Development, National Highway Network, MMLPs, Land Assembly, Land Acquisition.

Introduction

Infrastructure is one of the most important factors that contribute to growth of any economy. Land is critical component in the development and growth of infrastructure in any country. Large chunks of land are required to create new infrastructure like Roads, Ports, Airports, etc. Thus, it is crucial to comprehend the concept and methods of land assembly.

The focus of this paper is on the assembly of land in India including the various models and techniques used in the various States. Therefore, it is necessary to review the reasons behind the variations in land assembly techniques used by the different States, and the reasons for choosing a particular source to acquire land. To understand this issue some knowledge of India's land legislation and their development is important. This will provide a clear perspective when we examine various land assembly models and techniques. The Indian Constitution discusses the three lists of powers shared between the States and the Centre in Schedule 7 under Article 246, as follows:

- Union list
- State list
- Concurrent list

The above lists outline the legislative powers of the State and the Union governments. As per the above divisions of powers "Land" is considered as a "State subject" as listed in item 18 of list but at

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the same time “Acquisition and Requisition of Property” comes under the concurrent list under the item no. 42(Seventh Schedule, Article 246). Initially, according to Article 19(1)(f) and Article 31 of the Constitution of India “The Right to Property” was one of the Fundamental Rights which provides every citizen of India the Right to acquire, hold, and dispose of property (Wahi, 2013). But on the other hand, “The Right to Property” was made subject to restriction by “reasonable restrictions in public interest” by federal and state legislatures according to Article 19(6) of Constitution of India(Wahi, 2013).It eventually emerged that this issue led to a contradiction which resulted as an extensive litigation between the state and its citizens. Consequently, “The Right to Property” was finally rendered a legal right and ceased to be a Fundamental Right in 1978 with the introduction of the “44th constitutional amendment” and Article 300(a).

Initially the governments had to adhere to Land Acquisition Act, 1894 to acquire the land from public for the public purposes but several amendments were made to this law from time to time. Eventually, a new act which is called Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR), 2013 was introduced and is being currently implemented in India for land acquisition.

