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POWER WITHOUT PASSAGE: RIGHT OF WAY AS THE STRUCTURAL GRIDLOCK IN INDIA'S ELECTRICITY TRANSMISSION FRAMEWORK

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Abstract

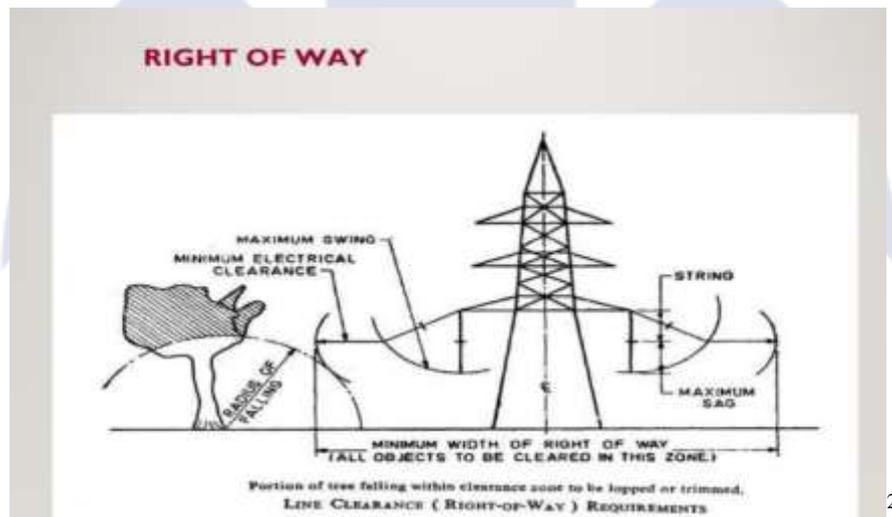
India's electricity sector has witnessed rapid expansion in generation capacity over the last decade, driven by renewable energy targets, market reforms, and private investment. Yet, the growth of transmission infrastructure has not kept pace with this expansion. One of the most persistent and under-examined reasons for this imbalance is the challenge of securing Right of Way (RoW) for transmission lines. While the Electricity Act, 2003 and allied regulations provide transmission licensees with statutory powers to access land, RoW disputes continue to delay projects, escalate costs, and undermine grid reliability. This paper argues that RoW in India has evolved from a procedural land access issue into a structural gridlock rooted in legal design, compensation politics, and constitutional ambiguity. Through an analysis of statutory provisions, regulatory developments, compensation frameworks, and judicial interpretation, the paper demonstrates that the existing legal framework prioritises infrastructure necessity while inadequately addressing the distributive and long-term economic impacts borne by landowners. The paper further contends that recent policy interventions, including the Ministry of Power's 2024 RoW compensation guidelines, though progressive, remain insufficient without statutory backing and participatory mechanisms. Ultimately, the paper calls for a reconceptualisation of RoW as a shared infrastructure space rather than a unilateral easement, essential for aligning India's transmission expansion with constitutional property protections and energy transition goals.

I. Introduction: Power Without Passage

Electricity transmission infrastructure forms the silent architecture of India's power system. Unlike generation plants or distribution networks, transmission lines rarely occupy public imagination, yet they determine whether electricity produced in one region can reach consumers in another. Over the last decade, India has significantly expanded its installed generation capacity, crossing 505.02 GW by 2025, with renewable energy accounting for

a majority share of this total.¹ However, transmission development has lagged behind generation growth, creating congestion, curtailment, and stranded capacity. One of the most persistent obstacles to transmission expansion is the difficulty in securing Right of Way (RoW) across privately owned land.

In the Indian power sector, the term “Right of Way” (RoW) refers to a non-possessory legal right and designated land corridor that allows electricity transmission utilities to construct, operate, maintain, and protect electrical transmission infrastructure such as overhead lines and associated structures. Technically, RoW encompasses both the right to place transmission lines along a specified path and the physical strip of land reserved for these facilities, ensuring necessary safety clearances, electromagnetic field exposure limits, and access for maintenance activities. The pictorial representation of the same is provided below-



This corridor permits utilities to keep high-voltage conductors clear of tall trees, buildings, and other obstacles that could interfere with reliable grid operations. In practice, RoW is essential for efficient grid expansion and safety compliance, and the statutory framework for RoW in India is shaped by provisions of the Electricity Act, 2003 and the Indian Telegraph Act, 1885, which require that a licensee laying down electric supply lines cause as little damage as possible and provide full compensation for damages arising during construction or operation. But this process meets multiple geo-political challenges in India.

¹ Ministry of Power, Government of India, *India's total installed power generation capacity reaches 505,023 MW* (Business Standard, Dec. 19, 2025).

² Source: Energetica India, *Right of Way (RoW) Challenge in Construction of Transmission Lines and Its Mitigation in India* (illustrative diagram), available at Energetica India (last visited 31st January 2026).

