



LAND ACQUISITION IN INDIA: HISTORY AND PRESENT SCENARIO

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ABSTRACT

The origin of the power of the State to take property for public use can be traced back to the olden days. It is an inherent power. An incident to this power is that property shall not be taken for public purpose without just compensation. It is said that right to enjoy private property comes within the purview of personal liberty and the requirement here is that property shall not be taken for public use without just compensation. It is a great principle established by common law for the protection of the private property. It is founded in natural equity and is laid down as a principle of universal law.

INTRODUCTION

In India, the term "land acquisition" refers to the procedure by which the national or state governments of India acquire property for a variety of infrastructure and economic growth initiatives. "Several controversies have arisen with claims that land owners have not been adequately compensated".¹ "Land Acquisition has become a most vexing problem for policy makers in India"². The Land Acquisition Act of 1894's existing land acquisition process had to be reviewed by the then-Congress government due to the escalating conflicts, instability, and confusion surrounding it in recent years. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Re-settlement Act (RFCTLARR), passed by the Congress government in 2013, repeals the Land Acquisition Act of 1894, which allowed the government to purchase private land for public uses, including the construction of roads, industries, mines, and Public Private Partnership (PPP) projects. This act was created with the intention of acquiring land for wholly public good projects and fairly compensating the owners. When the BJP-led NDA government introduced a bill to replace the ordinance issued in December 2014 that made

¹ Dr Chetan Upadhyay "Research Paper on Land Acquisition in India" Vol 5 No 6, 2015 *South Asia Journal of Multidisciplinary Studies* available at www.gjms.co.in/index.php/SAJMS/article/view/1098 last accessed on 21st July, 2016.

² Maitreesh Ghatak, Parikshit Ghosh "The Land Acquisition Bill: A critique and a Proposal" Vol XLVI No 41, October 8 2011, *Economic & Political Review*, Pg 65, available at <http://econ.lse.ac.uk/staff/mghatak/GG.pdf>, last accessed on 21st July, 2016.

changes to the RFTCLARR Amendment Act passed by the UPA government in 2013, the Act once again gained attention.

The Modi government has requested state governments to push through changes to their own laws to streamline land acquisition, even though the bill—which has received praise in some quarters and criticism in others—was passed in the Lok Sabha. Members of the Congress, left, Trinamool left, Samajwadi Party, Bahujan Samajwad Party, and JD-U have all voiced opposition to the Modi government over the land ordinance's provisions, calling them "anti-farmer" and "beneficial to corporations."

The Modi Government has issued a conciliatory note and is prepared to review the "anti-farmer" modifications after sensing the strong opposition to the bill. According to PM Narendra Modi, there were no provisions for the allotment of land for schools, hospitals, homes, water, or irrigation in the law passed by the previous UPA administration. He further asserted that the law is "pro-farmer" since it includes 13 Acts that the Land Acquisition Act had previously excluded, and because any land obtained through these existing key pieces of legislation will also need to be rehabilitated and compensated.

The Modi government is anticipated to make certain alterations to the suggested amendments in order to win over the opposition.

EVOLUTION OF PROPERTY AND OWNERSHIP RIGHTS UNDER INDIAN LAWS

Property ownership has long been a topic of discussion in the legal community. Salmond defined ownership as the connection between a person and the thing that is the subject of his ownership. It consists of a collection of rights, all of which are rights in rem, meaning that they are valid not just against certain people but also against the entire world. Austin, on the other hand, described ownership or property as the ability to use or interact with a certain topic in a way or to a degree that is indefinite even while it is not boundless. The State has always played a significant role in defending the interests of people against their personal property, whether it be corporeal or incorporeal property. It is also not an alien idea for the state to take away such property from individuals with a welfare motivation in order to benefit society as a whole. The technique is carried out while taking into account societal growth rates, economic structures, and state activities. Land administration systems are not an aim in and of themselves. The reasoning behind and justification for the creation and evolution of those systems can be found in the larger framework of land policy and land management. "The way governments intend to deal with the land issue in their society, determines the requirements to the institutional and operational set up of land administration systems"³. The Constitution and other legislations are modified keeping in mind all of the eventualities.

³ Paul Van Der Molen, Eugene. H Silayo, Arbind M. Tuladhar on "A Comparative study of Land Policy in 9 countries in Africa & Asia" available at https://www.fig.net/resources/proceedings/fig_proceedings/fig2008/papers/ts06b/ts06b_04_vandermolen_etal_3037.pdf, last visited on, 28th July, 2016.