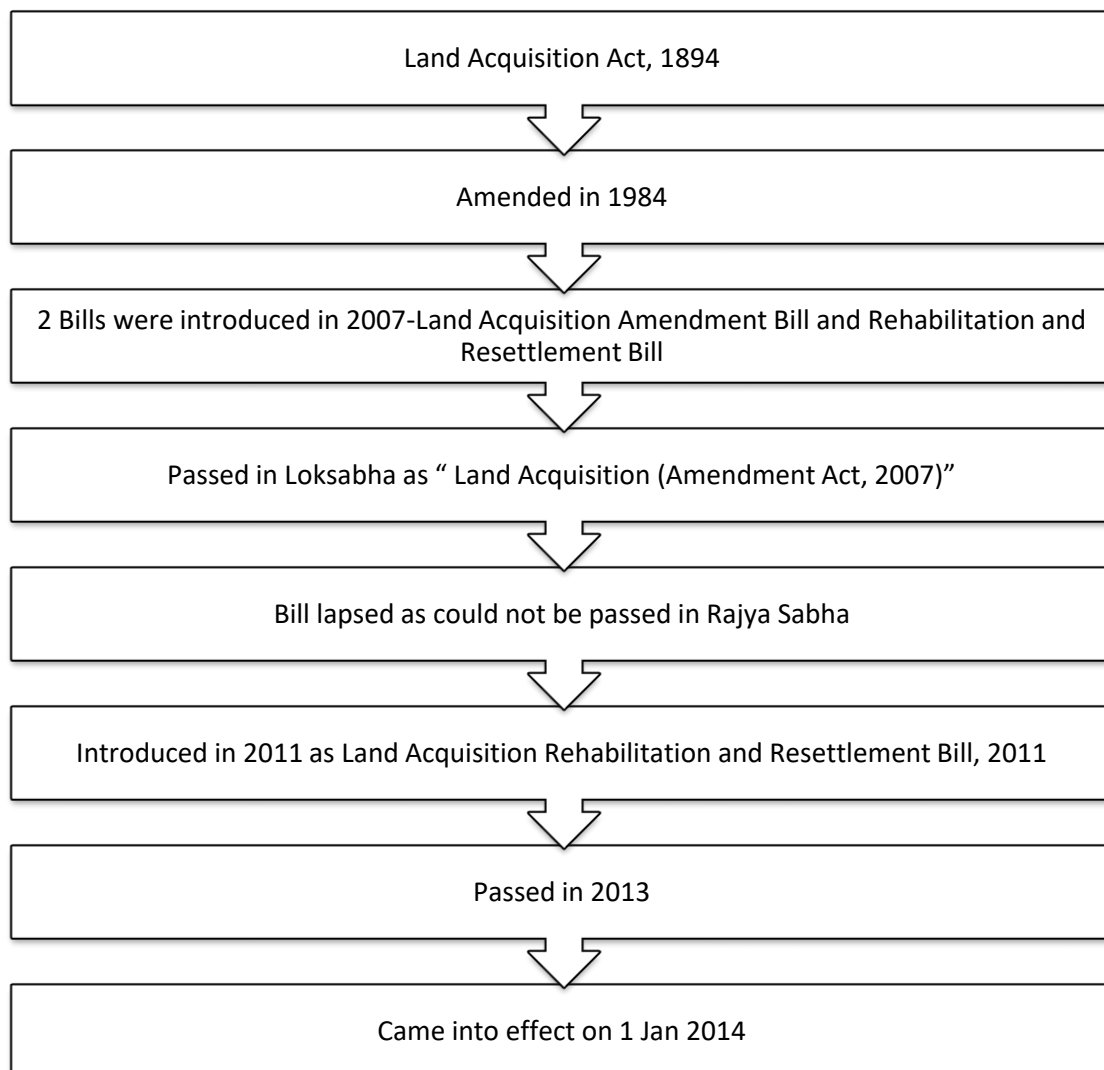


Figure-1: Timeline of the Journey from Land Acquisition Act, 1894 to LARR, 2013

Emanating from this Act and suiting to the socio-economic situations of the different Projects to be executed, the Governments followed different Models for the purpose of land assembly. Some of these Models are discussed in this paper with relevant examples. An attempt also has been made to compare some of these Models and their relative advantages & disadvantages.

In India, land assembly is mostly practiced broadly using the following methods that may differ from state to state and project to project. There are also examples of states using more than a single method to assemble land. The land assembly methods followed in India are:

- Land Acquisition
- Negotiated Land Acquisition
- Town Planning Scheme
- Land Pooling
- Land Readjustment
- Joint Development
- Transfer Development Rights
- Accommodation Reservation.

A detailed discussion of the aforementioned methods and their respective cases of implementation for land assembly in India is given hereunder.

Land Acquisition

Land acquisition refers to the process of land assembly in which the Government/Public authorities compulsorily acquire the land parcels needed for any public purpose in return of the compensation to the landowners. In India, the process of land acquisition was governed by the Land Acquisition Act, 1894 till 2013, but from 1 January 2014 it was replaced by the new act which is called as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act(LARR), 2013.

The Land Acquisition Act, 1894 only had provisions for the compensation to be provided to landowners whose land is acquired but did not have any mention regarding their resettlement and rehabilitation. Further, it was also realised that not only those whose land has been acquired were affected from the acquisition but also those who earned their livelihood from that land got affected from it. Moreover, the term public purpose for which the land was acquired was not also clearly defined and the ambiguities to it led to lot of litigations in the acquisition process.

With the motive to remove such issues and to bring more transparency in the land acquisition process a new act called Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act(LARR), 2013 was introduced.