RoW challenges are often framed as administrative delays or local resistance, but such characterisations obscure the deeper structural nature of the problem. Despite possessing statutory authority under the Electricity Act, 2003 and the Telegraph Act, 1885, transmission licensees routinely encounter landowner opposition, litigation, and prolonged negotiations over compensation. Parliamentary disclosures have acknowledged that RoW constraints have delayed multiple interstate transmission system projects of national importance.³ Sectoral studies have further linked transmission delays to renewable energy curtailment and under-utilisation of installed capacity.⁴ These developments suggest that RoW is no longer a marginal implementation issue but a central legal and governance challenge in India's power sector.

This paper advances the argument that India's RoW framework suffers from a fundamental misalignment between legal authority and social legitimacy. The law treats transmission corridors as temporary intrusions justified by public interest, while landowners experience them as permanent constraints on land use, valuation, and future development. Compensation mechanisms, historically designed to address physical damage rather than economic loss, have failed to bridge this gap. Even recent policy efforts to enhance compensation reflect an incremental adjustment rather than a structural rethinking of land rights in the context of linear infrastructure. The paper examines RoW through a legal lens, situating it at the intersection of statutory powers, regulatory standards, constitutional property rights, and judicial interpretation.

By addressing these questions, the paper seeks to move beyond descriptive accounts of RoW challenges and offer a critical assessment of the legal architecture governing transmission corridors in India. It argues that without a recalibration of RoW as a negotiated and participatory infrastructure arrangement, transmission expansion risks becoming the weakest link in India's energy transition.

II. Statutory Foundations of the Right of Way Regime in India

The legal framework governing Right of Way (RoW) in India is not housed within a single statute but is instead the product of a layered statutory architecture, developed historically to facilitate public infrastructure while balancing private property interests. In the context of

³ Lok Sabha Debates, Ministry of Power, Unstarred Question No. 3367, answered on 9 August 2023.

⁴ Institute for Energy Economics and Financial Analysis, *Transmission Bottlenecks and Renewable Energy Curtailment in India* (2023).

electricity transmission and allied infrastructure, RoW is primarily governed by the Indian Telegraph Act, 1885 and the Electricity Act, 2003, with the former continuing to play a central operational role through statutory incorporation and delegation.⁵

Historically, the placement of electric lines and related works was regulated under Sections 12 to 18 of the Electricity Act, 1910, which provided limited procedural guidance for laying supply lines and compensating affected landowners. These provisions continued to apply even after the enactment of the Electricity Act, 2003, until detailed rules under Sections 67 to 69 of the 2003 Act were notified.⁶ However, the regime under the 1910 Act proved inadequate for large-scale generation and high-voltage transmission projects, particularly in terms of speed, coordination, and enforcement. It is against this backdrop that Parliament introduced Section 164 of the Electricity Act, 2003, enabling the State to borrow the more coercive and time-tested powers available under the Telegraph Act, 1885.⁷

Section 67 of the Electricity Act, 2003 constitutes the general statutory authority for a distribution or transmission licensee to lay down electric supply lines, plants, and associated works necessary for the transmission or supply of electricity. At the same time, it incorporates an important limitation: the licensee is under a statutory obligation to cause as little damage as possible and to pay full compensation for any damage occasioned in the exercise of such powers. Any dispute regarding compensation or the exercise of these powers is to be adjudicated by the Appropriate Commission, thereby introducing a regulatory layer into RoW disputes.⁸

Section 68 of the Act specifically addresses overhead transmission lines, recognising that trees, structures, or other objects may obstruct or interfere with transmission works. The provision empowers an Executive Magistrate or other authority designated by the Appropriate Government to order the removal of such obstructions or to determine compensation, depending on whether the obstruction pre-dates or post-dates the installation of the overhead line.⁹ This provision reflects a statutory attempt to reconcile public interest in uninterrupted power transmission with individual property rights.

⁵ Indian Telegraph Act, 1885; Electricity Act, 2003.

⁶ Electricity Act, 1910, §§ 12–18 (repealed, but applicable until rules under Electricity Act, 2003 were notified).

⁷ Electricity Act, 2003, § 164; Electricity (Supply) Act, 1948, § 42 (repealed).

⁸ Electricity Act, 2003, § 67.

⁹ Electricity Act, 2003, § 68.

Section 69 further requires coordination with the Telegraph Authority, reinforcing the continued relevance of the Telegraph Act framework in the electricity sector.¹⁰ The most significant statutory bridge between the two enactments, however, is Section 164 of the Electricity Act, 2003, which authorises the Appropriate Government to confer upon a licensee or other electricity utility the same powers that a Telegraph Authority enjoys under the Indian Telegraph Act, 1885.¹¹ Once such powers are conferred, the licensee effectively operates under the Telegraph Act regime for the purposes of laying transmission lines.

Under the Indian Telegraph Act, 1885, Section 10 empowers the Telegraph Authority to place and maintain telegraph lines and posts upon any immovable property. Crucially, this power does not result in the acquisition of ownership or easementary rights in the land; it is expressly limited to a right of user. The statute reiterates the obligation to minimise damage and to pay full compensation to all persons interested for any loss sustained due to the exercise of these powers.¹² This distinction between user rights and property rights has become foundational to judicial interpretations of RoW in transmission cases. Section 16 of the Telegraph Act, 1885 strengthens enforcement by vesting the District Magistrate with the authority to remove or address obstructions to telegraph (and by extension, transmission) works. Where resistance persists despite an order under Section 16(1), such obstruction attracts penal consequences under Section 188 of the Indian Penal Code, 1860, thereby converting non-compliance into a public order offence.¹³ This coercive backing explains why Section 164 of the Electricity Act is routinely invoked for high-capacity transmission projects.

