

THE LAND ACQUISITION ACT 2013 IS A PRO PEOPLE DEVELOPMENT PLANNING ACT- CRITICAL ANALYSIS

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In the thrust for economic development and large scale transformation in the global market, land has become a vital resource for attainment of the same. Subsequently, land owned by private individual and nongovernmental organizations has been subjected to acquisition by the government for public purposes. Risks and delays related to land acquisition, disapproval and struggle on the part of the land losers have been stumbling blocks towards investments in the infrastructure sector of our nation. The Land Acquisition Act, 2013 replaced the harsh provisions of the Land Acquisition Act 1894 where the term 'public purpose' was uncertain, due to which lands could easily be acquired without paying any definite amount of compensation. The acquisition of land in India is governed by the Right to fair compensation and transparency in land acquisition, Rehabilitation and Resettlement Act 2013. This act is a result of many amendments and still continues to be a very dubious subject matter with regards to the rehabilitation and resettlement of the lands losers and people's struggle against displacement caused by the SEZs. Land acquisitions have always resulted into disputes against the state due to the non fulfillment of the promises made by the government to provide proper resettlement and rehabilitation to the victims. This paper brings out the recent proposed amendments to this act. The progress made under the social impact assessment programs with regard to land acquisition.

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1. History of Land acquisitions and its impact on the society

The History of land acquisitions

There is need for enough resources to initiate the process of economic growth and to satisfy the need of the society. Land is one of the most vital of such resources in order to develop the economy. Processes such as extensions of the roads, setting up of industries, military camp and construct railways etc requires huge amount of land. In such process lands acquired by private individual and nongovernmental organizations are subjected to acquisition by the government. The lands acquired by the government must be for 'public purposes' for the well being of the society. Previously land acquisitions in India was governed by the Land Acquisition Act of 1894 which had various shortcomings including silence on the problem of resettlement and rehabilitation of those whose lands were acquisitioned. This act was criticized by two groups one group was of view that the Act was weak and ineffective as the land owners get to demand value higher than the real value. The other group said it was draconian because the compensation paid to the landowners had a major difference between the market value of the property and the value the land acquisition². Land acquisition and rehabilitation have been a matter of concern, resulting in disputes against the state in India and continue to do so, for e.g. Land for the BSF training centre near Hazaribagh in Bihar was acquired in the 1960s. Today, 30 years later, only a few land losers have received compensation.³ Exercising the powers of eminent domain as articulated by the colonial government the state has dispossessed at least 50 million people of their land and livelihoods under the colonial Land Acquisition Act 1894. Most of the people are now untraceable and they or their Descendants form the millions living in urban shanty towns across the country.⁴

² Usha Kapoor, "*Land Acquisition And Adequate Compensation In India*", Law and Society, Feb 1, 2014, Accessed from: <http://wizardlegal1.in/2014/02/01/land-acquisition-and-adequate-compensation-in-india/>

³ Asif Mohammad, "*Land Acquisition Act : need for an Alternative paradigm*", Economic and Political Weekly, Vol. 34, No. 25, pp. 1564-1566, accessed from: <http://www.jstor.org/stable/4408096>

⁴ Preeti Sampat, "*Special Economic Zones in India*", Economic and Political Weekly, Vol. 43, No. 28 (Jul. 12 - 18, 2008), pp. 25-27, 29 retrieved from: <http://www.jstor.org/stable/4027713>

Case Study of Land Acquisition at Singur West Bengal

The resistance of land Acquisition in West Bengal initiated in May 2006 as soon as the Left Front Govt. came to power. The LF Govt. main motive was to industrialise West Bengal. The govt. started the process with an idea of acquiring 1000 acres of agricultural land in Singur of Hooghly district for setting up of motor cars plant by Tata Motors. Apprehending the loss of their agricultural land, the peasants immediately gathered to block the team's passage and started their protest.⁵ Moreover the lands elected for the Tata Motors' project is fully irrigated by both canal water (a Damodar Valley Corporation canal passes through the villages) and groundwater having two deep tube wells and 27 mini deep tube wells. The land here is fertile enough with a yield rate of 2,436 kg per hectare for rice and 26,604 kg per hectare for potato, which is the main cash crop of the area. While the yield rate for rice is little less than the state average of 2,504 kg per hectare, the same for potato is higher in this area than the state average of 24,711 kg per hectare. Moreover they would be paid very less or no compensation in the process of land acquisition and hence would be the worst victim in the course. The farmer's at Singur organized themselves as a "Save agricultural land committee. There were women protestors mainly fighting the Govt. and resisting the acquisition of their lands."⁶