“The Right to property, found its place as a fundamental right under the Indian Constitution until it was finally repealed”⁴. Article 19(1)(f) and Article 31 ensured protection of defenseless individuals' interests against their property prior to the aforementioned change in 1978. The goal of this amendment was to prevent wealthy zamindars and others from amassing large land holdings. However, because the stated goal has been accomplished, the validity of the aforementioned amendment is once more called into question.

The right to property is currently recognized by law. The Indian Constitution currently refers to Article 31 as Article 300A. This transfer supports the eminent domain principle. The doctrine excuses the State from acquiring land as long as it is done so for public objectives and comes with adequate compensation. A person's property is therefore obtained, barring legal permission. In the case of *State of Bihar Vs. Kameshwar Singh*⁵, Supreme Court defined eminent domain as “the power of a sovereign to take property for public use without the owner’s consent upon making just compensation.” Following the aforementioned series of revisions, Articles 31A, 31B, 31C, and 300A offer defense against adversarial property laws.

The validity of Articles 31A, 31B, and 31C has occasionally been contested on the basis that they contradict the Constitution's fundamental design. The Supreme Court upheld the constitutionality of clause (a) of Article 31A (1) on the test of basic structure⁶. In *Minerva Mills v Union of India*, the Court held that the whole of Art. 31A is unassailable on the basis of stare decisis, a quietus that should not allowed to be disturbed. The Apex Court has also affirmed that 31B does not destroy the basic structure⁷. After a lot of legal clamor, Article 31C has two prerequisites:-

- A statute to carry out the state's implementation of a Directive Principle in Article 39(b) or (c).
- Making a declaration to that effect by the legislature.

But the question that whether the act is intended to secure the object contained in Article 39(b)-(c) does not depend upon the declaration made by the legislature but upon the contents of the act as found by the court⁸.

Due to the extensive legislation that the state and federal governments have passed to regulate property rights, there have been many significant legal disputes in the area of property rights. The payment of compensation for the property rights obtained was the key issue in these disputes. “Important constitutional battles have been fought around this question and the constitution has been amended several times to get over some inconvenient judicial rulings”⁹. Such a conflict set the way for following land acquisition laws and legislation, which are covered in the paper, as well as Articles 31A, 31B, 31C, and 300A.

⁴ Omitted by the Constitution (44th Amendment) Act, 1978, S.6 (w.e.f. 20-6-1979).

⁵ *State of Bihar v. Kameshwar Singh* 1952 1 SCR 889.

⁶ *Ambika Mishra v State of UP*, 1980 AIR 1762.

⁷ *Waman Rao v. UOI*, 1980 SCC (3) 587.

⁸ Laxman, “*Emergence of Articles 31A, 31B & 31C*”, available at <http://www.legalservicesindia.com/article/article/emergence-of-article-31-a-b-and-c-and-its-validity-1435-1.html>, last visited on 29th July, 2016.

⁹ *Ibid*.

INDIA'S 200 YEARS OF STRUGGLE WITH LAND ACQUISITION LAWS

The debates surrounding the Indian land purchase bill are not new. It has been around for more than 200 years at this point. The following timeline applies to the same: -