Taken together, these provisions reveal that India's RoW regime is not merely a technical facilitation mechanism but a statutory compromise, one that prioritises infrastructure development through delegated sovereign powers while simultaneously retaining compensatory and procedural safeguards for affected landholders.

III. Regulatory Framework for Right of Way Compensation — CEA Regulations 2022 and MoP Guidelines 2024

The statutory regime governing compensation for Right of Way (RoW) in India has evolved beyond high-level legislative provisions to a detailed regulatory and administrative framework,

¹⁰ Electricity Act, 2003, § 69.

¹¹ Electricity Act, 2003, § 164.

¹² Indian Telegraph Act, 1885, § 10.

¹³ Indian Telegraph Act, 1885, § 16; Indian Penal Code, 1860, § 188.

largely shaped by Central Electricity Authority (CEA) Regulations, 2022 and Ministry of Power (MoP) Guidelines on RoW Compensation, 2024. This regulatory framework operationalises compensation standards under Sections 67 and 68 of the Electricity Act, 2003 and related provisions of the Indian Telegraph Act, 1885, translating abstract legislative directives into specific compensation mechanisms and procedural norms that govern transmission line projects.¹⁴

The CEA (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2022 were promulgated under the authority granted to the CEA by Section 73(b) of the Electricity Act, 2003 and are intended to set technical parameters for the construction, design, and location of transmission infrastructure.¹⁵ One of the key features of these Regulations, particularly relevant to RoW compensation, is the inclusion of land use and corridor specifications (e.g., in Schedule VII), which lay out the spatial demarcation of RoW corridors for high-voltage transmission lines. While the Regulations themselves do not fix monetary compensation rates, they provide the technical scaffold upon which compensation is determined by reference to defined RoW areas within land parcels.¹⁶

In June 2024, the Ministry of Power issued revised Guidelines for the payment of compensation in regard to Right of Way for transmission lines, formally notified on 14 June 2024 (hereinafter “RoW Compensation Guidelines”).¹⁷ These Guidelines represent a centralised regulatory response to longstanding ambiguity and inconsistency in compensation determinations under earlier MoP guidelines (from 2015, 2020, and 2023), which had been criticised for low valuation rates and procedural delays. The 2024 Guidelines apply to RoW associated with transmission lines of 66 kV and above, that is, high-voltage transmission infrastructure, while excluding sub-transmission and distribution lines below this threshold.¹⁸

The central objective of the MoP Guidelines is standardisation and clarity in compensation awards by designating the District Magistrate, District Collector, or Deputy Commissioner as the determining authority for land valuation and award of compensation.¹⁹ Compensation under

¹⁴ Electricity Act, 2003, §§ 67–69; Indian Telegraph Act, 1885, §§ 10, 16.

¹⁵ Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2022 (CEA Regulations).

¹⁶ CEA Regulations, Schedule VII (defining RoW corridor parameters).

¹⁷ Ministry of Power, *Guidelines for payment of compensation in regard to Right of Way for transmission lines* (14 June 2024).

¹⁸ Ministry of Power Guidelines, 2024, Guideline No. (1).

¹⁹ Ministry of Power Guidelines, 2024, Guideline No. (2).

the Guidelines is to be grounded on the higher of the circle rate, guideline value, or Stamp Act rates of land within the RoW, unless the actual prevailing market value exceeds these statutory rates, in which case the authority may determine value based on market evidence.²⁰

The 2024 Guidelines introduce a two-part compensation structure:

- **Tower base compensation** is set at 200 per cent of the land value for the area physically occupied by the tower base, defined as the area within the four tower legs plus a one-metre buffer around each side.²¹
- **RoW corridor compensation** is set at 30 per cent of the land value of the corridor area as defined in Schedule VII of the CEA Regulations, 2022.²² This corridor payment is designed to address diminution in land value arising from the restrictions placed on land use due to the presence of transmission infrastructure and safety clearances.

Importantly, the Guidelines also recognise alternative compensation arrangements where landowners opt for mechanisms such as a Transfer of Development Rights (TDR) policy under state law; in such cases, the utility or licensee must deposit the determined compensation amounts with the relevant municipal or state authority.²³ The Guidelines emphasise one-time, upfront payment of compensation, preferably through digital payment systems such as Aadhaar Enabled Payment System (AEPS) or Unified Payments Interface (UPI) to reduce transactional delays and disputes.²⁴ While the central Guidelines provide a baseline standard, States and Union Territories retain the option to adopt the MoP Framework “*in entirety*” or to issue their own modified compensation norms, provided that such norms are not less favourable than the central guidelines.²⁵ This preserves a measure of federal flexibility while preventing a “*race to the bottom*” in compensation practices.

