

The Land Acquisition Bill debate: More political than practical

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*There has been widespread resistance for the proposed amendments to the Land Acquisition Act but **Sammith Shivananda** argues that the changes signal a paradigm shift in Indian policy making to facilitate investment and cut red tape, while at the same time retaining safeguards for farmers.*



In the Indian general elections of May 2014, the National Democratic Alliance led by the Bharatiya Janata Party was elected to power with a thumping mandate in the backdrop of its promises of development across all sectors which would propel India to the elite group of developed nations of the world. Ever since then, the Prime Minister Mr. Narendra Modi has been vocal about reforms with his core focus on the ambitious [Make in India](#) campaign, which aims to bring in investment, and transform India into an industrial nation.

Central to the idea of investments lies the complex regime of regulations and bureaucracy, especially in areas such as land acquisition and departmental clearances, which has frequently [deterred investors](#) into the resource rich nation. The Modi government understands this, and has proposed a host of reforms, which include amendments to the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013](#) (LARR Act), enacted by the last government. Whilst the [proposed amendments](#) aim to smoothen the process of land acquisition and the obstacles facing it, the opposition parties and social activists are [vociferously protesting](#) against the Bill as being anti-farmer and pro-corporates. From a legal perspective, however, the opposition to the Bill seems unfounded and merely, a ploy to earn political mileage. This is because the Bill firmly showcases the resolve of the present Government to move away from archaic and populist practices towards a more pragmatic and sustainable industrial regime by removing the [labyrinth of red tape and litigation](#) which have historically projected India as a hostile destination to investors.



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To understand the importance of the amendments to the LARR Act, one has to first understand the need for easing regulations and accelerating the process of land acquisition. In 2011 Derek Scissors, a senior researcher at the [Heritage Foundation](#), argued India's financial liberalisation of 1991 and subsequently in 2002 [was not substantiated with adept reforms across all sectors](#), particularly infrastructure and investment which, according to him, forms the centrepiece of any economic policy. Scissors attributed the lack of reforms to the government's lackadaisical

attitude towards land policy with special emphasis on land acquisition owing to weak property rights. He further continues that this is linked to the idea that stronger government action would alleviate India's problems, whilst in fact the contrary was true and more economic freedom and less governmental interference are the real drivers of reform. Scissors' argument is not unfounded as can be seen from the fact that with the [flummoxing state of land ownership](#) in India, the increasing number of [litigations against foreign and domestic companies](#) have only led to putting investors on a back foot, thereby reducing the [much needed investment](#) for boosting growth.

Powerful activists have painted the picture of the Bill as a land grabbing tool for the corporates. However, on closer analysis, some of the [provisions termed controversial](#) by the opposition seem to lack merit:

1. Removal of 'consent' clause and [Social Impact Assessment](#) in acquisition of land for certain purposes

The Bill introduces five new classes of land use, namely, defence, rural infrastructure, affordable housing, industrial corridors and infrastructure including public-private partnerships, but excluding private schools and hospitals. It seeks to remove the consent of seventy percent of the land owners that was required prior to acquisition under the original 2013 Act in the aforesaid sectors, whilst also eliminating the need for Social Impact Assessment whilst acquiring the land. The argument against the removal of these clauses is that it propagates land grabbing by industrialists and also neglects the impact of the particular project on its social environment. However, in India, the [ownership of land being a problematic issue](#) with no clarity on owners and tenants, the issue of consent dangerously transforms into a powerful weapon for those holding vested interests, and powerful lobbies rather than those with genuine interest in the land. A seventy percent consensus is therefore virtually impossible, and does not help the case for corporates trying to establish projects within a specific timeframe. Secondly, Social Impact Assessment is not to be understood as a mere formality, as it involves a plethora of procedures and clearances from various departments of both Central and State Governments. Removal of Social Impact Assessment for necessary projects such as rural infrastructure, affordable housing and the like would help speed up the process of implementation than being stuck in years, and sometimes decades of bureaucratic imbroglio.

2. Removal of limit on acquisition of multi-cropped irrigated land

The Bill seeks to remove the limits on the area of multi-cropped irrigated land that can be acquired for newly proposed land use sectors, whilst at the same time adding that the government must ensure that the extent of land acquired should be the bare minimum that is necessary for the project. Whilst the critics of the Bill argue this to be threatening the food security of the nation, the [pragmatic view](#) is that since the lands which are agriculturally productive command high prices and the clearances to be obtained for change in land use are extensive, industrialists would be inclined to steer towards the less fertile lands which could be acquired with lesser costs and simpler clearances.

3. Increase in the period for return of unutilised land

Another bone of contention between the Government and opposition is the fact that the Bill seeks to remove the cap of five years in returning the land to the original landowners if it has not been used for specified purpose it was acquired for and substitute it with the words "such period as may be specified at the time of setting up the project". There have been arguments that this could lead to land hoarding by corporates and subsequent sale at inflated rates. The problem with this argument is that it fails to see the complete picture. The provision does not merely end at removing the cap for return, but in addition seeks to exclude the time period where the acquisition proceedings are held up due to litigation. This would be, in reality, a welcome move for investors.

4. Prosecution of government officials only with prior Governmental sanction

Under the LARR Act, if an offence is committed by the government in the land acquisition process, the head of the department is invariably be deemed guilty. The Bill seeks to substitute the provision with the condition of prior governmental sanction before prosecuting that particular official. The opposition believes this provision will

undermine the accountability of public officials, but the fact remains that public offices will not be crippled with bundles of pending files as the officials would be able to function freely without the fear of being held liable for acts not committed by them. This also, in effect, would greatly assist in reducing the bureaucratic red tape.

While the above provisions are controversial, there are additional provisions that the Government seeks to introduce which are seen as pro-farmer. Amongst these include the provision to allow private entities which may be a proprietorship, partnership, companies, corporations, non-profit organisations as opposed to merely private companies which could acquire lands. This is seen as positive step to increase the involvement of smaller entities to come forward and assist in important sectors such as rural infrastructure, healthcare and education. The most important of these provisions, however, is the inclusion of 'compulsory employment to at least one member of the affected family of a farm labourer' during the rehabilitation and resettlement award. This ensures that not only the owner of the land, but also the tenant or labourer working on that land is adequately rehabilitated and their means to livelihood is not adversely affected.

It is said that actions speak louder than words, and the first full [Union Budget](#) presented by the NDA government last month seeks to lay down a roadmap for greatly increasing investment, by significantly easing the regulations and red tape for companies, both domestic and foreign. The [budget](#), inter alia, pushes for a massive increase in infrastructure investment by increasing outlays to the sector by a mammoth Rs.20,000 crores (approximately £2bn), and it is at the heart of this budget target that land acquisition and red tape removal finds a prominent place. The Bill has now been [passed in the Lok Sabha](#) and is awaiting the nod of the Rajya Sabha. The debate against it seems ill-informed and motivated by those with vested interests rather than seeing it with pragmatic foresight and as a move that would work wonders to achieve Modi's 'Acche Din' (good days) rhetoric.

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About the Author

Sammith Shivananda is a student at the London School of Economics presently pursuing his LL.M in International Business Law. He has worked under High Court Judges and various governmental and non-governmental bodies on policy issues with special focus on real estate and land acquisition matters.



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