The resettlement and rehabilitation became the core issue in India during 20th century when lot of people were deprived of their own lands and were falsely promised compensation. As a consequence of this injustice the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 made its way to the parliament with the aim to minimize and address the plight of the victims of land acquisition and to provide proper resettlement and rehabilitation. The Land Acquisition bill 2013 has been renamed as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. "Land Acquisition" means the acquisition of land owned by the individual landowners for some public purpose by a government agency, after paying a government-fixed compensation to the land losers to cover losses incurred while surrendering their land to the concerned government agency. This act also connects to the doctrine of eminent domain which is based on the State power of compulsory acquisition of land. The first recorded description of this doctrine is in the writings of jurist, Hugo Grotius:

⁵ Parthasarathi Banerjee, "*Land Acquisition and Peasant Resistance at Singur*", Economic and Political Weekly, Vol. 41, No. 46 (Nov. 18-24, 2006), pp. 4718-4720, retrieved from: <http://www.jstor.org/stable/4418907>

⁶ *ibid*

“The property of subjects is under the eminent domain of the State, so that the State ... may use and even alienate and destroy such property, not only in the case of extreme necessity... but for ends of public utility, to which ends that who founded civil society must be supposed to have intended that private ends should give way. But it is to be added that when this is done the State is bound to make good the loss to those who lose their property”. Grotius’ doctrine places two constraints on the exercise of the power of eminent domain: first, that the acquisition be for the purpose of ‘public utility’ and second, that the owner be compensated for the loss of his property and also put emphasis on the responsibility of the State to protect private property, and at the same time, to move society toward higher social good.⁷

The new Land Acquisition Act 2013 concerns only such cases where the land will be acquired by Central or State Authorities for any public purpose and is not against industrialization and urbanisation, there is no restriction on purchase of private land. The Rehabilitation and Resettlement Act tends to address two critical aspects of land acquisition i.e.

1. Acquisition and
2. Rehabilitation and Resettlement.⁸

The new Land Acquisition Act, enacted by Parliament in September provides just and fair compensation to those whose land is taken away for constructing roads, buildings or factories, replacing 120-year-old legislation. The Act, meant for bringing transparency to the process of acquisition of land, provides for liberal compensation and rehabilitation of those affected by the takeover. The new law, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act laid down:

1. Mandatory approval of at least 70% of affected people for acquiring land for Public Private Partnership (PPP) projects and 80% for acquiring land for private companies.
2. State governments will have to set up at least six bodies, including the state-level Land Acquisition Rehabilitation and Resettlement Authority, to take notice of disputes arising out of projects where land acquisition has been initiated by the state or its agencies. The state governments also should take immediate steps to create and establish the State

⁷ Richard Epstein, “*Takings: Private Property and the Power of Eminent Domain*”, Harvard University Press, January (1985)

⁸ ICRA,” *Impact Analysis, 2013: New Land Acquisition Bill*”, retrieved from: <http://www.icra.in/Files/ticker/new%20land%20acquisition%20bill.pdf>

Social Impact Assessment Unit, the office of the Commissioner Rehabilitation and Resettlement and the State Level Monitoring Committee.