By linking compensation rates to defined RoW areas in the CEA’s technical regulations and grounding valuation in recognised land value metrics, the combined regulatory framework aims to harmonise compensation determinations across jurisdictions, improve predictability for landholders and developers, and reduce litigation and project delays.²⁶ However, emerging

²⁰ Ministry of Power Guidelines, 2024, Guideline No. (3).

²¹ Ministry of Power Guidelines, 2024, Guideline No. (4).

²² Ministry of Power Guidelines, 2024, Guideline No. (5).

²³ Ministry of Power Guidelines, 2024, Guideline No. (6).

²⁴ Ministry of Power Guidelines, 2024, Guideline No. (9).

²⁵ Ministry of Power Guidelines, 2024, Para No. 3.

²⁶ Shardul Amarchand Mangaldas & Co., *Guidelines Issued to Streamline Determination and Payment of Compensation for Transmission Line Right of Way*, Mondaq (2024), available at Mondaq (last visited 31st January 2026).

policy discourse suggests that future iterations may further expand the compensation matrix to account for urban land dynamics and escalating market values in metropolitan corridors.²⁷

IV. Compensation, Consent, and the Political Economy of Right of Way

The persistence of Right of Way disputes in India's transmission sector cannot be explained by legal uncertainty alone. Even where statutory authority is clear and regulatory standards are specified, resistance from landowners continues to delay projects and escalate costs. This suggests that the RoW problem is not merely one of legality but of political economy. At its core lies a misalignment between how the law conceptualises compensation and how landowners experience the burden imposed by transmission infrastructure.

A. Compensation as Damage Control, Not Value Loss

Historically, compensation for transmission corridors in India has been premised on the idea of damage mitigation rather than value deprivation. Under the Telegraph Act framework, and later under Section 67 of the Electricity Act, 2003, compensation is payable for “*damage, detriment or inconvenience*” caused during the execution of works.²⁸ This formulation implicitly assumes that the land itself remains substantially usable and that the intrusion is limited in scope and duration. In practice, however, overhead transmission lines impose enduring restrictions on land use. Height limitations, safety clearances, and perceived risk reduce the feasibility of construction, commercial development, and in some cases even intensive agricultural activity. Empirical studies and sector reports have repeatedly noted that land parcels traversed by high-voltage lines suffer from diminished market value, even where ownership formally remains with the landholder.²⁹ Yet, traditional compensation models have failed to account for this long-term economic impact.

The Ministry of Power's revised RoW compensation guidelines issued in 2024 mark a notable departure from earlier approaches by explicitly recognising the corridor area as compensable at a percentage of land value.³⁰ However, even this framework retains a one-time payment structure that treats the burden as static rather than dynamic. It does not reflect future appreciation of land values, particularly in rapidly urbanising regions, nor does it compensate

²⁷ Power Line Magazine, *Optimising Space Usage: MoP Releases Guidelines for RoW Compensation* (2024), available at Power Line (last visited 31st January 2026).

²⁸ Electricity Act, 2003, s 67.

²⁹ Institute for Energy Economics and Financial Analysis, *India's Transmission Bottlenecks and Renewable Integration* (2023).

³⁰ Ministry of Power, Government of India, *Guidelines for Payment of Compensation towards Right of Way for Transmission Lines* (14 June 2024).

for opportunity costs associated with foregone development.

B. The Circle Rate Dilemma and Market Reality

A central source of contention in RoW compensation disputes is the reliance on officially notified circle rates or guideline values. While administratively convenient, these rates often lag behind actual market prices, especially in peri-urban belts where transmission lines frequently pass. District authorities are empowered to adopt market rates where they exceed official valuations, but such determinations remain discretionary and uneven across states.³¹ This gap between statutory valuation and market perception fuels distrust. From the landowner's perspective, compensation calculated on outdated or artificially suppressed rates appears arbitrary and unjust. From the utility's standpoint, escalating demands based on speculative future value threaten project viability. The resulting stalemate reflects a deeper failure of the legal framework to provide a transparent and credible valuation mechanism. Notably, the absence of an independent valuation process exacerbates this problem. Compensation is typically assessed by revenue authorities who may lack the expertise or incentive to account for infrastructure-induced externalities. Unlike land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, RoW determinations do not involve social impact assessments or structured hearings, reinforcing perceptions of procedural asymmetry.

C. Consent, Coercion, and the Limits of Statutory Authority

Although the law does not require landowner consent for the placement of transmission lines, the practical necessity of cooperation cannot be ignored. Transmission projects are linear in nature, and resistance at even a few locations can disrupt entire alignments. Utilities therefore often engage in informal negotiations, route deviations, or ad hoc enhancements in compensation to secure acquiescence.

This informalisation of consent operates in a legal grey zone. On one hand, it reflects a pragmatic response to ground realities. On the other, it undermines the predictability and uniformity that statutory frameworks seek to ensure. Projects with greater financial flexibility are better positioned to accommodate local demands, while others face prolonged delays. The outcome is a fragmented RoW landscape where similarly situated landowners receive disparate treatment, inviting allegations of arbitrariness. The increasing recourse to district magistrates

³¹ Power Line Magazine, *Optimising Space Usage: MoP Releases Guidelines for RoW Compensation* (2024), available at Power Line (last visited 31st January 2026).

and executive authorities to resolve RoW disputes further blurs the line between administrative facilitation and coercive enforcement. While such intervention is legally sanctioned, its frequent use indicates that statutory authority alone is insufficient to secure legitimacy. The reliance on executive orders to overcome resistance risks deepening alienation rather than resolving underlying grievances.