- **1824:** The British government in India enacted the first land acquisition legislation¹⁰ that applied to the entire "Bengal province subject to the presidency of Fort William." The law allowed the government to obtain land or other immovable property required for roads, canals or other public purposes "at a fair valuation."
- **1839:** The Bombay presidency enacted an act similar to the Bengal Resolution I which included parts of the present-day states of Maharashtra, Gujarat, and Karnataka.
- **1850:** Act XLII of 1850 was then implemented in the nation by the British government to purchase land for the construction of a rail network.
- **1852:** The Madras presidency passed an act¹¹ in order to facilitate the acquisition of land for public purposes which included the present-day states of Tamil Nadu and Andhra Pradesh, parts of Odisha, Kerala, and Karnataka, and Lakshadweep.
- **1857:** The government enacted legislation that brought the whole of British-ruled India under one uniform land acquisition law¹² that stroke out all the previous enactments relating to land acquisition. According to this law, the collector had the authority to determine compensation for the land that was acquired, and any disagreements were referred to arbitrators whose decisions were binding.
- **1861:** Due to the "unsatisfactory settlement," "incompetence," and "corruption," the 1857 legislation was changed.
- **1870:** A new law was put into effect that gave civil courts the power to settle disputes instead of arbitrators.
- **1894:** The government passed the Land Acquisition Statute, 1894, as a result of the act of 1870 being deemed inadequate. This law gave the government the right to compel private landowners to sell their property to the government for public projects. The government decided on the land's purchase price.
- **1948:** The Land Acquisition Act of 1894 was adopted by the Indian Independence (Adaptation of Central Acts and Ordinances) Order of 1948 after the phrase "the whole of British India" was changed to "all the provinces of India." The act from the British era was utilized in the same format for many years.
- **1998:** The Bharatiya Janata Party proposed changing the current land law in 1998.
- **2007:** In 2007, the United Progressive Alliance (UPA) government, which was led by the Congress party, decided to alter the Land Acquisition Act and submitted a draught to the parliament. The bill a required the social impact assessment and also suggested that the government be required to pay for losses or damages to the land while acquiring it and to provide compensation in accordance with going market

¹⁰ Bengal Resolution I of 1824.

¹¹ Act XX of 1852.

¹² Act VI of 1857.

rates. At the state and federal levels, a Land Acquisition Compensation Disputes Settlement Authority was planned to be established.

- **2008:** The bill was subsequently sent to a standing committee on rural development, and in December 2008, it was approved by the UPA government's group of ministers.
- **2009:** In February, the Lok Sabha approved the Land Acquisition (Amendment) Bill, 2009, which replaced the 2007 amendment bill. The law is introduced by the government in the Rajya Sabha, but it does not pass since the 14th Lok Sabha was dissolved before it could be completed.
- **2011:** The UPA administration launched the Land Acquisition Rehabilitation and Resettlement Bill, 2011 after recapturing the general election in 2009; this new bill had its origins in the 2009 version.
- **2013** saw the bill's passage.
- In **January 2014**, the law becomes effective.
- **Dec. 2014:** After winning the elections in May 2014, the Narendra Modi administration changed the ordinance that governed property purchase.

The amendment stated that if land was being acquired for rural and social infrastructure, national security, or defense, neither the consent clause nor the social impact assessment was required. According to India's finance minister Arun Jaitley on December 29, "Such initiatives are crucial to national security and defense of India, including preparation for defense and defense production."

- **2015:** The measure was passed by the lower house, where Modi is the dominant party, and the opposition parties—Congress, Trinamool Congress, Samajwadi Party, and RJD—left the Lok Sabha.

In May, the Lok Sabha recommends the bill to a joint parliamentary committee made up of 30 representatives from both houses of Congress. During the monsoon session of the parliament, the committee is asked to present its report.

In June, the government announces the ordinance once more.

The joint committee asked for a two-week extension to submit the report in July.

Six significant revisions, including the proposal to eliminate the permission clause and the social impact assessment, were the subject of a joint parliamentary panel's recommendation that the government withdraw in August.

THE LAND ACQUISITION ACT, 1894

The Indian government is permitted to purchase private lands throughout the nation under the Land Acquisition Act of 1894. According to this Act, "Land Acquisition" refers to the government or a government agency acquiring land from individual landowners for any public purpose after paying a set compensation in lieu of losses incurred by these landowners due to surrendering their land to the relevant government agencies.

This Act grants the state the authority to exercise its right of eminent domain, allowing it to seize land for public use in exchange for full compensation determined on the basis of market value. Despite several changes made to the Act following independence, the two fundamental principles of land acquisition—namely, a) Public purposes and b) Private interests—remain. “Compensation on Market Value remains unchanged”¹³.

Despite the fact that the central government sets the law's content, regional differences in its procedural aspects are possible. This Act established a set of guidelines for the practical resolution of such disputes because land is a precious resource and there are frequently multiple holders claiming possession. Land can be purchased under either Part-II or Part-VII of the 1894 Act, according to the law. The latter is used in the case of private enterprises, whereas the former is used when the purchasing entity is the federal, state, or local government, or businesses that are either owned, partially owned, or controlled by the state. While land acquisition under Part-II is only permitted for "Public Purpose," purchase under Part-VII is permitted for both "Public Purpose" and "Non-public Purpose," however the latter has very limited application.