The key changes in the LARR Act, 2013 were - the minimum compensation given to the families affected from acquisition process in addition to landowners; it does not only provides compensation to the landowners for the land acquired but also extends the provision for their rehabilitation and resettlement. It also mentions the appointment of a land acquisition collector (LAC) to streamline the land acquisition process and minimize legal disputes. To expedite the acquisition process, it was mandated that the entire process including compensation payment must be completed within three years of the land acquisition notification.

Land assembly through the land acquisition method has its own merits and demerits. On one hand, this method is effective in acquiring land at a rapid pace for development purposes. The LARR Act, 2013 provides provisions for acquiring land in case of urgency, making it the only method to assemble land under such circumstances. However, on the other hand, the discontent among the landowners to surrender their land for development purpose is a major challenge leading to large number of litigations that not only delay project completion but also increase costs. Therefore, while the LARR Act, 2013 offers a streamlined process for land acquisition, it is important to address landowner resistance and ensure fair compensation to avoid litigations which ultimately results in delays in project completion.

The classic example of land acquisition is Delhi's DDA model. In 1961, Delhi Land Policy was established as part of Delhi Master Plan-1962 that outlined the approach taken by the Delhi Development Authority (DDA) for acquiring and disposing of land for development purposes.

Under the authority granted to DDA in Delhi Land Policy, the DDA acquires land using the Land Acquisition Act, 1894. The process involves identifying suitable land for acquisition and utilizing it for development purposes. Once the land is acquired, the DDA proposes a master plan and carries out zoning to allocate infrastructure facilities on the acquired land. Once the development process is completed, DDA then disposes of the developed land through methods such as auction, lottery, or allotment.

Negotiated Land Acquisitions

Negotiated land acquisition is an innovative method of land acquisition in which the government/public authority acquires the land under which the price of land to be acquired is negotiated between the Land Acquisition Commissioner (LAC) appointed by the authority or government and the landowners. Once the LAC is satisfied that the parties in land acquisition have agreed in writing on the price and matters to be included in the award for land acquisition, without any further enquiry, he can make an award in accordance with mutual agreement. This aspect of land acquisition, which was brought under the first amendment in 1984 to the Land Acquisition Act, 1894 is said to be as Negotiated land acquisition.

It serves as an efficient and transparent method for acquiring land from landowners by ensuring compensation at a rate close to market value, which helps avoid unwanted litigations as the prices is mutually agreed by both the government and landowners. This not only results in less litigation and fast process but also promotes fairness and justice. However, one of the major drawbacks of this method is that it may take time to reach mutual consent on the price of land which can result in delays in the acquisition process. Despite this limitation, the Negotiated land acquisition remains an effective tool for the government to acquire land for various development projects while ensuring that the rights of landowners are protected.

One of the cases where land is acquired through process of negotiation is Greater Noida in Uttar Pradesh. Here, the Greater Noida Industrial Authority acquires land using negotiation and the valuation of land is established by the authority using sale deeds from the previous three years. The final price of land is decided considering the solatium and interest after getting in the process of negotiation with the landowners. The final compensation package is mutually decided and agreed upon by the parties involved in the acquisition process (Town and Country Planning Organisation, 2007).

Naya Raipur is another case where land is acquired through process of negotiation. Naya Raipur serves as the administrative capital of the state of Chhattisgarh where the Naya Raipur Development Authority (NRDA) has been established to oversee the planning and development of the new city which spans a total area of 237.42 square kilometres. The government possessed 29% of the total land needed for the city, while the remaining 71% was privately owned. In order to expedite the procedure and minimise legal disputes, the land negotiating technique was implemented. Thus, the NRDA began acquiring private land in 2006 by mutual agreement with landowners.

NRDA acquired 4798.75 hectares of land for a total sum of INR 8759.400 million by mutual agreement and negotiation. The land acquisition procedure involved public consultation sessions with landowners to seek their permission on the replacement value of the property, followed by private negotiation (Ministry of Housing and Urban Poverty Alleviation, 2016).