3. Compensation for the owners of the acquired land will be four times the market value in rural areas and twice in urban areas. It also stipulates that the land cannot be vacated until the entire compensation is awarded to the affected parties.
4. Companies can lease the land instead of purchasing it. Besides, the private companies will have to provide for rehabilitation and resettlement if land acquired through private negotiations is more than 50 acres and 100 acres in urban and rural areas, respectively.
5. It prescribes the need for a Social Impact Assessment by the Gram Sabha or an equivalent body in urban areas as part of the preliminary investigations for the land acquisition which will assess the legitimacy of public interest involved, apart from the impact on affected families and the availability of better alternatives⁹

The new law provides with the provisions which are much more humane taking into considerations like proper compensation to the private individuals for acquiring their land, setting up of state-level Land Acquisition Rehabilitation and Resettlement Authority, and focusing upon the Social Impact Assessment program which is a systematic scrutiny in advance of development or policy changes that will bring social change to a community. Section 4 of LARR Act 2013 is introduced for preliminary investigation for determination of social impact and public purpose. Following are the provisions of the new Act of 2013 replacing many provisions of the colonial Act of 1894:

Land Acquisition Act of 1894	Land acquisition Act 2013
The term “public purpose” was ambiguous and open to Government’s discretion	Clearly defines various types of “public purpose” projects for which, Government can acquire private land.
Land could be acquired forcibly.	<ul style="list-style-type: none"> • For private project, 80% affected families must agree. • For PPP project, 70% affected families must agree.
They were given no voice in decision making.	

⁹ ICRA, “*Impact Analysis 2013: New Land Acquisition Bill*”, retrieved from: <http://www.icra.in/Files/ticker/new%20land%20acquisition%20bill.pdf>

	<ul style="list-style-type: none"> • Only then land can be acquired. <p>Under Social impact assessment (SIA) even need to obtain consent of the affected artisans, laborers, share-croppers, tenant farmers, fishermen, small traders, etc. whose (sustainable) livelihood will be affected because of the given project.</p>
Government was free to decide how much money to pay while acquiring private land.	<p>Compensation proportion to market rates.</p> <p>4 times the market rate in rural area.</p> <p>2 times in urban area.</p> <p>Affected artisans, small traders, fishermen etc. will be given one-time payment, even if they don't own any land.</p>
No such restrictions on fertile land	<p>To ensure food security:</p> <ol style="list-style-type: none"> 1. Fertile, irrigated, multi-cropped farmland can be acquired only in last resort. 2. If such fertile land is acquired, then Government will have to develop equal size of wasteland for agriculture purpose.
No provisions for rehabilitation and resettlement	<p>If Government acquires the lands for private company- the said private company will be responsible for relief and rehabilitation of the affected people.</p> <p>Additional rehabilitation package for SC/ST owners. Example- fishing rights over dam, 25% extra money if settled outside their native district and so on.</p>
No such safeguards	State Governments have to setup dispute

	settlement authorities. Chairman must be a district judge or lawyer for 7 years.
No such accountability	Head of the department will be made responsible, for any offense or mischief played from Government's side.
If project did not start, then acquired land was secretly sold/leased to private players at sky-high prices.	If project doesn't start in 5 years, land has to be returned to the original owner.

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Impact on the society

The impact of land acquisitions can be seen in the process of acquiring land for Special economic zones. A Special Economic Zone (SEZ) is a geographical region that has economic laws that are more liberal than a country's typical economic laws. The establishment of special economic zones for a new approach of growth and development to match with the growing global neo liberal discourse took place in India. SEZs are considered as a tool for enhancing employment; mobilizing foreign policies etc. therefore huge area of lands are being subject to acquisitions leading to displacement of people without any assurance of providing them with such resources and place to live as they had prior to the acquisition of their private lands. The increasing role of the state as the promoter of corporate-led economic growth is underlined by the acquisition of land for SEZS.¹¹

Nandigram Land Grab Case: The incident took place on 14th March 2007 in Nandigram West Bengal due to the forceful attempt of acquisition of land of 10,000 acres by the Communist Party of India for setting up of Special Economic zone (SEZ). The farmers under the Bhoomi Raksha Committee refused to surrender their land for the proposed SEZ and the violence erupted as a

¹⁰[Polity] "*Land Ordinance 2014 vs. Land Acquisition Act 2013: Salient Features, Comparison & Criticism*", retrieved from: <http://mrunal.org/2015/01/polity-land-ordinance-features-criticism-land-acquisition.html>