LAND ACQUISITION UNDER PART-II

Under this part, acquisition process involves the following steps:-

1. NOTIFICATION¹⁴

The official gazette and two locally read newspapers must publish a preliminary notice before the land purchase process may begin. The collector is also required to make sure that "public notice of the substance of such notification" is provided in a convenient location in the neighborhood. This notice alerts the owner not to invest any money or labor on any improvements to his land without the Collector's consent and informs the public not to acquire any interest in such land. It also makes it legal for an authorized officer to enter and inspect the land specified in the notice without the owner's permission.

2. FILING OF OBJECTIONS¹⁵

Then, within 30 days of receiving the notification, owners and anybody having an interest in the land must file their objections (if any). All persons who raise complaints must submit them to the collector, who must then give them all the opportunity to be heard. The collectors provide a report to the government with all of their suggestions and the details of the proceedings after hearing these objections. The government then decides whether to acquire the property based on the collector's report. The right to file objections is regarded a substantial right when a person's property is threatened against acquisition¹⁶.

¹³ Nandal Vikas, "Land Acquisition Law in India: A Historical Perspective"; Vol.3 Issue 5, 2014 *International Journal of Innovative Research and Studies*, Pg 468.

¹⁴ Section 4(1), Land Acquisition Act, 1894.

¹⁵ Section 5-A, Land Acquisition Act, 1894.

¹⁶ *Nandeshwar Prasad v. U.P. Government*, AIR 1964 SC 1217.

3. ANNOUNCEMENT

A declaration is issued under Section 6(1) once the government makes a decision, and this declaration must get the same amount of publicity as the preliminary notification. This declaration must be made in accordance with this Act within a year of the preliminary notification's release date.

4. NOTIFICATION TO PARTIES INTERESTED

The notified land is measured and planned in accordance with Sections 7 and 8 of the Act after the declaration. A notice is issued by the collector to all the land owners and the parties having interest in that land to inform about government's intention to acquire their land and also to call for claims for compensation¹⁷.

5. ENQUIRY AND AWARD After the notice is issued, collector conducts an enquiry on the objection raised and accordingly an award is given¹⁸. The award includes the size of the notified land, the amount of compensation due, and the percentage of the compensation that each interested party will receive. This award must be issued within two years of the declaration date in order to avoid the acquisition procedures lapse under Section 6. By submitting an application to the collector, who will then refer the case to court, any appeal against the award may be made. The interested parties are prohibited from bringing a lawsuit to support their claims in the regular civil courts. According to Section 11A, the award must be made within the allotted 2-year time frame. The period of stay if any to be excluded from time fixed for passing the award¹⁹.

6. ASSURANCE

Following the announcement of the award, the government purchases the property and takes immediate ownership of it after providing fair compensation.

7. COMPENSATION

The compensation ought to be determined by the land's market worth. A 12% annual interest rate must also be paid if the compensation payment is delayed even after the land has been acquired. Additionally, a subsidy equal to 30% of the market value must be provided. The recent judicial trends have also seen refund of compensation at specific interest rate if the acquired land is not used for the desired purposes²⁰.

LAND ACQUISITION UNDER PART VII

Under part VII, land can be acquired for non-governmental companies. Unlike Part II, where compensation is granted wholly or partly, but under Part VII, a company is bound to pay the entire amount of compensation for

¹⁷ Section 9(1), Land Acquisition Act 1894.

¹⁸ Section 11, Land Acquisition Act, 1894.

¹⁹ Special Leave Petition (crl.) 3229 of 2000.

²⁰ *Balbir Singh v. Union of India & Ors.*: 39 (1989) DLT 233.

the notified land²¹. Companies as defined under the Company's Act of 1956, societies established under the Societies Registration Act of 1860, co-operative societies, and industrial facilities held either directly or indirectly by partnerships are all included in the definition of "company."

