



LAND ACQUISITION BILL: MORE THAN JUST THE BILL

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Abstract:

Land acquisition in India refers to the process by which the union or a state government in India acquires private land for the purpose of industrialization, development of infrastructural facilities or urbanization of the private land, and provides compensation to the affected land owners and their rehabilitation and resettlement. Farmers are anxious about the Land Acquisition Bill, this does not seem to be their biggest worry, especially those who want money to get their sons educated or daughters married they, buy and sell land. While the question of farmers' consent in land acquisition by the government is an important issue, there is little focus today on the very state of agriculture. It is therefore imperative to seek the opinions of farmers on this. Most conversations with farmers reveal how income returns are very low, irrigation facilities are inadequate and supporting infrastructure is largely absent or of poor quality. The scarcity of financial resources for farming is another major issue. Unsurprisingly. For non-farming purposes, most of them had to depend on either friends or moneylenders. What might benefit the farmers and what goes against their interests — it is also important for the government to pay attention to the bigger problems that Indian farmers face.

Keywords:

Land Acquisition Bill, financial resources, industrialization, infrastructural facilities, Indian farmers.

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1. INTRODUCTION

In the 2015 pre-Budget session of the Parliament on February 24, the Narendra Modi government introduced the controversial Land Acquisition Amendment Bill in the Lok Sabha amid vociferous protest by almost all opposition parties. While the opposition is branding changes in the current ordinance as ‘anti-farmer’, the government claims that the new amendments will benefit farmers. The Land Acquisition Act was passed by the Manmohan Singh-led UPA government in 2013, and now the Modi government has introduced Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015 to make changes in the current Act.

Here are positive and negative clauses of the new Land Acquisition Amendment Bill:



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Pros:

- 1- The existing Act kept 13 most frequently used acts for Land Acquisition for Central Government Projects out of the purview. These acts are applicable for national highways, metro rail, atomic energy projects, electricity related projects, etc. The present amendments bring all those exempted from the 13 acts under the purview of this Act for the purpose of compensation, rehabilitation and resettlement. Therefore, the amendment benefits farmers and affected families.
- 2- The proposed changes in the Land Acquisition Act would allow a fast track process for defense and defense production, rural infrastructure including electrification, affordable housing, industrial corridors and infrastructure projects including projects taken up under Public Private Partnership mode where ownership of the land continues to be vested with the government.
- 3- As per the changes brought in the Ordinance, multi-crop irrigated land can also be acquired for purposes like national security, defense, rural infrastructure including electrification, industrial corridors and building social infrastructure.

Cons:

- 1- The original Land Acquisition Act, 2013 had a consent clause for acquiring land industrial corridors, Public Private Partnership projects, rural infrastructure, affordable housing and defense. But after the central government changed, it exempted these five categories from the rule of acquitting land in the Bill tabled on February 24.
- 2- Social assessment which was mandatory before acquitting land has also been exempted in the Bill tabled in the Lok Sabha.
- 3- As per the existing law, land will be given back to the farmer if it remains unused for five years. The proposed amendment says the land will be returned only if the specified project on the land fails to complete the deadline.
- 4- Bureaucrats will be punished if found guilty of violating any clause of the existing Land Act. However, the new clause makes government sanction necessary to prosecute civil servants.

2. PRESENT SITUATION

The Land Acquisition Amendment Act, 2015 is currently creating a lot of hassle in Parliament with the Lok Sabha session being adjourned for the same on February 24. With both opposition and ruling parties equally holding their leashes tight on the Land Bill, only time will tell if the amendments in the Land Acquisition Act will be passed or not and whether they will be truly beneficial. The political discourse over land acquisition has proceeded in binary terms — industry versus farmer, growth versus no growth — thereby obfuscating the real issue at the heart of the land acquisition debate: the fear of arbitrary exercise of state power in reshaping property relations in Indian society. Instead of tweaking the 2015 land acquisition bill with a few amendments here and there to appease political allies and win over the Opposition, the government should use this opportunity to address the issue of land acquisition in a systematic and constructive manner. At a minimum, this requires three things.



The first is to rid the discourse of the confusion that surrounds the notion of eminent domain. The power of eminent domain allows the state to forcibly acquire land from private individuals only upon the satisfaction of three conditions. The acquisition must be pursuant to a validly enacted law, for a public purpose and upon payment of just compensation. Therefore, acquisition of land by the state for private industry must only be done upon the showing of a demonstrable public purpose in each case. While drafting the Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013, the UPA government had argued in favour of state intervention for land acquisition on behalf of private industry on the ground that in the particular circumstances of India, where land records are unclear and there is unequal bargaining power between land losers and gainers, state intervention is necessary to ensure ease of land acquisition for private industry and to safeguard the rights of land losers to just compensation and rehabilitation. However, given that one quarter of all of India's districts have ongoing political and legal conflicts over land acquisition, it is clear that neither purpose is being effectively served by state intervention. Therefore, we need to rethink what kind of state intervention is necessary to achieve these purposes.