Town Planning Scheme

In India, Town planning scheme for land assembly has found its origin from the Bombay Town Planning Act, 1915 which then became the basis for the state of Gujarat for land assembly. Town Planning Scheme (TPS) is a method which is primarily used to pool or aggregate lands for town planning projects and reconstruct them in line with the layout plan (Rasheed & Parambath, 2014). These schemes have proved to be successful in the countries like South Korea, Taiwan and Germany. Under this scheme, landowners assemble the land through pooling method. After pooling the land and obtaining permission from the local agency, the infrastructure is constructed on that specific land parcel in accordance with the approved layout plan. In exchange for developed parcels of land surrounded by infrastructure which has contributed to the appreciation of the land value, landowners in return are obligated to remit betterment charges to the authority. This technique of land assembly in terms of its methodology can be said to as the mix of both land readjustment and land pooling technique which will be discussed further in this paper.

The TPS mechanism has its own merits, including the fact that it eradicates one of the major drawbacks of the method of land acquisition and negotiated land acquisition as the original landowners under this method are not displaced after the development process. This makes the entire process smoother and minimizes litigations. Further, after the land development process, the increment in land values and its benefits are accrued by the original landowners rather than the development agency (The World Bank, 2008). However, there are also some demerits associated with the TPS mechanism. For instance, it is quite time-consuming as it is implemented through different stages, which may result in a delayed development process. Moreover, unlike LARR Act of 2013, there is no provision for affected families whose livelihood has been affected due to the development process. Furthermore, it has also been observed that the betterment charges which is estimated at the beginning of scheme do not meet the cost of infrastructure projects due to delay in different stages of the process which results in increase of project costs (The World Bank, 2008).

Gujarat is the state that follows the technique of TPS for land assembly under the legislative framework based on the Gujarat Town Planning and Urban Development Act, 1976 which achieved its full operating status in 2009. One of the key factors of TPS implementation process in Gujarat is that it takes typically less than a year from the inception to final approval of the project (Ministry of Housing and Urban Poverty Alleviation, 2016).

While talking about the return to landowners after participating under this scheme is that in return, the landowners receive a smaller portion of the built land parcels than they contributed, along with infrastructure benefits. Landowners under this are also required to pay betterment levies/charges for the development of facilities on land which amount to fifty percent of the increment in the value of their land.

The government provides compensation to landowners for the property they acquire, based on the market value. The final compensation is provided after deducting both the compensation and the betterment costs and the payment is made by the party whose amount is lower (Mathews et al., 2016).

Land Pooling

The method of land pooling refers to the process where landowner, or a group of landowners voluntarily come together to pool their land for development and to be a part of development process. Once the land is pooled, the authority develops the land with urban facilities; infrastructure and return back a portion of developed land to original landowners. The land pooling technique is similar to the Town Planning Scheme in its methodology of land development but differs in the aspect of transfer of land ownership as in this technique the land is legally consolidated by first transferring title or ownership of the land to the agency that is undertaking the land pooling (Mathews Rejeet; et al., 2018).

The main advantage of land pooling is that it reduces the risk of litigations as the landowners are not forced to surrender their land against their will. Further, the landowners receive land parcels that are generally higher in value than the land parcels they contributed. This method is also beneficial for the government as there is no cost of land pooling. The only cost involved is cost of infrastructure development. However, there are also some drawbacks associated with this method as the land pooling process requires a minimum percentage of landowners to surrender their land for development process and the discontent among the landowners may deter the development process. Furthermore, compared to other methods of land acquisition, the land pooling method is slower in terms of overall development process.

We will discuss two cases of land pooling method that are implemented in India. These are Delhi Land Pooling, and Amravati models.