There are two significant exceptions to the general rule that the land acquisition procedure under Part VII is comparable to that under Part II. The following ways the exceptions connect to the business:

- Obtaining government approval in accordance with Section 6 (1) ;
- concluding a contract with the government prior to the declaration's issuance in accordance with Section 6 (1)

MAJOR DRAWBACKS OF THE LAND ACQUISITION ACT 1894

- The Land Acquisition Act of 1894 was not applicable due to a number of problems, the most significant of which were: The law was completely insensitive to the needs of individuals who relied on the lands for their living, even if it offered certainty to landowners. Given that almost 60% of the population of India still depends on agriculture, it is impossible to fully ignore the interests of the labourers who work the land. Additionally, years of working on the land have made them so skilled at agriculture that it is difficult for them to switch to other occupations in order to survive.
- The Land Acquisition Act of 1864 limits the government's ability to seize private property to "public purposes." However, this Act has given the phrase "public purposes" a very broad definition, which includes: Any extension, enhancement, or development of existing infrastructure Any planning for rural towns or cities Any development in accordance with any strategy or policy of the government.
- The Land Acquisition Act of 1894 mandates that the compensation paid to landowners be in line with market value. However, this Act does not provide any standards for determining this market value. As a result, calculating compensation is extremely challenging.
- The Supreme Court ordered the government to increase compensation in 2012 to reflect the highest market value of the land on the grounds that someone who is forced to give up their land should be able to claim a higher compensation than what a comparable landowner would receive if he sold his property voluntarily.
- Additionally, the arrangements for the rehabilitation and resettlement of the displaced people, including the allocation of government land, funding for the construction of homes, and other significant allowances, are utterly unworkable. This renders the appropriate government to rehabilitate the displaced people in a proper manner²².

²¹ *Devinder Singh v. State of Punjab* 2008 AIR 261

²² Saxena K.B. (2011); "Rehabilitation and resettlement of displaced persons". Chapter 3 in Development- Induced Displacement, Rehabilitation and Resettlement in India

The aforementioned issue compelled the government to take the appropriate steps to address the challenges it encountered in executing the Act. The UPA government developed the amendment bill in 2007 as a result. The Land Acquisition, Rehabilitation and Resettlement Bill was once more introduced in 2011.

THE LAND ACQUISITION BILL 2015: CURRENT SCENARIO

All political parties, including the Shiv Sena, an ally of the present BJP administration in the Rajya Sabha, have opposed the revisions to this Act that the BJP government has proposed. The UPA's land acquisition law, according to the BJP, makes it impossible to use property for any public purpose and causes infrastructure projects to be perpetually delayed. Although the BJP has a resounding majority in the lower house of parliament, where the reforms were approved, it has been unable to do so in the Rajya Sabha. Instead, it took recourse in an ordinance to pass the amendment to the bill in December 2014.²³

SUMMARY OF THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) BILL, 2015:

- The Minister for Rural Development, Mr. Birender Singh, presented the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement (Amendment) Bill, 2015 in the Lok Sabha on February 24, 2015. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, is amended by the bill (LARR Act, 2013).
- The 2014 Land Acquisition, Rehabilitation, and Resettlement (Amendment) Ordinance is replaced by the Right to Fair Compensation and Transparency (Amendment) Bill.
- The LARR Act, 2013, provides instructions on how to purchase land for a public use. The Bill makes the following significant changes:
- Other laws' provisions are aligned with the LARR 2013: 13 legislations, including the National Highways Act of 1956 and the Railways Act of 1989, were exempt from the LARR Act of 2013's jurisdiction. The compensation, rehabilitation, and resettlement provisions of these 13 statutes were to be brought into compliance with the LARR Act, 2013, by a notification, within a year after its enactment (i.e., by January 1, 2015), per the LARR Act, 2013. The Bill aligns these 13 statutes' compensation, rehabilitation, and resettlement provisions with the LARR Act of 2013.
- Five types of land use are exempt from the following rules: Five distinct land-use categories are established under the bill: (i) defense; (ii) rural infrastructure; (iii) affordable housing; (iv) industrial corridors; and (v) infrastructure projects, including Public Private Partnership (PPP) projects where the central government owns the land.

²³ Basu Indrani, "What exactly is the contention about the land acquisition amendment?" , 24 Feb 2022 (Tuesday, *The Huffington Post*).

