

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT BILL, 2015

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 on the private land, and provides compensation to the affected land owners and their rehabilitation and resettlement. Land Acquisition in India is governed by *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, Resettlement Act, 2013*. However, till 2013 Land Acquisition in India was governed by Land Acquisition Act of 1894.

Union Government of India has also made and notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 under the act to regulate the procedure.

There was unanimity of opinion across the social and political spectrum that The Land Acquisition Act of 1894 had some drawbacks because of which a new bill was required. Some of these include:

- **Forced Acquisition**: Under the 1894 legislation, once the acquiring authority has formed the intention to acquire a particular plot, and then it carries out acquisition regardless of how the person whose land sought to be acquired is affected.
- **Silent on resettlement and rehabilitation of those displaced**: There are absolutely no provisions in the 1894 law relating to the resettlement and rehabilitation of those displaced by the acquisition.
- **Low rates of compensation**: The rates paid for the land acquired are the prevailing circle rates in the area which are notorious for being outdated and hence not even remotely indicative of the actual rates prevailing in the area.

- Litigation: Even where acquisition has been carried out, the same has been challenged in litigations on the grounds mentioned above. This results in the stalling of legitimate infrastructure projects.

BACKGROUND

The Department of Land Resources (DoLR) is administering the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (hereinafter referred to as Act), 2013. It was observed that some provisions of the Act were making the implementation of the Act difficult and this made it necessary to bring changes in the Act, while safeguarding the interest of farmers and affected families in cases of land acquisition.

Accordingly, a Conference of State Revenue Ministers was organized in Delhi in June, 2014. The Union Cabinet in its meeting held on 29.12.2014 approved the proposal of the Department of Land Resources to amend the RFCTLARR Act, 2013 and to promulgate the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014. The Cabinet also approved the proposal of the Department to introduce a replacement bill in the Parliament to replace the Ordinance. Accordingly, RFCTLARR (Amendment) Ordinance, 2014 was promulgated on 31.12.2014. The Budget Session of the Parliament Lok Sabha and Rajya Sabha commenced on 23.02.2015.

The Bill was taken up for consideration and passed by the Lok Sabha on 10.03.2015 incorporating the official amendments to the Bill. The Minister of Rural Development has also given notice for Motion for Consideration and Passing of the Bill Passed in Lok Sabha to the Secretary General Rajya Sabha on 13.03.2015. However, the Bill could not be taken up for consideration in the Rajya Sabha as the Rajya Sabha was adjourned on 20.03.2015.

THE NEW LAND ACQUISITION ACT, 2013

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (also Land Acquisition Act, 2013) is an Act of Indian Parliament that regulates land acquisition and lays down the procedure and rules for granting compensation, rehabilitation and resettlement to the affected persons in India. The Act has provisions to provide fair compensation to those whose land is taken away, brings transparency to the process of acquisition of land to set up factories or buildings, infrastructural projects and assures rehabilitation of those affected. This act has replaced Land Acquisition Act 1894, a nearly 120 year-old law enacted during British rule.

The Government of India believed that a combined law was necessary, one that legally requires rehabilitation and resettlement necessarily and simultaneously follow government acquisition of land for public purposes. The 2013 Act is expected to affect rural families in India whose primary livelihood is derived from farms. The Act will also affect urban households in India whose land or property is acquired.

(RFCTLARR) RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RE-SETTLEMENT (AMENDMENT) BILL, 2015

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.

The RFCTLARR Bill of 2015 replaces the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014. The Lok Sabha has passed the government's Land Bill, which now faces its real test in the Rajya Sabha or Upper House of Parliament where the government is in a minority. If the government cannot get the bill passed in Rajya Sabha, it may call a joint session of the parliament.

The RFCTLARR Bill, 2015, was passed after the following amendments were brought by the government:

1. Removal of 'consent' clause: As per the UPA law, land could be acquired only with approval of 70% of land owners for PPP projects and 80% for private entities. However, the amendment, brought in by the NDA removed this provision of 'consent' for acquiring lands for five purposes – Industrial corridors, Public Private Partnership projects, Rural Infrastructure, Affordable housing and Defence. This has drawn much of the criticism not only from political circle but also from activists like Anna Hazare who has launched a mass protest against the bill.
2. Return of unutilized land: According to the Act 2013, if the land remains unutilized for five years, then it needs to be returned to the owner. But according to the ordinance promulgated by the NDA government, the period after which unutilized land needs to be returned will be five years, or any period specified at the time of setting up the project.
3. As per the new law, if any government official commits an offence during the process of acquisition, he/she cannot be prosecuted without prior sanction from the government.
4. The amendments propose to include 13 legislations that are currently exempted under the purview of the Act in the compensation, rehabilitation and resettlement provisions. This is, however, seen as a pro-farmer move as there was no uniform central policy of rehabilitation and resettlement.
5. Compulsory employment to at least one member of the affected family of a 'farm laborer' as a part of the R&R entitlements provided under the Act. It

also requires that the government conduct a survey of wasteland, and maintain a record of this land.

6. Up to one km of land can be acquired on either side of a railway line or highway for industrial corridors.
7. The Act establishes a Land Acquisition, Rehabilitation and Resettlement (LARR) Authority to dispose disputes related to awards made under the Act. The Bill mandates that the hearing of the LARR Authority be held in the district where land is proposed to be acquired.

From the above points there are some pros and cons of the bill; which are as follows:

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 defence and defence 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, defence, 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 defence. But after the central government changed, it exempted these five categories from the rule of acquiring land in the Bill tabled on February 24.
2. Social assessment which was mandatory before acquiring 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.

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. 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.