



LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) BILL, 2015*

INTRODUCTION

In the today's competitive world, India is one of the accelerating economies¹ while pulling a large amount of investment from both foreign and domestic sources, and is ranked 4 according to UNCTAD². However, time lag in land acquisition, objections and resistance on the part of the displaced—as has been noticed in the past in the states of Bengal and Odisha — has become central tailbacks for investments in the infrastructure sector.

The subject of Land acquisition is becoming increasingly speculative in India, as evident from events in the past. It has become a national subject around which a great deal of mobilisation and protest has taken place. Environmental clearance is another cause for hold up, costs brim and risks in infrastructure protrudes, which is associated inherently to land acquisition. The issue of shift of inhabitants and the rivet on environmental degradation activists in the country has become an opportunity for politicians to create a figure of themselves in front of innocuous citizens.³

While many have observed the troubles faced by the poor due to the land acquisition process, there has been little undertaken to understand its current position and find the middle path. The problem has either been due to the bureaucratic way of functioning of the governmental machinery, which has brought out delays in land acquisition, or in terms of the monopoly of the governments in implementing a suitable land acquisition law benefiting both the entrepreneur and the farmer.⁴

In this paper, we try to bring in light several aspects of Land Acquisition Bill. This include the history of this very concept, the various Indian provisions of Land Acquisition Bill, the positive and negative aspect of this Bill and whether Land Acquisition Bill will be able to achieve its desired objective.

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¹ Available at: <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG> (Assessed on 16th June 2015).

² Available at: http://articles.economicstimes.indiatimes.com/2014-06-24/news/50825711_1_fdi-destination-fdi-inflows-fdi-policy (Assessed on 18th June 2015).

³ Available at: <http://www.financialexpress.com/article/fe-columnist/land-acquisition-bill-the-key-to-making-in-india/55513/> (Assessed on 21st June 2015).

⁴ Available at: <http://www.financialexpress.com/article/fe-columnist/land-acquisition-bill-the-key-to-making-in-india/55513/> (Assessed on 21st June 2015).

BACKGROUND AND HISTORY

BACKGROUND

Land acquisition in India pertains to the procedure by which the union or a state government in India gains 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.⁵

The land acquisition Act of 1894 was created with the intention of alleviating the Government's acquisition of privately contained land for public purposes.

It is not necessary that all the acquisition has to be originated by the Government alone. Local authorities, societies registered under the societies registered Act, 1860 and co-operative societies launched under the cooperative societies Act can also acquire the land for developmental activities through the Government.

To meet the needs of the changing time and society, the old Land Acquisition Bill was substituted by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and which came into force from 1 January 2014.⁶

HISTORY

Historically, the land acquisition was ruled by the Land Acquisition Act, 1894. In 2013, a new law for land acquisition was made for India by UPA government called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In 2014, however, the NDA government wanted to make changes in the land acquisition law after they came to power under the leadership of Prime Minister Narendra Modi.⁷

Regulation 1 of the land acquisition act was first ordained by the British government in 1824. Its application was to end the subjection of the whole of the Bengal provinces to the Presidency of Fort William. In 1850, some of the provisions of regulation 1 of 1824 were broadened to Calcutta through Act I of 1850, with a view to affirm the land titles in Calcutta that were acquired for public purposes.

Around the same time, a railway network was springing up and it was felt that a legislation was required for acquiring land for the purposes of the railways. Building act XXVII of 1839 and act XX of 1852 were brought in order to debar the difficulties pertaining to the construction of public buildings in the cities of Bombay and Madras. Act VI of 1857 was the first full enactment, which had application to the entire British India. Subsequently act X of 1870 came into effect which was further replaced by land acquisition act 1894.

After independence in 1947, the Indian government took over "Land Acquisition Act, 1894" as a tool for land acquisition. Since then versatile amendments have been made to the 1894 act. Amendments by successive governments did not turn to the controversial aspects of the Act notwithstanding decade-long civil society calls for adequate Rehabilitation & Resettlement ("R&R") measures. Never before had any central law guaranteed R&R in cases of mandatory land acquisition. A number of state governments had introduced R&R policies in response to increasing resistance, but a single legal framework is still missing.