¹¹ Preeti Sampat, "*Special Economic Zones in India*, Economic and Political Weekly", Vol. 43, No. 28 (Jul. 12 - 18, 2008), pp. 25-27, 29 retrieved from: <http://www.jstor.org/stable/40277713>

result of which 14 villagers died and 70 more got wounded. The CPI (M) took the local people for granted on an issue that affected their very livelihoods.¹²

The experience of land acquisition has been tremendously miserable for farmers. To mete out the intricacies of land acquisition the LARR Act 2013 inserts the Social Impact Assessment (SIA) to determine whether the projects are serving the stated public purpose. A social impact assessment is the identification, analysis and evaluation of a social impact resulting from a particular event" where a social impact is defined as a "significant improvement or deterioration in people's well-being or a significant change in an aspect of community concern."¹³ The land acquisitions must result in a societal position that brings in equilibrium, the interests of the displaced and the benefits of the land acquired, to the public at large. The Social Impact Assessment study and its review by an independent group of expert is the main social safeguard provided by the bill.¹⁴ This expert group will evaluate the SIA and examine whether the project serves the stated public purpose, whether it is in the larger public interest and whether the costs and adverse impacts of the project outweigh the potential benefits. On these grounds, individually, the expert group is required to express its opinion as to whether the project should be allowed to continue or not.¹⁵ The study draws on consultations with Gram Sabha members to review the nature of public interest concerned in the project and its potential benefits compared to social and environmental costs; the number of affected families and the socio-economic impact on adjoining areas; whether the extent of land proposed for acquisition is the bare-minimum required, and whether acquisition at an alternate place is not feasible.¹⁶ The assessment is then reviewed by a group of five external experts, who may "make a recommendation that the project shall be abandoned" if its impacts are deemed unacceptable. Ambiguities in this sentence undermine the reliability of the social safeguard. The binding nature of the recommendation

¹² "Taking People for Granted, *Economic and Political Weekly*", Vol. 42, No. 2 (Jan. 13-19, 2007), p. 80, retrieved from: <http://www.jstor.org/stable/4419118>

¹³ James C. Cramer, Thomas Dietz and Robert A. Johnston, "Social Impact Assessment of Regional Plans: A Review of Methods and Issues and a Recommended Process," *Policy Sciences*, Vol. 12, No. 1 (Jun., 1980), pp. 61-82, Springer, Retrieved from: <http://www.jstor.org/stable/4531800>

¹⁴ Lucy Duboche, "Land Acquisition in India: Will the Proposed Bill Protect Displaced People?," Oxfam India, New Delhi, October 2012

¹⁵ Nihal Joseph, Shrinidhi Rao, "Land Acquisition Bill, 2011: One step forward, two steps back", retrieved from: <http://nujlawreview.org/wp-content/uploads/2015/02/nihal-joseph-and-shrinidhi-rao.pdf>

¹⁶ Lucy Duboche, "The proposed Land Acquisition Bill Putting Livelihoods First", Oxfam India, New Delhi, October 2012

needs to be spelt out in a way that leaves no room for future interpretations.¹⁷ The proposed bill takes one major step forward by providing Resettlement and Rehabilitation (R&R) entitlements to all affected people, in addition to the generous monetary compensation for landholders.¹⁸ However, this will prove carrying great weight only if R&R measures are strengthened. Land should be compensated by land of comparable value wherever possible. Public interest would only be served if an acquisition results in community benefit, after accounting for the social cost from acquiring that specific land. Therefore, in each case, the costs and benefits of the acquisition to society must be considered. It would only be equitable if the principle of societal benefit was reaffirmed by focusing on the specific land obtained in each case.

