

Land Acquisition Bill 2015: Impasse in Parliament and Democracy Reclaimed

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Land acquisition is a process through which private lands are taken away. This procedure differs from the normal purchasing of land that involves a seller who willingly sells and an eager buyer. Because, in land acquisition process, the land owner cannot exercise his own choice regarding surrendering or continuing the land ownership and they are forced to leave the land. It has been justified only in some cases where apparently larger public interests are involved and supposedly served.

Land acquisition in India, is in a concurrent list, therefore, it is administered by union and state government both. The central Act which is related to land acquisition is called as the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013”. It basically changed the old Land Acquisition Act of 1894. Land has consistently been a crucial element for infrastructure development in any nation. Governments are obligated to procure/acquire land for public purposes, whether for strategic requirements, industrialization, or the provision of public amenities. The procedure in India was regulated by the “Land Acquisition Act of 1894” until the enactment of “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.” (PPRC, 2015)

The Land Acquisition Act of 2013 brought some fundamental changes in the 1894 Act. It defined and narrowed down the meaning and scope of the ‘public purpose’ i.e. the kinds of projects that are desirable for people and for those projects land needed to be acquired. It made it mandatory to get “the consent of land owners if the project was for a public private partnership (PPP)” or involved a private company. The amount of compensation was also fixed in the range of two to four times of existing market value/rates. Also the Act provided some protection to the affected persons through providing them rehabilitation and resettlement following the minimum norms prescribed in the Act. Moreover, the Act also made it compulsory to get ‘Social Impact Assessment (SIA)’ conducted so as to decide whether the prospective and overall benefits of the project would be able to be greater than the social costs or not.

However, in December 2014, an Ordinance was promulgated by present NDA government to change/amend the 2013 Act. The Ordinance was again promulgated with some changes in April 2015, and again in May 2015. These Ordinances were seen as disempowering the land owners in many ways. Yet, the government introduced “the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015” in the Lok Sabha in May 2015 to replace the April Ordinance and later on it was sent to a “Joint Parliamentary Committee” for comprehensive deliberations, assessment and its views.

Let’s have a brief look at the major provisions of the Bill which tried to amend the main Act passed in 2013. The proposed Bill empowered the government to introduce exemption for “five categories of projects from the requirements of: (i) social impact assessment, (ii) restrictions on acquisition of multi-cropped land, and (iii) consent for private projects and public private partnerships (PPPs) projects”



(PSR: 2015). Although these provisions have been favourable to the citizens, but now government wants to take away the rights of the citizens that they could exercise.

The five categories of projects for which exemption would not be required are: “(i) defence, (ii) rural infrastructure, (iii) affordable housing, (iv) industrial corridors, and (v) infrastructure including PPPs where government owns the land” (PSR 2015).

It is worth noting that the Act would be applicable in retrospective way, even for those whose award was already made five years ago and compensation was yet to be paid or in the cases where possession were not availed yet. Interestingly, the principal Act of 2013 considered the nodal officer or head of a government department responsible and culpable for any offence wrong doing by the department. However, disturbingly, the proposed Bill attempted to remove this provision, moreover, it introduced another provision that there must be a “prior sanction required to prosecute a government employee,” making the accountability of government employee even more elusive.

Analysing the Bill further one can easily say that the five kinds of projects that have been kept out/not included from the requirement and provisions of ‘social impact assessment’, “restrictions in case of multi-cropped land” and parameter of consent are so broad and it may cover so many “public purpose” projects under its purview. ‘Public purpose’ clause has so widely defined and so many loopholes provided that it can be used and interpreted in many ways and for many purposes. 2013 Act made the consent provision and Social Impact Assessment (SIA) provisions mandatory in the land acquisition process. However, 2015 Bill does away with these provisions which are people-centric.

The new land acquisition Bill will produce a very different kind of results; the Bill is problematic in its very character and spirit. The major problems in land acquisition Bill today include the following issues because of which there is widespread opposition to the Bill. Private interests/entities are getting profited hugely by taking advantage of government acquisition. There are a number of examples to illustrate this fact, e.g. NOIDA, Bhatta Parsaul etc. Rehabilitation and compensation for displaced people are almost non-existent, inadequate and unjust. Those people who are affected have no recourse or mechanisms available for ensuring and protecting their rights that have always been disregarded during the land takeover/acquisition process (e.g. POSCO) as well as throughout their rehabilitation process. It has been highlighted that the prime reasons for all of the above worries is the decision-making process that is completely controlled by government officials/agencies, with no democratic or public involvement which is the bedrock of any democratic society/polity.

The proposed Bill further worsened the situation with its even more undemocratic and anti-people (land owners) provisions. In the backdrop of this, there has been large scale opposition in and outside the Parliament. The draft/proposed Bill can’t considerably improve things and it contains the provisions that would make things even worse.