⁵ "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013", *1, Law Street*. The Gazette of India, 26 September 2013 (Assessed 20th June 2015).

⁶ "[The Land Acquisition, Rehabilitation and Resettlement Bill, 2011 – Full Text of Bill](#)", Ministry of Rural Development, Government of India.

⁷ Available at: <http://www.quora.com/What-are-the-pros-and-cons-of-the-Land-Acquisition-Act-2013#> (Assessed on 20th June 2015).

In the late eighties, the Narmada Bachao Andolan opened discourse around a coherent R&R policy. Finally, in 2011, the National Advisory Council (NAC) called for a law linking land acquisition and R&R. The Ministry of Rural Development prepared a draft bill. Its report play up major weaknesses in the bill. These include the broad definition of public purpose; the limited scope of the bill given the fact that a majority of compulsory land acquisitions fall under special laws; the centralised definition of compensations and rehabilitation packages.⁸

In spite of these weaknesses, the bill is a significant step, as it provides for safeguards against acquisitions whose impact on people and food security is deemed unacceptable. It establishes the precedence of special laws for Scheduled Areas, such as the Forest Right Act (“FRA”) and the Panchayat Extension to Scheduled Areas Act (“PESA”); it entitles all affected people to a diversified R&R package and sets generous standards to calculate compensations for landholders.⁹

The layout of perspectives that have been pondered about the bill reflects the complexity of the issue it addresses. Withstanders of a broad definition of public purpose vindicate government acquisitions for private use on grounds of long-term economic development. Nevertheless, others within the corporate sector fear the hurdles caused by government interventions and prefer to rely on markets.

Most civil society organisations agree on the need to define public purpose narrowly; potential economic benefits have to be weighed against the impacts for affected populations, they claim. The BJP-NDA government amended the present bill to speed up the development of the country and also providing the base for their ‘make in India’ initiatory.

POSITIVE ASPECTS OF THE LAND ACQUISITION (AMENDMENT) BILL, 2015

The Land Acquisition Amendment Bill introduced by the BJP-led National Democratic Alliance (NDA) Government on twenty ninth day of December, 2014¹⁰ has created widespread resistance for the amendments proposed by it to the Act of 2013¹¹. Though the bill is passed in Lok Sabha with a majority of 216¹² but is yet to be upheld by Rajya Sabha.

According to the World Bank Group rankings, India stands at 142nd position in terms of doing business.¹³ So, in order to provide ease of doing business domestically as well as across the world and its promises of developing India across all sectors through ‘Make in India’ Campaign¹⁴, Modi government has introduced this amendment bill which ultimately aims to bring investment in India and to transform India into an industrial nation.

Contrary to the views spread all over the nation, the bill is not at all Anti- Farmer and has its positive aspects as well. Moving one by one with the amendments proposed by the government which are prosperous –

⁸ Government of India (2012) ‘The Land Acquisition and Resettlement Bill 2011’, Standing Committee Report 31, op. cit.

⁹ Four times the market value in rural areas and two times its value in urban areas. Government of India (2011), ‘The Land Acquisition, Rehabilitation and Resettlement Bill’, op. cit, First Schedule, p. 33.

¹⁰ Press Information Bureau, Government of India, Available at: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=114190> (Assessed on 25th June 2015).

¹¹ The Act of 2013 means “*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*”.

¹² Available at: <http://www.thehindu.com/news/national/lok-sabha-passes-land-bill-with-216-ayes/article5072041.ece> (Assessed on 12th June 2015).

¹³ Available at: <http://www.thehindubusinessline.com/economy/india-ranks-142-in-ease-of-doing-business-world-bank/article6544619.ece> (Assessed on 15th June 2015).

¹⁴ Under the stewardship of our present Prime Minister Shri Narendra Modi, the Government has been working hard to boost India in manufacturing sector in the name and style of ‘Make in India’ campaign.