- **Delhi Land Pooling Model:** In Delhi, Delhi land pooling policy gives landowners of any land size the opportunity to participate in the development process because there is no minimum requirement of land for eligibility to be a part of land pooling process (Land Pooling Policy of Delhi, 2018). In order to accomplish the goals of land pooling, it is necessary to pool at least seventy percent of the land that is contiguous and free of any encumbrances within the notified sector. Taking into consideration the scope of this policy, it is important to note that a total of 95 villages are located within the jurisdiction of the five zones that have been selected in Delhi and are therefore eligible for the land pooling policy (Land Pooling Policy of Delhi, 2018). Prior to the implementation of this policy, private developers had a very limited role in the process of development, but this policy intends to encourage their participation. At the moment, private developers are also involved in the role under this policy as they are eligible to partner with landowners in the formation of a consortium and thus to be a part of the development process.

- The Amravati Model:** The other and a classic case of land pooling method is Amravati. The state of Andhra Pradesh was partitioned into Telangana and Andhra Pradesh in the 2014. Telangana got Hyderabad as its capital while Andhra Pradesh required a new capital. Thus, the Andhra Pradesh government aimed to create a world-class people's capital at Amravati, located between Vijayawada and Guntur having the capital region that would span around 7068 sq.km (Ministry of Housing and Urban Poverty Alleviation, 2016). Thus, Amravati is often referred to as the "people's capital". The Andhra Pradesh Capital Region Development Authority Act, 2014 gave the government the power to make rules for the land pooling plan. These rules are called the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015. The Andhra Pradesh Capital Region Development Authority is the planning authority that is responsible for the development of this area. In accordance with this authority, land pooling is implemented in which land ownership is initially transferred to the authority for the purpose of development, and then some part of it is returned to the parties who originally owned the land after the development. Landowners are eligible for a number of social benefits under this model, which includes the provision of a Land Pooling Ownership Certificate (LPOC), which exempts them from paying registration fees or capital gains.

Land Readjustment

The method of land readjustment refers to the process under which several small parcels of land are acquired by the government/public authority to develop it for public use. The authority retains a portion of those assembled lands for development purposes and also for public sale to recover the cost of development. In return, government/public authority either provides smaller developed land parcels to the original landowners compared to size of land that they contributed or pay them monetary compensation.

During this process, landowner's actual land area is measured and they are subsequently issued bonds or certificates that represent the value of their land. After that, the local agencies, on the basis of these certificates or bonds, either return the developed land parcels to the landowners or pay them compensation for the land parcel that was acquired.

Land readjustment method has both merits and demerits associated to it. On the one hand, the policy is beneficial to the landowners in aspect that the landowners receive higher value land parcels than what they contributed because of the development performed on that land. The other advantage is that since the original landowners are not displaced during the development process, it makes the whole process smoother and minimizes litigations between the parties. Furthermore, both parties i.e. government and landowners benefit from the post-development benefits, making it a win-win situation. On the other hand, one significant drawback of this policy is that there is no provision for affected families whose livelihood has been affected due to the development process. This could lead to displacement and loss of livelihood for these families. In conclusion, while this method has its own benefits it is important to consider the potential drawbacks and take measures to mitigate them in order to ensure a smooth and successful implementation of the policy.

While we have already discussed in this paper the techniques like TPS and LPS, it is to be noted that this land readjustment scheme is different from them in its process, operational mechanism and compensation provisions.

Navi Mumbai Airport Influence Notified Area (NAINA) Scheme is an example of land readjustment method followed in India. NAINA Scheme is a development initiative overseen by the City and Industrial Development Corporation (CIDCO) which is a planning entity appointed by the Maharashtra Government. The land for the main airport is obtained through compulsory acquisition, while for NAINA it is planned to be acquired using a 60:40 participation approach which spans around 25 square kilometres in proximity to the airport.