¹⁷Lucy Dubochet, "*Land Acquisition in India: Will the Proposed Bill Protect Displaced People?*", Oxfam India, October 2012, retrieved from: <http://www.indiaenvironmentportal.org.in/files/file/india-land-acquisition.pdf>

¹⁸ Niranjan Sahoo, Samya Chatterjee, "*The Land Acquisition Stalemate: Contentions & Solutions*", ORF Seminars, Vol. 1, Issue 11, April 2013

2. Land acquisitions a step towards Economic development: critical analysis

For an emerging economy like India, a major constraint or enabler of growth and development will spring from how land, a critical but limited resource is priced, acquired, brought and utilized.¹⁹ Industrialization, globalization and urbanisation also contribute to the cause of land acquisition. Land acquisition remains at the heart of India's existing developmental predicaments. In this country, hardly a day passes without a report of an agitation or some incident of violence over land acquisition.²⁰ Nearly all major projects today are being held up by one or another problem related to land acquisition. Huge requirement of land is felt and govt. has to acquire land which again results in displacement of people from those lands and it leads to ugly consequences such as unemployment, poverty, lack of housing facilities etc which is added to the worsening of the economic situation. Resettlement and rehabilitation is a major problem for the Indians especially the indigenous people as they are not provided with proper rehabilitation. There is a need of balancing the whole situation after acquisition of land therefore the land acquisition resettlement and rehabilitation act 2013 is implemented solely to provide better facilities to the people who had lost their own places for public purpose to the Government and also to enhance economic growth.

Many projects including highway projects worth Rs 60,000 crore have been stuck due to delays in land acquisition. This has led to damaging effect to the growth and development of companies and the economy as a whole. Earlier, States like Maharashtra, Odisha used to be a magnet for investors but due of the acquisition policies private companies are opting out of them. The clause, Social Impact Assessment (SIA), in the present Act which makes consent of gram sabhas mandatory for the (up to 80%) acquisition put off the acquisition process by nearly two years.²¹ For the infrastructure and economic growth of a country, land acquisition is required but on the contrary, the acquisition has suffered a series of consequences. A number of disputes related to

¹⁹ Shubham Bhattacharjee , Rita Sinha, “*Fair Pricing of land and it’s compensation in an emerging nation: Case for India*” retrieved from: <http://tari.co.in/wp-content/uploads/2014/02/land-acquisition-web-pdf-final-printed-report.pdf>

²⁰ Niranjan Sahoo, “*The New Land Acquisition Bill and its Challenges*”, Observer Research Foundation, 2009, retrieved:

http://www.orfonline.org/cms/export/orfonline/modules/occasionalpaper/attachments/OC_1325503381189.pdf

²¹ Maitreesh Ghatak , Parikshit Ghosh “*The Land Acquisition Bill: A Critique and a proposal*”, September, 2011, retrieved from: <http://www.cdcdse.org/pdf/work204>

land acquisition are still pending in the Supreme Court. In an attempt to solve land acquisition problems, the Right to Fair Compensation and Transparency in Rehabilitation and Resettlement Act 2013 was enacted, commonly called the new Land Acquisition Act. The intention was to make land acquisition more transparent and farmer friendly. But many economists and industrialists hold that the new act is as much a deterrent to growth as the old one was.²²

The preceding Land Acquisition Act was framed in 1894, when India was under British rule. The rules for acquisition were simple. Land was a state subject the state governments just had to notify to landowners that their land was being acquired. They would be paid the nominal circle rate (minimum rate of land in a particular area decided by the government) or the ready reckoner rate (the prices of land for any given area published by the government each year). This was way lower than the prevailing market rate, at times even one-tenth of it, and the land owners suffered.²³

In the new Act, not only have the rates been corrected, but the land buyer has to pay twice the market value of the land in urban areas and four times in rural areas. There is also an additional compensation to be paid to the affected families to ensure their rehabilitation and resettlement (R&R). Companies are expected to employ those from the displaced families. "We have now swung the Act to the other extreme. We have made land so expensive that it is unaffordable for industry," says B. Muthuraman, vice Chairman of Tata Steel. There are two mega infrastructure projects currently on in India - the Delhi Mumbai Industrial Corridor (DMIC) and the Mumbai Chennai Industrial Corridor. They aim to develop new industrial cities as "Smart Cities" and converge next generation technologies across infrastructure sectors. Both the projects are delayed because of land acquisition issues. DMIC is assisting state governments in acquiring land in Haryana, Rajasthan, Madhya Pradesh, Gujarat and Maharashtra. "While acquiring land in Aurangabad, land prices went up to 5.5 times the market rates simply because landowners were not willing to sell at a lower price. Everything is becoming unviable," says Amitabh Kant, Director, and DMIC.²⁴