REMOVAL OF CONSENT CLAUSE AND SOCIAL IMPACT ASSESSMENT¹⁵ FOR 5 TYPES OF PROJECTS:

- National security and Defense Production
- Rural infrastructure, Rural electrification
- Infrastructure including PPP (Public Private Partnership)
- Industrial corridors
- Housing for Poor¹⁶ for which the government continues to be the owner of the land.

The major reason for this step taken by the NDA government is that the provisions LARR Act¹⁷ was not in consonance with and cannot be applied to those 13 laws¹⁸ under which land can be acquired and compensation was to be provided. For example, if the land has to be acquired under Railways Act or Metro Railways Act, then Social Impact Assessment (SIA), market-rate compensation etc. cannot be made applicable. So, the LARR Act was exempted or can say that LARR Act was applicable to these acts for one year that is from 1/1/14 till 1/1/15.¹⁹

Now, as this exemption was applicable for just one year and till then the government had to amend these 13 laws so as to be in consonance with LARR Act and the higher compensation can be given to the farmers under those acts also. The major problem in this was to amend these thirteen laws in a year where, inspite of the frequent disruptions in winter session, the absence of majority of the Modi government in Rajya Sabha and non-preparation of the bill by the Union Ministers.²⁰

So, the bills cannot be presented for amendment. Therefore the only option left with the government at that point of time when the exemption was elapsing was to introduce an ordinance under Article 123²¹ of the Indian Constitution through which the consent clause and the Social Impact Assessment clause was sought to be removed from the act.

Also, the major problem with land in India is its ownership. There is no clarity as to the ownership and tenants. The issue of the consent will be hazardous and will transform into a weapon for those having vested interest rather than helping those with genuine interest. So, the seventy percent

¹⁵ Social Impact Assessment is to be done by an Expert Group appointed by the respective State government. The Expert Group can ask for land acquisition not to be done if it is satisfied that the project is not of public interest, the costs outweigh the benefits or it does not serve the stated public purpose. The Expert Group has to assess the impact of the project on various things such as grazing land, transport, housing, lives of people, their occupations, their ownership, their economic conditions, physical infrastructure (drainage, roads, water availability, sanitation etc.) and many other things.

¹⁶ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, Proviso to § 2(2). The Bill was introduced in New Delhi, Lok Sabha on 16th February, 2015 by the Rural Development, Panchayati Raj and Drinking water and sanitation Minister, Birendra Singh. Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

¹⁷ Land Acquisition, Rehabilitation, Resettlement Act, 2013 (herein referred as LARR Act). Available at: <http://indiacode.nic.in/acts-in-pdf/302013.pdf> (Assessed on 16th June 2015).

¹⁸ These 13 Laws includes Coal Bearing Areas Acquisition and Development Act 1957, the National Highways Act 1956, Land Acquisition (Mines) Act 1885, Atomic Energy Act 1962, the Indian Tramways Act 1886, the Railways Act 1989, the Ancient Monuments and Archaeological Sites and Remains Act 1958, the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 and the Damodar Valley Corporation Act 1948. The Electricity Act 2003, Requisitioning and Acquisition of Immovable Property Act 1952, the Resettlement of Displaced Persons (Land Acquisition) Act 1948 and the Metro Railways (Construction of Works) Act 1978.

¹⁹ <http://mrunal.org/2015/01/polity-land-ordinance-features-criticism-land-acquisition.html> (Assessed on 20th June 2015).

²⁰ *Ibid.*

²¹ Const. of India, 1950, Art. 123.

consent clause is practically impossible where there is no clarity as to the person holding actual interest in that land and will be problematic for the genuine corporates having a time frame to establish their projects.

The matters such as defence are of such sensitive nature that the government cannot wait for the consent of each and every person directly or indirectly related to land. For this, removal of consent was necessary. But **the law modified by the Modi Government ensures that unless full compensation is not paid, land cannot be taken in possession.** Compensation will be deposited in a designated bank account and the transactions are totally transparent.²²

Further, relating to the heated arguments for the removal of Social Impact Assessment clause, the reason behind the removal of this clause is to remove the delay caused. The SIA is not just a formality of assessment but it involves a long burdensome procedure which requires clearance from both centre and state governments which again takes a lot of time.