NAINA scheme requires the minimum quantity of land that should be contiguous to be eligible to participate under this scheme. The landowners under this scheme are required to aggregate a minimum of 4 hectares of land in urban villages and 7.5 hectares for areas that are beyond the urban villages but within the NAINA development area (Mathews Rejeet; et al., 2018).

Under this scheme the land is surrendered to authority without any cost and internal development on land is done by the landowners themselves on issuance of Development Permission, Building Permit, etc. The land plots upon development could also be sold in open market. While the landowners who surrender their land to authority are exempted from any cost but on the other hand

authority collects off site development charges from landowners that do not participate in this scheme. Authority also collects development charges from all the landowners which are the main source of finance for developing infrastructure. Also, there is a provision for additional Floor Space Index (FSI) which is provided to landowners who provide affordable housing on their land (Mathews *et al.*, 2016).

Joint Development

The method of joint development simply refers to process in which both government and the private entities participate in the development process. This is an emerging alternative to land development which allows the participation of private players in the process of development. While allowing private players to participate does not mean to impede the role of the state but simply to shift their burden of being solely responsible for the development process to one as regulator. Thus, the technique of joint development involves the participation of both government and private entities in the process collaborating for the development process while each fulfilling their own duties and responsibilities.

The joint development method has several advantages, including that it allows for provisions for housing for Economically Weaker Section (EWS) which is to be developed by the private party participating in the joint development process. In this method, the financial burden on the government/public authorities to solely carry out the development process is reduced. Further, both parties involved in the process share the benefits arising from the development of the land, providing a more equitable distribution of benefit. However, there are also some drawbacks to method like the development in the area where the land could be assembled easily would be preferred by the private developer compared to the areas where the assembly is cumbersome. This leads to development gaps (Joardar & D., 2006). Also, the landowners do not receive the full benefit of increased land values due to development because of the involvement of private parties.

In the approach of understanding the concept of joint development it becomes necessary to discuss the case of joint development method followed in Haryana which implements this method under the Haryana Development and Regulation of Urban Areas Act, 1975 (HDRUA). This act allows the participation of private entities along with the Haryana Urban Development Authority (HUDA) in the process of acquisition, development, and disposal of land. Under this, private entities are required to obtain a licence in order to engage in development activities from the Director of Town Planning of the State through the submission of an application.

A total of 2541 licenses are issued to private developers and the development of around 18,256 hectares of land in Haryana is licensed for the different land use purposes that include residential, commercial, institutional and industrial uses through joint development mode from 1981 up to March, 2024 (Town and Country Planning Department, Haryana, 2024).

Transfer Development Rights

The concept of Transfer Development Rights (TDR) arises from United States where this technique is implemented to transfer the development or growth from an area where a community resists development to another area where the community is relatively more receptive to development (Kaplowitz *et al.*, 2008). In India, the concept of TDR was introduced in Mumbai for the first time. Transfer development rights basically refer to the rights that are determined based on the built-up area of a plot. These rights can be transferred by the landowner to other person in different locality also, where it can be utilised as additional built-up area. This technique emerged to be an innovative method for land assembly as instead of providing monetary compensation, the government issues Transferable Development Rights (TDR) to landowners for the land that has been acquired.

TDR can be better understood by discussing the example of its implementation in Greater Mumbai where landowners surrender the portion or part of their land that is reserved for any public purpose in master plan to the authority. In return, landowners get additional Development Rights (DR) which is additional Floor Space Index (FSI) that can be used on the remaining portion of surrendered land or any other location or it can also be sold in open market.

The TDR method of land development has both merits and demerits. On one hand, it is economical for government/public authorities as there is no monetary compensation paid to landowners, making it a faster and more cost-effective option compared to other methods. Further, the TDR rights can be transferred and sold in the open market, providing flexibility for developers and landowners. On the other hand, one of major drawback of this method was that the zones that will receive the additional

transferred FSI have not been studied about their absorption capacity and physical infrastructure provisions(Mathews et al., 2016) which raises concerns about the feasibility of the TDR method. Furthermore, the TDR rights can only be utilised within the FSI limits limiting their versatility.