D. Alternative Compensation Models and Their Limits

Recognising these challenges, recent policy discourse has explored alternative compensation mechanisms, including Transfer of Development Rights (TDR) and annuity-based payments. The 2024 RoW guidelines acknowledge the possibility of TDR where state policies permit, signalling a shift towards more flexible approaches.³² However, implementation remains limited and uneven. TDR models presuppose robust urban planning frameworks and active real estate markets, conditions absent in many rural and semi-urban areas. Similarly, annuity-based compensation, while conceptually attractive for addressing long-term loss, raises concerns regarding administrative complexity, fiscal liability, and enforcement. The absence of statutory backing for such models further constrains their uptake.

What these alternatives reveal is not merely a search for better compensation tools but a recognition that RoW burdens cannot be fully addressed through one-time monetary payments. They demand a rethinking of how infrastructure costs are distributed between the state, utilities, and affected landowners.

E. RoW as a Site of Distributional Conflict

Viewed collectively, compensation disputes reflect a broader distributional conflict inherent in infrastructure development. Transmission lines generate diffuse benefits across regions and consumers, while imposing concentrated costs on a limited number of landowners. The law has historically resolved this tension by privileging aggregate public interest, offering compensation as a palliative rather than a genuine sharing of benefits. This approach is increasingly untenable in a constitutional order that recognises property as a protected right under Article 300A. While courts have consistently upheld the legitimacy of transmission projects, the growing volume of RoW litigation suggests that formal legality does not equate to social acceptance. Without mechanisms that meaningfully address perceived inequities, RoW will continue to function as a structural chokepoint in India's transmission expansion.

³² Ministry of Power Guidelines, 2024, Guideline No. (6).

V. Judicial Engagement with Right of Way Disputes in India's Electricity Infrastructure

Judicial engagement with Right of Way (RoW) disputes in India's electricity sector has been iterative and increasingly nuanced, reflecting courts' efforts to balance individual property rights, statutory easement powers, and the public interest in uninterrupted infrastructure development. Courts have faced recurrent challenges involving (i) the characterization of RoW under constitutional and statutory law, (ii) the scope of procedural remedies under the Indian Telegraph Act and Electricity Act, (iii) compensation standards and their reviewability, and (iv) the broader policy considerations of electricity access.

Across jurisdictions, a consistent theme has been judicial deference to statutory authority and infrastructure necessity, interspersed with occasional interventions that clarify the limits of executive and administrative action. The following analysis maps the contours of this jurisprudence.

1. Property Rights and "Right of User" vs. Acquisition

At the heart of RoW litigation is the question whether the imposition of transmission infrastructure constitutes a deprivation of property that engages constitutional protections, or whether it merely creates a limited statutory right of user.

In *St. Mary's Technological Foundation v. West Bengal State Electricity Transmission Co. Ltd.*, the Calcutta High Court squarely addressed this distinction. Petitioners challenged the installation of high-tension transmission lines over their land on the ground that it violated constitutional property protections, including Article 30(1A). The court held that installation of transmission lines does not amount to acquisition of property and therefore does not attract constitutional safeguards associated with compulsory acquisition. Instead, the transmission utility merely exercises a statutory right of user conferred under the combined operation of the Electricity Act, 2003 and the Indian Telegraph Act, 1885. The court specifically observed that the transmission lines serve broad public interests, including those of the petitioners themselves, and that compensation issues should be addressed through dedicated statutory remedies rather than constitutional writ proceedings.³³ A similar doctrinal stance has appeared in the Uttarakhand High Court, which upheld that laying high-tension lines does not require

³³ *St. Mary's Technological Foundation v. West Bengal State Electricity Transmission Co. Ltd.*, 2023 SCC OnLine Cal 3052 (Calcutta High Court)

acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, but instead creates a right of user for which compensation for damages is the sole remedy.³⁴

These rulings reinforce a formalistic property conception: the absence of transfer of title or exclusive possession is deemed dispositive, and the economic effects of enduring restriction on land use are relegated to compensation frameworks rather than constitutional scrutiny.

2. Procedural Dimensions: Telegraph Act and District Magistrate's Role

Closely tied to the substantive characterization of RoW is the evolving case law on procedural pathways for landowners to assert objections or seek remedies. The Indian Telegraph Act, 1885 entrusts District Magistrates with powers under Sections 16 and 17 to address obstructions to telegraph (or by extension, electricity transmission) lines. However, recent judicial interpretations have clarified the limited scope of these powers.

In *Antram Goyal v. Power Grid Neemrana Bareilly Transmission Ltd.* (Allahabad High Court), the court held that a District Magistrate is not obligated to entertain every objection raised by a landowner under Section 16(1) unless the matter has been formally referred by the Telegraph Authority. The court clarified that allowing every objection to trigger Mandatory Magistrate action would defeat the statutory objective of facilitating uninterrupted infrastructure deployment and would misinterpret the supervisory framework envisioned by the Act.³⁵ This highlights judicial sensitivity to the administrative architecture of RoW implementation and curtails expansive interpretations of landowner procedural rights.