The government is required to issue a notification before exempting a project from Social impact Assessment, and limits on acquiring agricultural and multi-cropped land. Before issuing the notification, the government must ensure that the amount of land proposed to be acquired is in keeping with the minimum land required.²³ This provision is very useful as this will ensure that the land is acquired according to the need and not whatever they may wish.

Also, there is no procedure enshrined as to how the social Impact Assessment will be done or there is no prescribed time limit under which the assessment should be done so there are chances of discrepancies and also as there is no authority to whom they have to report so this may be a lethargic and time consuming process.

As per the law under the UPA regime, the ambit of Social Impact Assessment is so wide that for critical projects in infrastructure and security, the calculations carries on endlessly and also the costs rises high.²⁴ Also, the 80% consent rule would mean that until and unless the farmers do not consent to acquisition than that can cause delays in big and necessary projects.

Moreover the final decision concerning land acquisition is made by a high-level committee which consists entirely of bureaucrats which is headed by a chief secretary of a state. The major question is that can such a committee ensure “minimum displacement of people, minimum disturbance to the infrastructure and ecology, and minimum adverse impact on the individuals affected” in all cases related to land acquisition.²⁵

The experience of the Environmental Impact Assessment process which is presently followed depicts that due processes are given a go by when it has to be implemented because of our selfish and self-centered political-bureaucratic system. So, the removal of this clause will help in implementing the projects with a fast pace and will thus contribute in development.

Return of unutilized land: Earlier the provision was that if the land remains unutilized for five years then the land has to be returned to its owner. But now as per the amendment, the bill states that

²² Available at: <http://indiafacts.co.in/understanding-the-land-acquisition-bill-politics-changes-and-impact/> (Assessed on 16th June 2015).

²³ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, Social Impact Assessment Chapter II. Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

²⁴ Available at: <http://drishti.co/2015/04/26/land-acquisition-bill-is-the-solution-not-a-contributor-to-farmers-suicides-in-india/> (Assessed on 16th June 2015).

²⁵ Available at: <http://www.epw.in/web-exclusives/land-acquisition-bill-many-faultlines.html> (Assessed on 20th June 2015).

the period after which unutilized land will need to be returned will be: five years, or any period specified at the time of setting up the project, whichever is later.²⁶

This amendment is done as acquiring land in not a small procedure which can be completed in a year or two. This involves litigation and the bill has removed this time wasted in litigation processes which is a way to extend the time limit so that it can never be acquired. In fact the provision is just and fair to keep balance between both the parties and is a welcome move for investors.

Change in prosecution and verdict for offenders: The Bill replaces the earlier provision where if the offence is committed by a public servant then the department would be considered guilty by the new provision²⁷ where if an offence is committed by a government official, he cannot be prosecuted without the prior consent or sanction of the government under section 197 of Criminal Procedure Code²⁸.

This is done to ensure the official that he/she can work without any fear of being prosecuted or of being held liable for acts which they have not committed. Also, government officials will not be the targeted by the local influential people in false cases.

Mandatory employment to one member of the affected family: A very good point brought up in this bill is mandating the employment of atleast one member of the affected family as a part of R&R scheme. This also requires government to conduct a survey of wasteland, and to maintain a record of this land.²⁹ Earlier it was not 'mandatory' to provide employment as in case of POSCO project more than 30,000 people were removed from their homes and were to be employed but very few have been employed but with the addition of this word the farmers or the people dependent on land can be benefited.³⁰

Removal of retrospective application of Bill: The LARR Act, 2013 states that the Land Acquisition Act, 1894 will continue to apply in certain cases, where an award has been made under the 1894 Act. However, if such an award was made five years or more before the enactment of the LARR Act, 2013, and the physical possession of land has not been taken or compensation has not been paid, the LARR Act, 2013 will apply.³¹

The Bill states that while calculating this time period, the period during which the proceedings of acquisition were held up due to a stay order of a court, or a period specified in the award of a Tribunal for taking possession, or any period where possession has been taken but the compensation is lying deposited in a court or any account, will not be counted.³²

²⁶ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, § 101. Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

²⁷ *Ibid.*, § 87.