Accommodation Reservation

In this concept, a landowner is provided with an opportunity to develop their land in accordance with the designated purpose, specification and design for which it was reserved in development plan and thereafter surrender it to the government/public authority at free of cost. As a result, the authority grants landowners development rights in form of Floor Space Index (FSI) which is equal to the area developed or constructed by them(Mathews et al., 2016).

Transferable development rights and Accommodation reservation method are similar in the aspect that landowners in both the methods get development rights by authority in return of the land that they surrender. But these two methods are distinct from each other as in transferable development rights, landowners surrender their land to authority and authority develops the land whereas in Accommodation reservation, it is the landowner who performs the development work on the surrendered land.

On the positive side, this method of land development is economical for government/public authorities as there is no monetary compensation paid to landowners. This method can speed up the development process compared to other methods of land acquisition. Furthermore, the development rights granted to landowners by authority can be utilised on the same plot, which can result in a more efficient use of resources. However, there are also some drawbacks to this method. One challenge is that it may be challenging to implement this method in areas where land prices are not high or less compared to construction cost(Mathews et al., 2016). Moreover, landowners have to pay charges like scrutiny charges, which are an extra cost for them which may discourage them in participating in the process. Overall, while Accommodation reservation has some potential benefits, it is important to carefully consider the feasibility and potential challenges of this method in different contexts before adopting it as a land development strategy.

The examples of these alternative land assembly land development models like Transferable Development Rights and Accommodation Reservation can also be found in India. They are introduced firstly in India by the Municipal Corporation of Greater Mumbai (MCGM). These techniques are implemented by the introduction of amendments in the Maharashtra Regional and Town Planning (MRTP) Act, 1996 (Mathews Rejeet; et al., 2018). Adopting to the technique of TDR for land acquisition, Mumbai became the first city in India to adopt this mechanism in a systematic manner in accordance with the development plan proposal, slum redevelopment and urban renewal of delapidated buildings(Town and Country Planning Organisation, 2007).

The figure-2 below depicts the various land assembly methods that are used for the purpose of land assembly in India and the case examples of each method.