Complementing this, the Telangana High Court has observed that when the Central Government confers powers under the Telegraph Act to lay electricity lines, licensees need not notify or seek landowner consent before entering land.³⁶ These decisions collectively signal a judicial willingness to restrict procedural hurdles that could impede infrastructure projects.

3. Alignment Challenges and Technical Deference

Judicial engagement with RoW disputes often arises in route alignment challenges, where landowners seek to alter proposed corridors on grounds of excessive burden. Recently, the

³⁴ *M/s Shree Ganga Stone Crusher Company v. Union of India*, 2025 Supreme(Online)(UK) 1526 (Uttarakhand High Court)

³⁵ *Antram Goyal v. Power Grid Neemrana Bareilly Transmission Ltd. & Ors.*, WRIT-C No. 12360 of 2025 (Allahabad High Court)

³⁶ *M/s SNM Developers Pvt Ltd v. Central Government Licensee*, WRIT APPEAL No.382 of 2022 (Telangana High Court)

Uttarakhand High Court refused to interfere with the alignment of a 400 kV transmission line, underscoring that alignment decisions involve technical expertise best left to domain specialists and regulatory authorities. The court advised that petitioners may address their concerns before the District Magistrate under the Telegraph Act, rather than seek judicial restructuring of completed or near-completed plans.³⁷ This posture echoes broader judicial reluctance to engage in technical second-guessing, favouring administrative processes designed with embedded expertise.

4. Compensation Standards and Supreme Court Intervention

A significant development in RoW jurisprudence concerns judicial review of compensation assessments under the Telegraph Act. In *Kalpataru Power Transmission Ltd. v. Vinod & Ors.*, the Supreme Court critically examined High Court decisions that had applied uniform compensation rates across diverse geographical locales.

The Supreme Court held that applying a one-size-fits-all rate without regard to location-specific evidence was untenable. It emphasised that compensation must reflect distinct market realities, proximity to infrastructure, and local collector valuations. The Court further noted gaps in the statutory procedural regime, for instance, the absence of a clear appellate remedy against District Judge orders under Section 16(3) of the Telegraph Act, and referred these substantive and procedural issues to the Law Commission of India for further examination.³⁸ This judgment is noteworthy because it reflects a judicial willingness to critique compensation mechanisms, while still upholding the statutory structure of RoW governance.

5. Emerging Jurisprudence on Land Acquisition Frameworks

While most courts have held that RoW restrictions do not trigger statutory land acquisition regimes, recent judicial discourse suggests a reconsideration of adjacency issues. The Kerala High Court observed that authorities must assess at appropriate fora whether the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR) applies where transmission lines pass over private land without formal acquisition. This nuanced position acknowledges potential overlaps between RoW restrictions and acquisition safeguards, especially when the economic impact on landowners is substantial.³⁹

³⁷ *Indian City Properties Limited & Others vs The District Magistrate*, 2025:UHC:7515 (Uttarakhand High Court)

³⁸ *Kalpataru Power Transmission Ltd. v. Vinod & Ors.*, 2025 INSC 1004 (Supreme Court)

³⁹ *Leo L K and Ors. v State of Kerala and Ors.*, 2025 LiveLaw (Ker) 849

In addition to individual cases, courts have also engaged with temporal policy challenges, such as High Court scrutiny of state compensation policies. For example, the Punjab & Haryana High Court recently issued notices to the state government over a policy that excluded 33 kV lines from compensation regimes, raising questions about equity and equal treatment under law.⁴⁰ These actions indicate a growing judicial willingness to interrogate policy design, not just statutory interpretation.

VI. Right of Way as a Structural Bottleneck in India's Energy Transition

Right of Way (RoW) disputes in India's electricity sector can no longer be seen as isolated land or compensation issues. They reflect deeper structural problems in how India is managing its energy transition. While generation policy has rapidly shifted towards renewable energy, transmission expansion has struggled to keep pace. Legal fragmentation, federal coordination problems, and land governance challenges have turned RoW into a critical bottleneck. As a result, transmission constraints increasingly shape not just individual projects, but the overall pace and success of India's clean energy goals.

A. Energy Transition Targets and the Central Role of Transmission

India's commitment to achieve **500 GW of non-fossil electricity capacity by 2030** is firmly embedded in national policy and planning documents, including the National Electricity Plan and transmission planning reports issued by the Central Electricity Authority (CEA).⁴¹ These targets assume the availability of a strong and extensive transmission network capable of moving renewable power from generation-heavy regions to demand centres across the country. Transmission infrastructure plays a different role from generation assets in the energy transition. Renewable generation can be decentralised and deployed in small units. Transmission lines, by contrast, are large-scale, fixed, and land-intensive. Their construction inevitably involves land rights, forests, and multiple layers of government approval. The CEA has recognised that meeting the 2030 targets requires the addition of more than **190,000 circuit-kilometres of transmission lines**, along with significant increases in substation capacity.⁴² Achieving this scale of expansion is directly tied to how RoW is governed in practice.