²⁸ Code of Criminal Procedure, 1956, § 197.

²⁹ PRS Legislative Research, Institute for Policy Research Studies, Available at: <http://www.prsindia.org/billtrack/laar-3731/> (Assessed on 20th June 2015).

³⁰ Available at: <http://beta.bodhicommmons.org/article/unite-against-land-acquisition-bill-2015-fight-corporate-land-grab-and-protect-land-rights> (Assessed on 20th June 2015).

³¹ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, § 24(2). Available at: <http://indiacode.nic.in/acts-in-pdf/302013.pdf> (Assessed on 20th June 2015).

³² The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, § 24(2). Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

So this will lead to fair and equality of justice to all. The removal of retrospective application will be beneficial as then if not provided then it will be burdensome for courts to apply this act to cases where already the award is given.

The act establishes a Land Acquisition, Rehabilitation and Resettlement Authority to dispose disputes related to the awards made under the act. The Bill mandates that the hearing of LARR authority is to be held in the district where the land is proposed to be acquired.³³ This will improve the condition of the farmers as they can be heard in the district where the land has to be acquired.

Limiting the industrial corridor to 1 km on both sides of highways and railway lines.³⁴ This means that for projects relating to industrial corridor, the acquisition can be only upto 1 km on both sides and will ensure that acquisition can in no condition go beyond this specified limit. Further the **people should know the fact that the Industrial Corridors are not created or built by capitalists and businessmen. They participate only once the corridors are designed.**

One of the major change though looks small is the removal of word 'Social Infrastructure' from the exemption list.³⁵ This is a positive step as social infrastructure is such a broad area that everything can be covered under that.

NEGATIVE ASPECTS OF THE LAND ACQUISITION (AMENDMENT) BILL, 2015

India that is Bharat, traditionally a Democratic country running as a welfare state includes the *social contract theory* where there is a contract between the people and the state wherein the people of the state give away their freedom and in return the State provides with protection to their fellow citizens with the charter of Fundamental Rights and Duties.³⁶ However, when it comes to application of the same, it proves to be contrary and Land Acquisition (Second Amendment) Bill, 2015 is the example of the same.

The ordinance passed by the NDA government the topic of Land Acquisition has become a political hot potato. The ordinance for them seems to be anti-farmer and anti-poor³⁷ killing the basic purpose and spirit of LARR. Herein are listed the negative aspects of the bill which make the bill anti-farmer and anti-poor –

Removal of consent clause and Social Impact Assessment (SIA) clause – If one needs to obtain something from some other person; he must first acquire their consent for the same. Same is the case here, if the government want to acquire a piece of land, then it is necessary to have the consent of the concerned owner. By removing the consent the farmers have been left with no option but to

³³ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, Land Acquisition, Rehabilitation and Resettlement Authority Chapter VIII. Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

³⁴ Supra note no. 16.

³⁵ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill no. 20 of 2015, Proviso to § 2(2). Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

³⁶ Available at: Social Contract Theory, Internet Encyclopedia of Philosophy, available at, <http://www.iep.utm.edu/soc-cont/> (Assessed on 20th June 2015).

³⁷ 'Land Acquisition bill is anti-farmer', The Times of India. Available at: <http://timesofindia.indiatimes.com/city/patna/Land-acquisition-bill-anti-farmer/articleshow/46808414.cms> (Assessed on 20th June 2015).

suffer. If the development is for 'public purpose' and if the land is acquired for public benefit then shouldn't it be acquired through public consent? This move of the government is against the spirit of democracy as it demands intervention of people where a decision affects their lives and livelihood.