²² Nitin Kiran, "No promised land" retrieved from: <http://businessstoday.intoday.in/story/narendra-modi-government-land-acquisition/1/206795.html>

²³ Ibid

²⁴ Ibid

3. Loopholes of the Act and proposed amendments

Article 46 of the Constitution requires the state to promote the educational and economic interests of the weaker sections of the society and, in particular, of the Scheduled Castes (SCs) and Scheduled Tribes (STs) and to protect them from social injustice and all forms of exploitation.²⁵ In recent times the large scale industrialization, privatization and globalization for sake of development has emerged as the biggest threat to the survival of the weaker section of the society (tribals) – ironically, the so called “modern civilized society” has become a predator of their age-old eco-friendly, peaceful and harmonious lifestyle. Article 244²⁶ read with the Fifth and Sixth Schedules of the Constitution provide protection to the indigenous people living in the Scheduled Areas. Due to serious discrepancies in the demarcation of Scheduled Areas within these states, many villages with a majority tribal population that are contiguous to the existing Scheduled Areas have not been given the same status.²⁷ Consequently, they are excluded from the protection of the state land transfer laws, which enables alienation of tribal lands in these areas. The proposed Land acquisition rehabilitation and resettlement (LARR) Bill attempts to address issues that were affecting the livelihoods of the Indians especially the indigenous people. First, by defining ‘persons interested’ [Section 3(x)]²⁸ as those having an interest in the land as opposed to actual title and ‘affected family’ [Section 3(c)]²⁹ as those dependent on the land for their livelihood, it seeks to broaden the group of people to be compensated in case of acquisition.

Second, Section 3 (za)³⁰ of the LARR Bill contains a more detailed listing of ‘public purposes’ than the 1894 Act. Moreover, the bill contains an extremely expansive definition of

²⁵ Article 46, Constitution of India

²⁶ Article 244, Constitution of India

²⁷ Namita Wahi, “*Land acquisition, development and the constitution*”, retrieved from: http://india-seminar.com/2013/642/642_namita_wahi.htm

²⁸ section 3(x), The Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act 2013

²⁹ section 3(c), The Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act 2013

³⁰ section 3(za), The Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act 2013

‘infrastructure’ [Section 3(o)]³¹ to include not just ‘electricity, railways, defence’ etc., but also ‘education, sports and tourism’.

Third, in its commitment to payment of fair compensation, the bill marks a positive reversal of government policy. The bill also contains some provisions for addressing delays in payment of compensation.

Fourth, the LARR Bill states that while government may acquire land for private companies ‘for the production of goods for public or provision of public services’, it will do so only if at least 80% of the affected people have already consented to such acquisition. Moreover, in case of such compulsory acquisition, the private company shall be bound by the resettlement and rehabilitation provisions contained in the bill. Where land is acquired for urbanisation, 20% of the developed land will be reserved and offered to land owning project affected families, in proportion to their land acquired and at a price equal to cost of acquisition and the cost of development. Land Acquisition is inevitably a controversial issue in countries with land scarcity that are trying to achieve rapid economic development through greater industrialization. However the newly draft Land Acquisition Rehabilitation and Resettlement Bill consists of some loopholes. It is giving an impression of a law that looks good on paper but actually produces a very different result. It has few internal flaws. Both the presentation and the Bill state that the Rehabilitation & Resettlement (R&R) package will not even be drafted until after the acquisition process is set underway. People are expected to assess the impact of the project (social impact assessment), give objections to the impact assessment, object or accept the supposed public purpose being served, etc. - all without knowing what kind of rehabilitation is to be done. No guarantee of jobs in R&R package; compensation calculated according to circle rates much less than market prices; no protection to farmland. Forest dwellers are covered as "interested parties", but they are not merely "interested persons" but rights holders with particular rights and powers - in particular over natural and forest resources.³²

³¹Section 3(o), The Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act 2013

³² The Forest Rights Act, “A Good Looking Empty Shell: New Land Acquisition Bill”, retrieved from: <http://www.forestrightsact.com/statements-and-news/117-a-good-looking-empty-shell-new-land-acquisition-bill>