The second is recognition that the way land acquisition is done in India is peculiar to our colonial history. It may have some similarities with the way land is acquired in other British colonies that inherited colonial laws, but is certainly not the way land was or is acquired in colonizing countries like the UK, France and Germany. Our British colonial masters instituted a very different legal regime governing the state's relationship to land in India as compared to what was prevalent in their own country, with lasting implications for conflicts over land throughout our post-Independence history. For instance, in the UK, there is no standing law that allows government to acquire land for private industry. Every acquisition of land for private

3. LAND ACQUISITION IN INDIA

Land acquisition in India refers to the process of land acquisition by the central and the state government of India for various Infrastructures and growth initiatives. Several controversies have arisen with claims that land owners have not been adequately compensated.

Land acquisition in India by the Right to fair compensation and transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013, which come into force from 1st January 2014. Till 2013, land acquisition in India was governed by Land acquisition Act, 1894. On 31 December 2014, the new government in India passed an ordinance with an official Mandate to meet the twin objectives of farmer welfare, along with expeditiously meeting the strategic and welfare need of the country. The government has passed Land acquisition amendment Bill in the Lok Sabha on 10 March 2015.



Controversies

Eminent domain doctrine has been widely used in India with over 21.6 Million People in period of 1951-1990. They have been placed with large scale projects like Dams, Canals, thermal plants, sanctuaries, and mining. These occurrences are generally categorized as “**Development Induced Displacement**”.

The process of land acquisition in India has proven unpopular with citizen of India. The amount reimbursed is fairly low with regard to current price Index and people fails to find adequate employment.

The draft of government national policy for rehabilitation states that a figure of 75% of displaced people since 1951 are still waiting for rehabilitation and this displacement covers only the direct displacement. This rehabilitation policy does not cover fisherman, landless laborers, and artisans etc. one in ten tribal's is a displaced person. Dam projects have displaced close to million Adivasis. Some estimates suggest that 40% of displaced people are of tribal origin. There have been rising number of political and social protest against the acquisition of Land by various Industries. They have ranged from Bengal, U.P, in recent past. The acquisition of 997 acres of land by TATA Motors in Bengal in order to set up factory for the cheapest car in India was protested (Singur TATA Neno controversy).

Similarly Sardar Sarovar Dam Project on the river Narmada was planned on acquired Dam though the project was later cancelled by the World Bank. The land acquisition Act 1894 allowed the government to acquire Private land. It is only legislation pertaining to land acquisition which is amended several times, has failed to serve its purpose. Under 1894 Act, displaced people were only liable for monetary compensation linked with market value of the land.

Displaced Tribals

Project	State	Displaced Population	Tribal percentage
Karjan	Gujrat	11,600	100%
Sardar Sarovar	Gujrat	2,00,000	57.6%
Maheshwar	Madhya Pradesh	20,000	60%
Bodhghat	Madhya Pradesh	12,700	73.9%

Till now whenever the government acquires a land it is done under land acquisition Act 1894. In 2007, the UPA government brought in the rehabilitation and Resettlement Act to replace the Act.



After Modi government took over in May 2014, it was decided to make some amendments in the Bill which has become bone of contention.

According to PRS legislative Research these are:-

1) *Excluded Acts brought under RFCTLARR Act*

According to Act 2013, 13 Acts were excluded from **RFCTLARR Act** but with new ordinance they are not brought under its preview. Thus it brings the compensation, Rehabilitation and resettlement provisions of these 13 laws in consonance with the Act.

2) *Removal of the consent clause in five Areas*

The ordinance removes the consent clause for acquiring land in five areas which are as follows:-

- Industrial corridors
- Public and private partnership projects
- Rural infrastructure
- Housing
- And defense

These ordinance also exempts projects in these five areas from social impact Assessment and acquisition of the multi cropped land and other agriculture land, which earlier could not be acquired beyond certain limit.

3) *Return of unutilized land*

According to the Act, if the land remains unutilized for five years then it need to be returned to the owner, but according to the ordinance the period after which the unutilized land need to be acquired be five years or the period specified at the time of setting up the project, whichever is later.

4) *Time frame*

The ordinance states that if the possession of the acquired land under the Act 1984 is not taken for the reasons then the new law will be applied.

5) *Word private company replaced with private entity*

While the Act 2013, state that land can be acquired for private companies, the ordinance replaced with the word private entity. The private entity other than the government entity can include proprietorship, partnership, Company Corporation, not profit organization.



6) *Offence by the government officials*

If the offence is committed by the government officials or head of the department, then he/she cannot be prosecuted without the sanction of the government.