There have been various points of debate and controversy around the Bill. Inside the Parliament, it saw a stormy start and the opposition got united and contested this Bill, and determinedly took on and challenged the Narendra Modi-led government on the proposed “Land Acquisition Bill”. The opposition parties have been opposing the Bill and accused the BJP-led NDA government of coercing its way through in Parliament. The opposition parties were able to corner/isolate the government on this issue. Even though Prime Minister Modi led “the government from the front and directed all his MPs to aggressively defend the Bill and not be affected by the oppositions’ charges,” they could not counter it successfully. The Bill couldn’t be passed, hence, the ordinance promulgated by Modi government twice

lapsed and could not be introduced again. The proposed controversial Bill became a bone of contention for government, farmers, political parties, and other democratic forces.

This led to not only opposition inside Parliament but also a strong country wide agitation. The land acquisition issue became a fight for the rights of the farmers and deprived sections. It was taken up by social movements across the country. The Land Acquisition Bill 2015 was criticized by the National Alliance of People's Movements (NAPM), which is a coalition of social organizations across the country. The NAPM stated clearly that the bill would be detrimental and harmful to democratic ideals, as well as to farmers and laborers alike. Nationwide demonstrations and mobilizations were carried out by the National Alliance of People's Movement (NAPM), together with a large number of its affiliates and agricultural groups. On June 15, 2015, a delegation from the "National Alliance of People's Movements (NAPM)", which was led by renowned activist Medha Patkar, gave the testimony in front of the Joint Committee of Parliamentarians (which consisted of twenty members). They gave critical submissions regarding the "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement (Second Amendment) Bill, 2015".

During its presentation, the NAPM delegation not only examined each components and provisions of the amendment Bill but also offered a detailed overview of development, land and resource management, acquisition, displacement, and rehabilitation related issues. The measure was opposed by Medha Patkar because it unduly over turns land acquisition legislation to the British era, notably the Act of 1894. As a result, it disregards the rights and considerations that were provided to the farmers/agriculturalists for the very first time in 2013 in the long history of land acquisition in India. It was a progressive law passed by UPA government. When it came to the Bill, NAPM provided a comprehensive analysis that was broken down clause by clause. Given that the "Social Impact Assessment (SIA) and Consent Process" were established in 2013 to ensure proper participation, agency and rights for farmers to express their views on any development initiative, the challenge to the exemptions that were awarded to the majority of projects under the guise of development is unavoidable. This is because the public struggled and fought for a considerable amount of time. Local bodies, Gram Sabhas and Basti Sabhas, which are constitutionally obliged to take part in the planning of development, would no longer be eligible for participation in this new scenario. The contention was made that the law pertaining to approval ought to also be relevant to initiatives undertaken by the government. Instead of constraining the parameters of the SIA, it was suggested that it ought to be broadened to encompass irrigation initiatives/projects, huge dams, and other initiatives of a similar nature. This is because these types of projects lead to significant displacement and substantial societal costs, as demonstrated by the Sardar Sarovar dam instance.

Social movements emanating around this Bill highlighted and defended the importance of maintaining the constitutional framework of values, principles, and fundamental rights, as well as the three-tier Panchayat Raj system. They asserted and made it clear that any changes to these components and provisions would be unbearable and unacceptable to the people. Consequently, in accordance with the provisions of Article 243 of our constitution, it is imperative that local bodies continue to fulfill their role as the primary structures for planning.

As a responsive democracy, government has to respond to the demands and issues being raised in the country. These kinds of social movements put pressure on the government of the day to reconsider its position on certain policies. The strategies and tactics that have been adopted by the farmer associations and other stake holders are praiseworthy. They organized protest meetings, rallies, consultations and campaigns all across country and highlighted the negative aspects/provisions of the Bill. Farmers and civil society organizations demonstrated on the streets of Delhi to oppose the Narendra Modi government's proposed legislation perceived as detrimental to farmers and the people in general. The

proposed bill attempted to abolish protections in the land purchase statute established by the previous Congress-led UPA government in 2013 (Down to Earth, 2015). These organizations also approached the political parties in opposition as well as in NDA alliance. Left parties organised 'Jail Bharo' programme in response to the call given by CPI (TH, May 2015). Opposition political parties remained united against this Bill. So much so, BJP-affiliated farmers association was also not happy with the anti-farmers provisions of the Bill.

Apart from social movements, farmers' agitations, media's role in making people aware about the provisions of the Bill, political parties in opposition and in NDA alliance played a significant role in halting the Bill in Parliament. Congress celebrated the 'triumph' of farmers following the government's 'compulsion' to allow the Land Ordinance to expire due to resolute objections and consistent follow up/struggle from opposition parties and all stakeholders.