This Act treats them as if their rights can simply be taken over in exchange for a fixed R&R package, when:

1. the range of rights extends to such rights as grazing areas, water bodies, habitats of "primitive tribal groups", ownership of minor forest produce, etc., which cannot be simply be compensated or replaced, and which require a different procedure; and
2. More importantly, the Act ignores the powers of forest dwellers to decide on use and protection of forests, under which the decision to create the project in the first place requires their consent.³³

The most serious problem with the conduct of land acquisition proceedings in India has been arbitrariness in the manner in which these provisions have been implemented. There has been significant capitalism and collusion between the governing class and industry in the way land has been acquired and used. While the proposed bill contains some positive provisions for safeguarding the rights of the dispossessed, legal reform must be backed by institutional reform, including greater judicial review of acquisition proceedings in order to bring about meaningful change on the ground. Without addressing these loopholes, the bill will not respond adequately to the sensitive nature of India's land situation and instead, make the conflict more stubborn by covering unchanged practices under a new law.³⁴

Proposed Amendments

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, widely known as Land bill, was adopted by the Lok Sabha to bring changes in the Land Acquisition Act of 2013. The amendment bill of 2015 created five categories of land use:

1. Defence
2. Rural Infrastructure

³³ Ibid

³⁴Namita Wahi, "*Land acquisition, development and the constitution*", retrieved from: http://india-seminar.com/2013/642/642_namita_wahi.htm

3. Affordable housing
4. Industrial corridors
5. Infrastructure projects including Private Public Partnership (PPP) projects where central government owns the land.

The LARR Act, 2013 requires that the consent of 80% of land owners is obtained for private projects and that the consent of 70% of land owners be obtained for PPP projects. The Bill exempts the five categories mentioned above from this provision of the Act.

Return of unutilised land: The LARR Act, 2013 required land acquired under it which remained unutilised for five years, to be returned to the original owners or the land bank. The Bill states that the period after which unutilised land will need to be returned will be: (i) five years, or (ii) any period specified at the time of setting up the project, whichever is later.³⁵

Other changes: The LARR Act, 2013 excluded the acquisition of land for private hospitals and private educational institutions from its purview. The Bill removes this restriction. Building private hospitals and private educational institutes will also count as “public purpose”. Means, they too can acquire land if 80% affected families agreed. While the LARR Act, 2013 was applicable for the acquisition of land for private companies, the Bill changes this to acquisition for ‘private entities’. A private entity is an entity other than a government entity, and could include a proprietorship, partnership, company, corporation, non-profit organisation, or other entity under any other law. The LARR Act, 2013 stated that if an offence is committed by the government, the head of the department would be deemed guilty unless he could show that the offence was committed without his knowledge, or that he had exercised due diligence to prevent the commission of the offence. 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.³⁶

³⁵ The Right to Fair Compensation and transparency in land acquisition, Rehabilitation and Resettlement Act, 2013, retrieved from: <http://www.prsindia.org/billtrack/the-right-to-fair-compensation-and-transparency-in-land-acquisition-rehabilitation-and-resettlement-amendment-bill-2015-3649/>

³⁶ Ibid

Conclusion

The Land Acquisition Act 2013, meant to bring out the transparency in the process of acquisition of land provided with liberal compensation and rehabilitation to those affected by the acquisition. The LARR Act brings changes to the legislative approach. The Land Acquisition Act, 2013 has provisions for social impact assessment wherein the mode of acquisition is carried out by the approval of displaced persons and legal entitlement for resettlement, the recent proposed amendments of 2015 on the issue of land acquisition is a ray of hope to put an end on the plight of the land losers who are deprived of their prerogative to rehabilitation and resettlement. Undeniably, the act has been able to recognize some of the problems arising out of land acquisition but in spite of its good purpose the act in its current form misses out on an opportunity to promote growth and prosperity while protecting the vulnerable. The policy makers and the legislators need to look at a broader picture of the implementation of the Act to address the short comings so that the economy runs safely without facing any harm in the long run.