Indian express, written by Liz Mathen, New- Delhi, posted March 10, 2015

Icha	Bihar	30800	80%
Chandil	Bihar	37600	87.92%
Koel- Kero	Bihar	66000	88%
Mahi Bajaj sajar	Rajasthan	38400	76.28%
Polavaram	A.P	1,50,000	52.90%
Marthout Panchet	Bihar	93874	56.46%
Appar Irodavati	Odisha	18500	89.20%
Pong	Himachal Pradesh	80000	56.25%
Ichampani	Andhra Pradesh	38100	76.28%
Jultute	Maharashtra	13600	51.61%
Damanganga	Gujrat	8700	48.70%
Bhakra	Himachal Pradesh	6000	34.76%
Mason reservoir	Bihar	3700	31%
Ukai reservoir	Gujrat	52000	18.92%

The government has decided to introduce an ordinance to make major changes in existing land acquisition, Rehabilitation and resettlement Act, 2013.

Mere what has been changed and what has been unchanged.

The government Amended Section 10(A) of the Act to expand sectors.

PRO- FARMER STEP

The government has balanced out the ordinance by including 13 so far excluded Acts under the land acquisition Act. It is hailed as Pro- farmer steps as with this decision, rehabilitation, resettlement, and compensation provisions will be applicable for 13 existing center pieces of legislation. Till now land could be acquired under these Acts and there was no uniform central policy of rehabilitation and resettlement.

These Acts include coal Bearing Areas, Acquisition and Development Act, 1957. The national Highway Act, 1956, Land acquisition mines Act, 1985, Atomic energy Act, 1962. Indian



Tranway Act, 1886. Railway Act 1989. Ancient Monuments and Archeological Sites Act, 1958. Petroleum and mineral pipelines Act, 1962. Damodar Valley Corporation Act 1948 and Metro Railways Act, 1978 are also brought under the preview to provide higher compensation, rehabilitation and resettlement benefits to farmers whose benefits are acquired.

COMPENSATION REMAINS THE SAME

The compensation package remains. It is four times the Market price for rural and twice for the urban land. The government besides pressure from various groups decided to keep price intact.

Mint quotes former NAC member N.C saxena welcomes the changes made to land acquisition Act. He felt Jai ram Ramesh Bill was both anti- industry and anti- farmer.

WHY GOVERNMENT DID PASSED THE ORDINANCE NOW

The official reason given by the finance minister Arun Jaitley is that under section 105 of land acquisition Act on what provisions apply the aforesaid 13 legislations and it had done before 1st January, 2015. The political reason is that the government is looking to give a message to investors that they are trying their best to free up procedural bottlenecks which are almost a hallmark of any infrastructure investment India. The government is looking to boot up manufacturing to make Modi's ambition make in India project a reality and this is big bold step towards it. States like Assam, Haryana, and Himachal Pradesh felt that the definition of affected family is too broad on social impact assessment, Karnataka, Kerala, Maharashtra and Manipur demanded that it should be limited to large projects.

Other opposition like JD (U) and AAP have expressed their reservation about the ordinance. So it will be uphill task for the government to pass the bill. Thus in a way government went through broad consensus by making changes. Now it seen if they can get it passed in parliament and if the revised ordinance will indeed serve the purpose of bringing fresh investment and boost manufacturing sector without trampling on rights of poor.

After much heated debate and controversies that surrounded the right to fair compensation and transparency in land acquisition, on March 9, 2015. We saw U-Turn when the Lok Sabha gave the nod to the new land acquisition Bill on the account of nine amendments introduced by union government. It clarified that land acquired for industrial corridors will only be limited to one KM on either side of highways and railways lines. Land acquisition for private hospital and education institutions is no longer included in this. The bill introduced in December allowed the government to exempt the five special categories of land use from SIA and limited the use of irrigated land through notification. These have been further additions in amendments before issuing notifications, the government need to insure that extent of land acquired is in keeping with minimum land acquired for such project. The new law has provided for compulsory employment to one member of the family affected and has proposed for hassle free grievance redressed machinery and when we have acquire tribunal land consent of panchayat should be



there. These amendments will make it easier to expedite pending infrastructure projects. These changes have moderated some of restrictive provision in original law 2013 and will be very helpful in promoting business and shall reduce the cost for acquiring land for industry which was 40% of total cost.

Land acquisition is central to the government trust on infra-structure development and government would find it execute its make in India programme aimed at providing a boost to manufacturing and Job creation with the objective of taking India Back to high growth trajectory.

4. SUGGESTIONS

Leasing land may also support sustainable project development since the lands need to be returned to the owners at the end of the lease period in a condition similar to the original form without considerable environment degradation. When the land is leased then anybody who has to give up the land or livelihood will be compensated for its growing valuation of the land. In this model land owner lends her land to the government for steadily increasing rent or through annuity based system as currently practiced in Haryana and UP

Some industries already follow the model of leasing land instead of acquiring it energy development project such as oil and gas extraction usually lease land.

Renewable projects such as wind power farms, and bio fuel projects often lease the land from the farmers instead of acquiring it which could make the project expensive

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