Congress celebrated the 'victory' of farmers after the government was 'forced' to let the land Ordinance lapse in the face of determined protests by opposition parties and all the stakeholders. The then Congress vice-president Rahul Gandhi said that the government's climb-down on the land acquisition bill was in fact a 'victory for the Congress'. He also attacked Prime Minister Narendra Modi and said that "Modi ji talks about democracy but does not talk about our farmers and labourers, who run this democracy. He forgets them," So it was considered as a victory for opposition parties in Parliament and farmers outside parliament. Quite evidently, the opposition parties and farmers did a great job by refraining/stopping the Central government from passing this highly contested Bill. There is no doubt, that this bill was openly anti farmer and would have deprived them from their basic rights. In an article in EPW, Santosh Verma concludes that 2015 Bill was an attempt to subvert the Land Acquisition Act of 2013. He argued that "after coming to power in 2014, the National Democratic Alliance government took several measures to dilute the pro-poor provisions of the Land Acquisition Act of 2013. Though it has backed down, several questions remain over the way the Modi government has dealt with the issue of land acquisition." (Verma, EPW, 2015)

From the above illustrations it is evident that in the wake of strong opposition from all the quarters/sections, it finally compelled the government to drop the Bill. Therefore, one can witness that public wish/will could force the government (even though with clear majority 380+ seats in Lok Sabha) for withdrawal of a policy that it was so keenly and vociferously putting forth. This needs to be seen as a strength, vibrancy, responsiveness and inclusiveness of our democracy rather than vice versa. Strangely, someone termed it as 'too much democracy' which proved a stumbling block for land Bill in India. However, I would strongly argue that Parliament actually worked in favour of people by not working. Moreover, we need not see it as 'Parliament not working', rather parliament worked all these days by debating, deliberating, confronting the challenges/issues thrown up by various stakeholders in this case. A vibrant democracy is the one that takes care of its people, various sections and dissenting voices. A government may not necessarily do everything in favour of all the sections of the society, in this case, the government has to be cornered, isolated and exposed in and outside Parliament for the sake of survival of democracy.

Land use policy is essential for reducing conflicts in India, where land demand is so significant. The nation comprises approximately 2.4 percent (328.73 million hectares) of the global land area. However it sustains almost 17 percent of the world's human population and 15 percent of livestock in the world. The ongoing fragmentation of land, deterioration of the natural resource base, and rising concerns regarding climate change have aggravated the pressure on this limited resource. The aspiration for accelerated industrialization makes the situation even worse. Since the economic liberalization of the early 1990s, millions of hectares of land have been repurposed for non-agricultural uses. This

jeopardizes the food and environmental security of millions and leads to widespread violent confrontations and consequent migration. In this context, land acquisition process becomes a central question.

Such acquisition can be justified in a democratic society only if it is in accordance with the overall social goals of that society and it is decided upon by a democratic process. If the land owners are unwilling to part with the land in a democracy, we must respect their decisions. In a democracy the government must listen to the woes of the people rather than dictates of the corporates/industry. Fundamental changes to the bill were required. We can't have a bill where farmers are not safe, protected and goes against their wishes/interests. For such kinds of initiatives, consensus is required inside the parliament, among the political parties and various stakeholders. We can't just impose it by canonical laws created by whims and fancy of the government of the day. It is hard to justify forcible land acquisition for industry. The government can't ignore the farmers which constitute around 60-65% (which is substantial in number) of the total population. We can see that the protests continued until the land acquisition bill was taken back by the government. By sheer its impact and scale of affected people/farmers, land acquisition Bill was termed as a 'class war' by many.

We need to listen to the farmers. This is not to say that land is not needed for a development project. But I don't think any harm or problem in taking the prior and informed consent from the people whose lives are going to get affected directly. Let's give them a fair deal and opportunity. Also, provide them a situation where they think that parties are working out together/mutually and it should be seen and considered as a fair deal for all the stakeholders and not an imposed one or forceful.

The contemporary debate around the law related to land is significant since it gives us an opportunity to ponder upon more intensely "on the nature of India's development process and the experience of democracy for a majority of our citizens." In my view, "the land acquisition act of 2013" was a part of a response, although highly delayed, to the expectations, views and sensitivities of millions of citizens that even though, economy of India was flourishing over the last three decades, but these people could not become the beneficiaries of this growth trajectory and finally left out from the development trajectory/map of the country.

Land Acquisition Bill 2015 reminds us of the dangerous path that we have adopted wherein, capitalism and market are dictating the path of our democracy. Corporate houses and private interests/profits can't be the source and instrument of a policy in a democracy. This is a worrying trend for all of us who care for democracy, parliament and weaker/marginalised sections in our society. When parliament starts reflecting and representing only the interests of the private capital, corporate houses, industry and those who matter, it is high time people become vigilant and fight for their democratic rights. Therefore, it was extremely important to thwart the attempt of the present government to pass an anti-farmer-laborer-people Bill. Hence, one can quip that parliament in fact worked in favour of people by not 'working'.

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