⁴⁰ HC to examine plea against exclusion of below-66 KV towers from compensation policy, The Tribune (Chandigarh, Sept. 12, 2025), available at: <https://www.tribuneindia.com/news/haryana/hc-to-examine-plea-against-exclusion-of-below-66kv-towers-from-compensation-policy/> (last visited Jan. 31, 2026).

⁴¹ Central Electricity Authority, *National Electricity Plan (Transmission)* (Govt. of India, 2023).

⁴² Central Electricity Authority, *Transmission System for Integration of 500 GW Renewable Energy Capacity by 2030* (Govt. of India, 2022).

B. The Growing Gap Between Renewable Capacity and Transmission Expansion

Recent data shows a clear gap between the pace of renewable energy growth and the expansion of transmission infrastructure. While renewable capacity has increased rapidly, transmission development has fallen short of planned targets. In FY 2024–25, only about **8,800 circuit-kilometres of transmission lines** were commissioned against a target of over **15,000 circuit-kilometres**, leaving a shortfall of more than forty per cent.⁴³ This gap has practical consequences. Independent studies estimate that **over 50 GW of renewable capacity** risks remaining under-utilised because of inadequate evacuation infrastructure.⁴⁴ Curtailment, where available renewable power cannot be fed into the grid has become more frequent in several states. These problems are often described as technical or planning failures, but they are closely linked to delays in RoW clearances, compensation disputes, and prolonged approval processes. In other words, what appears as grid congestion is often rooted in unresolved land and legal issues.

C. Federal Fragmentation and Coordination Failures

India's federal structure adds another layer of complexity to RoW implementation. Although electricity is a concurrent subject, land and local governance fall primarily within state control. Central agencies can plan and approve transmission corridors, but they rely on state authorities for land access, compensation, and local clearances. This has led to uneven implementation of RoW policies across states. Even after the Ministry of Power issued updated guidelines on RoW compensation, states have adopted them selectively or with modifications.⁴⁵ For interstate transmission projects, this creates inconsistent compensation standards along a single corridor, increasing negotiation time and uncertainty for both utilities and landowners.

Courts have clarified that transmission utilities have statutory authority to lay lines, but they have not addressed this deeper coordination problem. Judicial decisions generally avoid directing states to align their land policies with central transmission plans. As a result, federal fragmentation continues to slow transmission expansion despite clear national priorities.

D. Environmental Clearances and Social Resistance

RoW disputes often overlap with environmental and forest clearance requirements.

⁴³ *India's Power Grid Bottleneck Threatens Green Power Rollout*, **PolicyCircle** (2025).

⁴⁴ Vibhuti Garg & Prabhakar Sharma, *Transmission Expansion Trails Renewable Energy Growth in India*, **Institute for Energy Economics and Financial Analysis** (2025).

⁴⁵ Ministry of Power, Government of India, *Guidelines for Payment of Compensation for Right of Way for Transmission Lines* (2024).

Transmission lines passing through forest land must comply with the Forest (Conservation) Act, 1980 and related regulations. Linear projects face particular difficulties because they cross multiple small forest parcels, each requiring approval. Policy reviews suggest that forest clearances for transmission projects frequently take longer than for other infrastructure sectors.⁴⁶ Additional delays arise from compensatory afforestation requirements and the need for approvals from multiple departments for tree cutting, crop damage, and horticultural compensation. Each authority applies its own valuation method, increasing the scope for disagreement.

In ecologically sensitive and tribal areas, transmission corridors also face social opposition. Local communities often raise concerns about livelihoods, environmental harm, and lack of consultation. While courts have generally balanced environmental protection against infrastructure needs, the procedural complexity of environmental litigation adds to delays. RoW disputes thus become entangled in broader environmental and social approval processes.

E. Urbanisation, Land Scarcity, and Technological Limits

RoW challenges are especially acute in urban and peri-urban areas. Rapid urban growth has increased land values and reduced the availability of continuous corridors for overhead lines. In response, planners have considered alternatives such as compact towers, monopoles, and underground cables. The CEA's 2022 Technical Standards recognise these technologies, but their use remains limited.⁴⁷ Underground cabling and compact designs are significantly more expensive and require specialised maintenance. Existing tariff and regulatory frameworks do not always account for these higher costs, creating uncertainty over cost recovery. As a result, utilities may hesitate to adopt such solutions even where land constraints make them necessary. This shows that RoW constraints influence not only legal disputes but also technological choices. Where land scarcity is not adequately reflected in regulatory and financial frameworks, grid expansion slows even when technical solutions are available.

Conclusion and way forward

This paper has argued that the Right of Way crisis in India's power transmission sector is not an incidental implementation challenge but a structural infirmity rooted in the legal and institutional design of electricity governance. While India has made remarkable strides in

⁴⁶ Ministry of Environment, Forest and Climate Change, *Review of Forest Clearance Timelines for Linear Infrastructure Projects* (Govt. of India).