- According to the LARR Act of 2013, private projects must have the approval of 80% of landowners, and PPP projects must have the approval of 70% of landowners. The five categories indicated above are exempt under the Bill from this Act requirement.
- Additionally, the Bill enables the government to notify projects falling under one of these five categories to be exempt from the following rules: (i) The LARR Act of 2013 mandates that a Social Impact Assessment be performed to determine the social impact of land acquisition and to identify impacted families. (ii) The LARR Act of 2013 places several limitations on the purchase of agricultural land, including irrigated multi-cropped land. For instance, no more irrigated multicopper property may be purchased than what the relevant government has authorized.
- Return of unutilized land: The LARR Act of 2013 mandated that unutilized land purchased under its provisions be returned to the original owners or a land bank after five years. According to the Bill, unutilized land must be returned after I five years or (ii) any other time frame established at project inception, whichever comes later.
- The Land Acquisition Act of 1894 will continue to apply in some circumstances when an award has been issued under the 1894 Act, according to the LARR Act of 2013. However, the LARR Act, 2013 will apply if such an award was made five years or more prior to the passing of the LARR Act, 2013, and actual ownership of the land has not been taken or compensation has not been paid.
- According to the Bill, every time that the acquisition process was delayed because of: I a court order to stay the proceedings, (ii) a timeframe set in a Tribunal's award for taking possession, Alternatively, (iii) any time that possession has been taken but the compensation is still placed in a court account or another account will not be taken into account.
- Other changes: The 2013 LARR Act did not apply to the purchase of land for private hospitals or educational institutions. This limitation is lifted by the Bill. The LARR Act, 2013, which was previously applicable for land acquisition for private firms, is now only applicable for acquisition for "private entities" under the Bill. A private entity is any organization that is not a government organization. Examples of private entities include sole proprietorships, partnerships, corporations, non-profit groups, and other organizations as defined by other laws.
- According to the LARR Act of 2013, if the government commits an offence, the head of the department is presumed to be responsible unless he can demonstrate that the offence was committed without his knowledge or that he took reasonable steps to prevent its commission. The Bill replaces this provision and states that if an offence is committed by a government official, he cannot be prosecuted without the prior sanction of the government.²⁴

²⁴ "Bill Summary The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement(Amendment)Bill,2015",available <http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Bill%20Summary%20-%20LARR%20Bill%202015.pdf>.

This measure includes provisions for land purchase, rehabilitation, and relocation (R&R). When the government purchases land, whether for its own use or for the use of any private corporation for public reasons, the provisions of this bill shall apply. The new Bill allows private companies and Public Private Partnerships (PPPs) in addition to government-controlled organizations to acquire land for public purposes. The earlier Act only permitted land acquisition by the government for government owned companies and schemes run by societies, authorities, and cooperative societies. If they buy land through private agreements, private businesses are allowed to offer rehabilitation and resettlement, according to this statute. R&R must be at least 100 acres in size in rural areas and 50 acres in cities.

The word "public purpose" is defined in this measure to include:

- National security and strategic defense purposes
- Government and PSEs constructed roads, railroads, and ports.
- Project participants were also affected.
- Villages' planned growth or improvement
- Poor people's housing needs
- Government initiatives that benefit the public.

Five unique land use categories that are exempt from some rules are established by this bill. Included are:

- Defense
- Affordable housing,
- industrial corridors,
- rural infrastructure, and
- infrastructure projects, including PPP projects

However, under the LARR Act of 2013, land could only be purchased for any of these uses if 80% of the project's impacted parties approved. The above-mentioned land uses are, however, exempt from this consent requirement under this measure. This bill apart from limiting government's involvement in acquisition and required consent of affected people, it also talks about the return of the acquired land after a period of 5 years or any period specified at the time of setting up of the project, whichever is later if left unutilized. But no mechanism has been provided for this.²⁵

The Bill provides the need for a Social Impact Assessment (SIA) by the gram sabha or an equivalent body in urban areas for preliminary enquiry for land acquisition. This SIA will examine the licitness of public interest involved.²⁶

²⁵ Sharad Sheetal, Jain Shubham & Inmadar Rohit, "Impact Analysis: New Land Acquisition Bill", available at <http://www.icra.in/Files/ticker/new%20land%20acquisition%20bill.pdf> accessed on 21st July 2016.

²⁶ "All you wanted to know about Land Acquisition Bill", available at <http://www.livemint.com/Politics/FXZ9CrJApXRowyzLd8mb2O/All-you-wanted-to-know-about-new-land-acquisition-Bill.html>, last accessed on 21st July 2016.