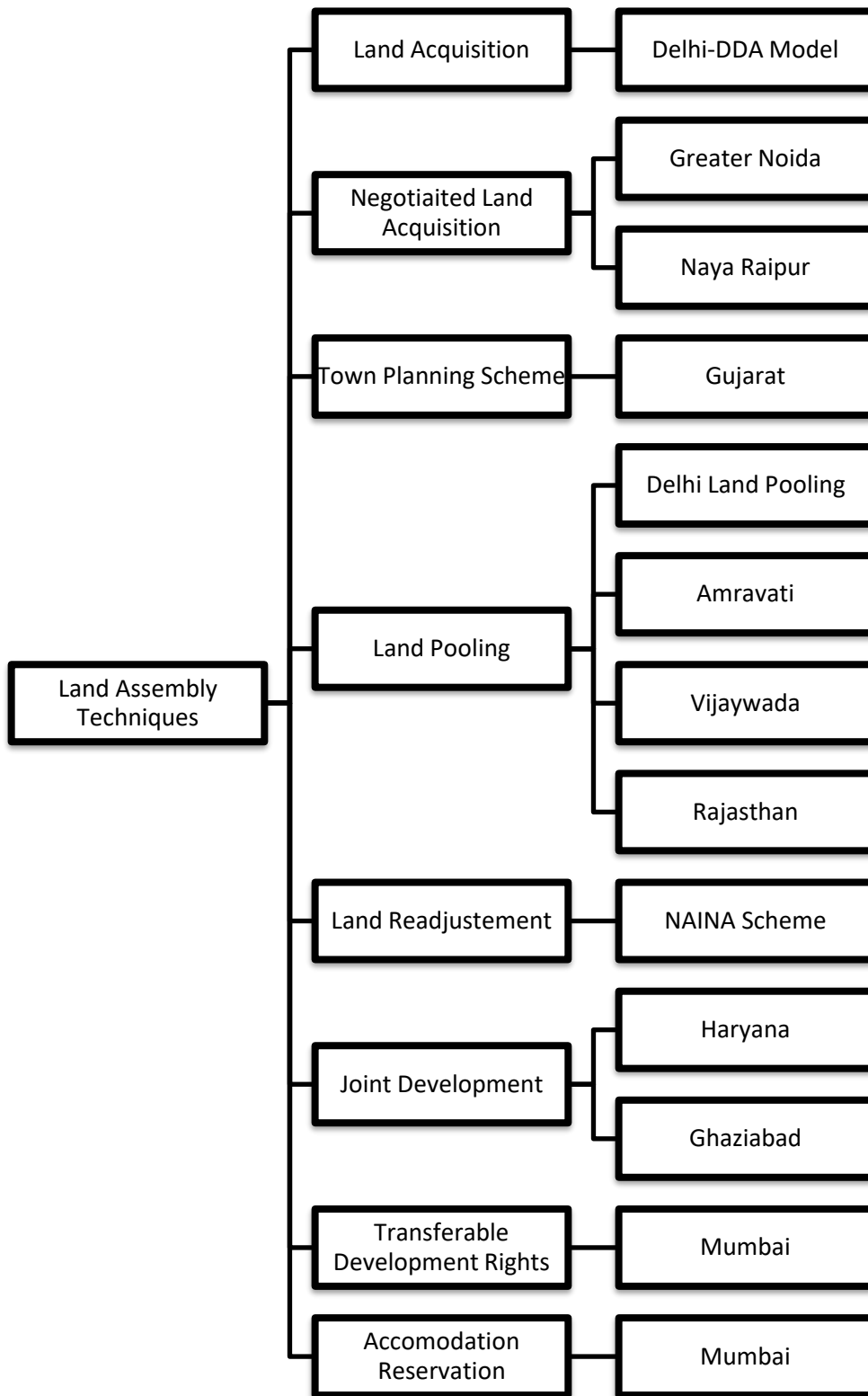


Figure 2: Different Land Assembly Methods Practiced In India

Conclusion

It is well noted and accepted fact that “Land” remains a fundamental necessity for infrastructure development. Hence, this paper discussed the various land assembly models followed in India for infrastructure development projects beyond the traditional compulsory land acquisition mandated by the Land Acquisition Act, 1894 (replaced by The Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013). The analysis of various land assembly models suggests that the project specific approach for land assembly should be followed to expedite the development process while restricting social and legal complications. Land acquisition despite facing resistance and litigations from landowners remains an efficient method for rapid acquisition. Negotiated land acquisition on the other hand offers more transparent process but is a time-consuming method. While the methods of Town planning scheme and Land pooling benefits the landowners and encourages their participation by offering a developed land parcel that is higher in price in return of their contribution. Joint development is a method that encourages the private sector participation while allowing government to leverage private expertise and reduce their financial burden. However, challenge of avoiding development gaps and ensuring timely project completion remains an issue under this method.

Therefore, the selection of appropriate method for land assembly for infrastructure projects should be based on factors such as project urgency, socio-economic situation, and consent of landowners. While going forward it is important to follow a multi-pronged approach that promotes collaboration among stakeholders, including landowners, government, and private players that minimises social disputes, ensures fair compensation to landowners and most importantly enables timely project completion.

While this paper has discussed the fundamental understanding of various land assembly models for infrastructure projects development, the future research in this area may be done to evaluate the different land assembly techniques on the aspects of impact they have on overall process of acquisition and different stakeholders involved in the process. A study on the other countries can also be conducted as well to find out the innovative land assembly methods that can prove to eradicate the challenges that are faced in current Indian land assembly practices.

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