⁴⁷ Central Electricity Authority, *Technical Standards for Construction of Electrical Plants and Electric Lines Regulations* (2022).

expanding generation capacity and articulating ambitious energy transition goals, the absence of a coherent and enforceable RoW framework has emerged as a binding constraint on the realisation of these objectives. Transmission infrastructure, though central to grid reliability and renewable integration, continues to be governed by fragmented statutes, executive guidelines, and ad hoc judicial interventions that are ill-suited to the scale and urgency of contemporary power sector demands.

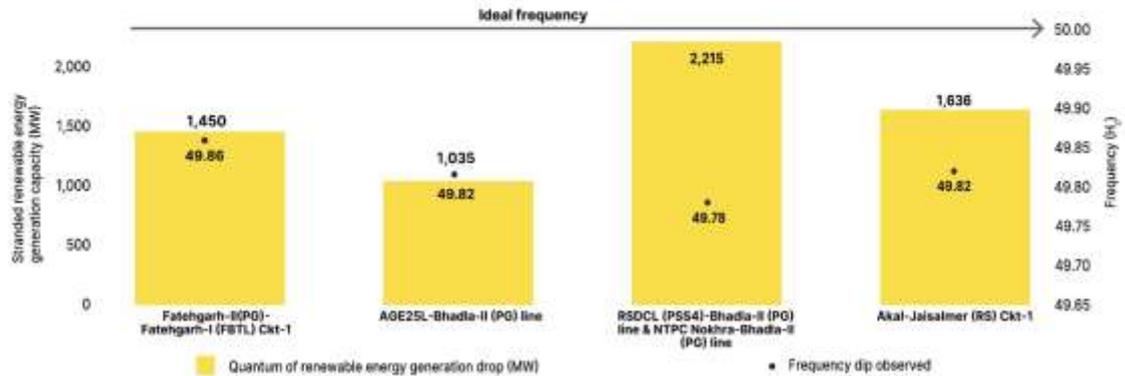
At the level of legal architecture, the Electricity Act, 2003 reflects a clear policy intent to treat transmission as a public utility of national importance. However, this intent is undermined by the Act's silence on RoW acquisition, compensation, and dispute resolution. The resulting reliance on colonial-era legislation and non-statutory guidelines has produced uncertainty and inconsistency, leaving transmission developers to navigate a terrain shaped more by negotiation and discretion than by rule-based certainty. This doctrinal gap has transformed RoW from a facilitative easement into a site of contestation, delay, and project vulnerability. The analysis has further demonstrated that RoW challenges are exacerbated by India's federal structure, where land and forests fall within state competence while transmission planning is centrally coordinated. In the absence of harmonised statutory standards, states have adopted divergent compensation regimes and administrative practices, often influenced by local political economy considerations. Judicial responses, though clarifying limited questions of legality, have largely refrained from addressing the underlying coordination failure. Consequently, the national grid expansion agenda remains dependent on uneven sub-national compliance, eroding the promise of an integrated electricity market. Importantly, the RoW impasse has tangible systemic consequences. Data from the Northern Regional Power Committee, analysed by JMK Research and IEEFA, shows that between January and June 2025 India's northern region lost over **6,300 MW of renewable energy generation** due to inadequate transmission infrastructure. Commissioned renewable projects remained stranded because of delayed grid connectivity, transmission line failures, and frequency instability, with key evacuation corridors recording generation losses between **1,035 MW and 2,215 MW** and frequency dips as low as **49.78 Hz**, below the ideal 50 Hz benchmark. The figure demonstrates that Right of Way delays now impose tangible costs on grid stability and renewable integration, transforming a land governance issue into a national energy security concern.⁴⁸

⁴⁸ Vibhuti Garg & Prabhakar Sharma, *Transmission Expansion Trails Renewable Energy Growth in India*, Institute for Energy Economics and Financial Analysis (IEEFA) and JMK Research & Analytics (2024)

India's northern region records over 6,300MW of generation loss from inadequate transmission infrastructure, January to June 2025

Commissioned renewable projects often remain stranded while awaiting grid connectivity. Key issues include voltage/frequency instability, tower failures, and re-tendering delays among others.

Renewable energy output loss linked to transmission faults and system frequency disturbances (Jan-June 2025)



Source: Northern Regional Power Committee, JMK Research

IEEFA

In conclusion, India's power sector stands at a critical juncture. The success of its energy transition will depend not only on how much power it generates, but on whether the law enables that power to move. Until Right of Way is treated as a core component of power sector reform rather than a peripheral land issue, India risks a future where energy ambition outpaces legal capacity. Bridging this gap is not merely a matter of administrative efficiency; it is a test of whether infrastructure law can evolve to meet the demands of a transitioning economy. As the authors abovementioned study has warned-

“India’s grid is not expanding fast enough to keep up with its renewable ambitions... Right-of-way (RoW) issues, extended land acquisition timelines, restrictions on equipment procurement, and multi-agency approvals also contribute to delays.”

- Vibhuti Garg & Prabhakar Sharma

This observation is echoed by research finding that “over 50 GW of renewable energy capacity remains stranded nationwide...” due in large part to transmission bottlenecks that include RoW constraints. Such evidence confirms that RoW is not a peripheral procedural glitch but a **systemic impediment** to the nation's power transition and grid expansion goals.