An Expert Group (EG) composed of two non-official social scientists, two representatives of the Gram Sabha (GS), Municipality, or Municipal Corporations, as applicable, two rehabilitation experts, and a technical expert in the project-related field will evaluate the SIA. After that, a chosen administrator will create the R&R Scheme, which the Collector and Commissioner will then examine (R&R). The maximum time frame for SIA is six months from the start date, while for EG it is two months. If no land acquisition notification is filed within a year of the EG report, the procedure will expire. This Bill will be applicable to sixteen current pieces of legislation that deal with land acquisition but were left out by the 2013 Act. These laws include the Land Acquisition (mines) Act of 1885, the National Highways Act of 1956, the SEZ Act of 2005, the Railways Act of 1989, and the Atomic Energy Act of 1962.

Additionally, this Bill restricts the purchase of irrigated multi-cropped property to exceptional conditions solely in order to safeguard food security. An equivalent amount of cultivable wasteland must be deposited with the government in the case of such a purchase. If land is acquired for a public purpose and is 100 acres or more, this bill mandates the appointment of a R&R committee to assess the progress of the R&R process.

OBJECTIONS RAISED

If the purpose falls into one of the following five special categories: (i) defense; (ii) rural infrastructure; (iii) affordable housing; (iv) industrial corridors; and (v) infrastructure projects, including Public Private Partnership (PPP) projects, the amended Act does not require consent from 80% of the landowners. Additionally, SIA is not necessary for these projects. This would imply that those who depend on the land would no longer be supported and that only the landowner would receive compensation.

The government might buy land for its own use, but later decide to turn it over to a private corporation. As a result, under the modified measure, the government could change its mind on an acquisition later on.

This measure replaced the 2013 Act, which allowed for the acquisition of land by private enterprises. Other than a government entity, a private entity can be a sole proprietorship, a partnership, a corporation, etc.

If an offence is committed by a government official or head of the department then he or she cannot be prosecuted without prior sanction of the government.²⁷ This bill has been opposed by members of Congress and opposition parties who label it "anti-farmer" and "beneficial to corporations."

²⁷ Rathi Priyanka "Land Acquisition Bill: The Main Points Of Debate And Controversy" 25th February 2015 (Wednesday, IBN Live) available at <http://ibnlive.in.com/news/land-acquisition-bill-the-main-points-of-debate-and-controversy/530572-3.html> accessed on 22nd July 2016.

CONCLUSION

An act that was created in a different setting, changed as a result of many pressures, and is nonetheless in violation of numerous other laws. The quantity of land is fixed, despite the fact that demand for it is always rising. In addition to changing its use pattern and implementing various policies, land must be bought in order to meet the growing demand for it. The Land Acquisition Act of 1894 has often been examined by succeeding administrations at the centre to find a solution to this issue, yet the need for and availability of lands still exist. Whether amending a specific legislation may eliminate the system of conflicting laws that has permitted abuse of scarce land resources is the main issue at hand today.

However, the present BJP administration has categorically refuted the claims that the modified bill is anti-poor and anti-farmer. The current administration's efforts to amend the LARR Act ought to be applauded. Although it is urgent for our developing nation to improve its infrastructure and embrace technology breakthroughs in order to close the gap between developing and established nations, the fact that India is primarily an agricultural nation cannot be overlooked.

The steps taken by the Modi government are commendable because the difficulty of acquiring land causes significant delays and obstacles in finishing even public welfare projects like the metro, railways, and roads. The strategy of exempting 13 industries from the regulations controlling property acquisitions is the appropriate one, but the government must also take the interests of landowners into account. Instead of a one-time settlement that is also based on governmental value, which always remains substantially lower than market valuation, the government needs to compensate according to growing valuation over time. It is worthwhile to take into account the most recent proposals for pay based on lease or annuity.

Leasing land is often mentioned as a potential solution, but for that, the government must act like private businesspeople. They must be adaptable in their strategy, and pledges must be kept. The landowner should be able to cash in on his or her share and there must be an escape provision.

The passage of this bill would undoubtedly cause a lot of uproar among the nation's farmers, but the government still has a responsibility to safeguard their interests.

One cannot deny that this bill has advantages and disadvantages despite all the difficulties and controversy it encountered during the passage process. However, it will be interesting to see whether the Council of the States will accept this bill wholeheartedly or outright reject it. After the States left the Rajya Sabha, it was up to them to decide what would become of the session's hotly contested subject and what impact it would have on India's agro-based society. The Land Acquisition Act's future in India will be decided during this monsoon session.