This move of the government will benefit the big corporations as now they can acquire the land easily. The Report of Comptroller and Auditor General of India (CAG) shows that the land earmarked for the SEZ's are not utilized.³⁸ The report released that out of a total of 45635.63 hectares of SEZ land allotted till 2014, work has begun in only 28,488.49 hectares.³⁹ Hectares and hectares of land acquired was acquired for SEZs for 'public purpose' which were later sold off or were put to use for other purpose for example Of the land acquired for Varasgaon Dam, 141 hectares were leased out for bungalows once Lavasa City came up, engulfing the dam itself!⁴⁰

The removal of Social Impact Assessment will also affect the amount of compensation to be provided to the affected people as this precondition is essential for the proper planning of rehabilitation including identifying and listing of the affected population, the impact on their livelihood and culture, and for making an appropriate plan to compensate those who are made to sacrifice in the name of development, and to do them justice.⁴¹

As these categories cover a large share of land acquisition for various big projects, SIA would have been very useful in identifying the actually affected persons which are affected either directly or indirectly who are needed to be compensated and its exemption thereof would render the objective of the act meaningless.

Private entity clause – The bill under section 3(j) changes the term 'private company' to 'private entity'. Where private entity is an entity other than a government entity, and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity.⁴² This provision is so wide that it has covered under it all types of entities and even the proprietorship can acquire land under this provision.

Further, the ordinance allows land acquisition for private hospitals and educational institutions. As most of these institutions are owned by big corporate houses or political parties which do not serve any public purpose as none of these admit poor people free of cost and are just money-making bodies.

Power to acquire multi-cropped land – This change has been proposed in chapter III of The Right to Fair and Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

³⁸ Available at: <http://beta.bodhiccommons.org/article/unite-against-land-acquisition-bill-2015-fight-corporate-land-grab-and-protect-land-rights> (Assessed on 20th June 2015).

³⁹ *Ibid.*

⁴⁰ Available at: <http://kafila.org/2015/03/01/the-land-ordinance-now-bill-is-bringing-back-the-colonial-legacy-napm/> (Assessed on 20th June 2015).

⁴¹ *Ibid.*

⁴² PRS Legislative Research, LARR(Amendment) Bill, 2015 as passed by Lok Sabha, March 16, 2015, Joyita Ghose, Available at: <http://www.prsindia.org/administrator/uploads/media/Land%20and%20R%20and%20R/Land%20Acquisition%20Act%202013%20and%20Bill%20as%20passed%20by%20Lok%20Sabha.pdf> (Assessed on 20th June 2015).

(Amendment) Bill, 2015⁴³ which was introduced in Lok Sabha on February 24, 2015 and passed by Lok Sabha on March 10, 2015⁴⁴. If this irrigated land is also taken then this will affect half of the Indian population as India's 50% population gets employment from this sector, also 70% of the rural population depends in this sector.

Also, this would affect the Food Security of the entire nation as mentioned in the CAG report.⁴⁵ This step is in contravention with the stand that the government has taken in WTO, where it has asked for spending on food security and other agrarian subsidies to continue indefinitely till the time a permanent solution has been found.⁴⁶

Hearing by Land Acquisition, Rehabilitation and Resettlement Authority – Earlier the act of 2013 provided for establishment of Land Acquisition, Rehabilitation and Resettlement (LARR) Authority⁴⁷ which may be approached if a person is not satisfied with the award under the act but now this facility can be exercised only after receiving a reference from the Collector.⁴⁸ Precisely the point is that first permission has to be taken from the collector, i.e.; from that authority against whom he wants to file a complaint.

Compensation at four times the Market value – The compensation is kept as according to the Act of 2013. Going back to section 26 of 2013 act⁴⁹, it states that the market value of the concerned land would be determined by the Collector. First Schedule contains the multiplier to calculate the Market value of the land and it states that if it is land situated in rural area then the factor would be multiplied by 1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government and will be 1(one) in the case of urban areas.⁵⁰

⁴³ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, Bill No. 20 of 2015, A Bill further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Available at: [http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20\(Amendment\)%20Second%20Ordinance,%202015.pdf](http://dolr.nic.in/dolr/downloads/pdfs/RFCTLARR%20Act%20(Amendment)%20Second%20Ordinance,%202015.pdf) (Assessed on 16th June 2015).

⁴⁴ PRS Legislative Research, LARR(Amendment) Bill, 2015 Bill Summary, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, February 24, 2015, Joyita Ghose. Available at: <http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20R/Bill%20Summary%20-%20LARR%20Bill%202015.pdf> (Assessed on 18th June 2015).

⁴⁵ Available at: <http://businesstoday.intoday.in/story/cag-report-on-special-economic-zones-sez-land-for-realty/1/212872.html> (Assessed on 20th June 2015).

⁴⁶ Available at: <http://www.quora.com/Land-Acquisition-Bill/Is-the-NDAs-Land-Acquisition-bill-really-anti-farmer> (Assessed on 20th June 2015).

⁴⁷ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, chapter VIII, Establishment of Land Acquisition, Rehabilitation and Resettlement Authority. Available at: <http://indiacode.nic.in/acts-in-pdf/302013.pdf> (Assessed on 20th June 2015).

⁴⁸ *Ibid.*

⁴⁹ The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely: (1) The market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or (2) The average sale price for similar type of land situated in the nearest village or nearest vicinity area; or (3) Consented amount of compensation in the case of acquisition of land for private companies or for PPP.

⁵⁰ Available at: <http://www.abplive.in/author/devindersharma/2015/02/26/article512249.ece/Land-Acquisition-Will-farmer-get-a-compensation-of-4-times-the-market-value> (Assessed on 16th June 2015).

Now the problem is with its implementation as stated by Devinder Sharma⁵¹ and found out that generally the collector rate is ½ or 1/3 of the prevailing market price. If the market price is Rs 25 to Rs 30 lakh per acre, the collector rate is Rs 8/10/12 lakh. Taking the average of 3 years and multiplying it by a factor of 1 or 2 in rural areas. This discretion is left to the land acquisition officer. Even if he takes the maximum factor of 2, the value of land will be twice the collector rate.⁵²

The problem here is with the fact that this act will apply only when a private project developer acquires or purchases land more than 100 acres in rural areas or 50 acres in urban areas through a private negotiation with the landowner, or when a private project developer asks the government to acquire land on his/her/their behalf. **So if a private project developer wants to escape this clause, he/she will take land in multiple parcels instead of one-time acquisition, which helps him or her escape the application of this Act.**⁵³

CONCLUSION

Through this article it is clear that the bill equally have its positive aspects as well as negative aspects. Now the main task is to outweigh the negatives by amending the act further and implementing the positives. Though our economy is largely agriculture based but now it is time to move forward and to get into the new arena of development but at the same time we should not forget our roots. It is through agriculture that our economy progressed and still thousands of lives depend upon it.

One of the important features of the bill that it mandates the employment of atleast one person in the family whose land is being acquired. Also, it is a step towards development as it will bring MNC's and increase investment in our country which would be helpful in making our country a developed nation from a developing nation.

Also, taking the negative aspect the most important aspect was the removal of consent and Social Impact Assessment test. This is the main reason why the Modi Government is being called "*Suit boot kei sarkar*" which means a Government for the big Corporations and Industrialists.

As depicted in this paper, once the acquisition is done the Government transfers the land to the big corporations after a certain period of time. Also, if there would be no consent and SIA than the land can be taken forcefully without fair compensation as there is nobody to keep check. The person who can keep a check is also a Government official and will in no matter go against it.

It is high time that the researchers' of the nation leave their scholastic shells of "flawless and theoretical research" and meet their exploration inputs so as to persuade the administration to change and redraft the present bill, which is no less essential than nuclear and space study for the more prominent zeal of those subjects of our nation who are creating provisions for themselves and also for others for decades to come.

⁵¹ Study conducted by Devinder Sharma who dissected the legal provisions of 2013 act with the help of former Agriculture Secretary (Punjab), Capt S S Dhillon and senior advocate of the Punjab & Haryana High Court, Joginder Singh Toor.

⁵² Supra note no. 24.

⁵³ Available at: <http://modelgovernance.com/land-acquisition-act-a-critical-analysis/> (Assessed on 16th June 2015).