

The Land Acquisition, Rehabilitation and Resettlement Bill, 2011 was introduced on September 7, 2011 in the Lok Sabha. It was referred to the Standing Committee on Rural Development. The Committee has made a number of recommendations in its report submitted in the Lok Sabha on May 17, 2012. This Table maps the Clauses of the Bill and the recommendations made by the Standing Committee.

Table 1: Comparison of the Bill with the recommendations of the Standing Committee

LARR Bill, 2011	Standing Committee Recommendations
Public purpose and acquisition for private companies and PPPs - (Clause 3 (za)(i) to (vi)(A) and Clause 2(1)(a) & (b))	
<p>The Bill provides that land may be acquired for use by the government for its own use, control; or for the purpose of use by private companies; or for public private partnerships (PPPs) and also private companies for the use of public purpose. It provides that the provisions relating to rehabilitation and resettlement (R&R) shall be applicable in case of acquisition for private companies and for PPPs.</p> <p>The term 'public purpose' in the Bill includes provision of land for, (a) strategic defence purposes and national security, (b) roads, railways, highways, and ports, built by government and public sector enterprises (c) project affected people, (d) planned development or improvement of villages, and (e) residential purposes for the poor and landless. Public purpose includes other government projects which benefit the public as well as provision of public goods and services by private companies or PPPs; these require the consent of 80 per cent of project affected people.</p>	<p>The Committee recommended that land should not be acquired for use by PPPs and private companies. Public purpose should be limited to state sponsored projects as defined in Clause 3(za)(i) to (vi)(A). The provisions relating to acquisition of land for private companies and PPPs should be deleted (Clause 3(za)(vi)(B) and (vii)).</p>
Infrastructure projects – Clause 3 (o) (i – v)	
<p>The Bill defines “infrastructure projects” to include projects related to the generation of electricity, telecommunication services, roads and highways, water supply, and any other project that may be notified by the government.</p>	<p>The Committee recommended that Clause 3 (o) (v) gives wide discretion to the government to define infrastructure projects should be deleted. The Committee recommended that infrastructure projects should be included in the definition of public purpose.</p>
R&R for private purchase of land - Clause 2 (2) (a)	
<p>The Bill provides that R&R provisions are mandatory for all private purchases if the land purchased is over 100 acres in rural areas and 50 acres in urban areas.</p>	<p>The Committee recommended that since sale and purchase of land is a State subject, State legislatures should have the discretion on whether there should be R&R and if so prescribe a threshold for R&R provisions.</p>
Role of local self-government institutions	
<p>The Bill provides that the Gram Sabha shall be <i>consulted</i> at time of preparing the SIA and at the time of issuing the preliminary notification for acquisition.</p>	<p>The Committee recommended that the Bill should be amended to provide for more participation by local self-government institutions. There is a need to provide in greater</p>

detail the role of the Gram Sabha. The role should not be limited to merely consultation, but their consent should be obtained in all the matters pertaining to acquisition and R&R.

The local elected authorities should be entrusted with the decision making process regarding issues such as acquisition of land, review of R&R schemes, determination of compensation, and any dispute regarding the compensation awarded. The Committee recommended that the Expert Group evaluating the Social Impact Assessment (SIA) report should also have one or members nominated from the affected Gram Sabha.

The Committee also recommended that a Schedule V should be added to the Bill mapping out the devolution of powers with respect to the Panchayats in rural areas and Municipalities in urban areas.

Applicability of the LARR provisions to the Scheduled Areas

No provision.

The Committee recommends that the Bill should not allow for acquisition or alienation of land of Scheduled Areas (Schedule V and VI) of the Constitution. If unavoidable, there should be increased compensation and R&R benefits provided for acquisitions in such areas.

Restriction on lands acquisition – Clause 10

A maximum of five per cent of irrigated multi-cropped land may be acquired in a district, with certain conditions.

The Committee recommended that this restriction should also apply to any land under agricultural cultivation. In addition, the Committee recommended that the percentage restrictions should be fixed by the state governments and not the central government.

Exemption of certain acts from the Bill – Clause 98 and Schedule IV

The Bill shall not apply to 16 existing legislations that provide for land acquisition. These include The Atomic Energy Act, 1962, The National Highways Act, 1956, SEZ Act, 2005, Land Acquisition (Mines) Act, 1885, The Railways Act, 1989.

The Committee recommended that no central act should be exempted from the provisions of this Bill. It also stated that necessary amendments should be brought in the Acts to bring them at par with this Bill.

Applicability of the Bill in case of mining

No specific provision.

The Committee stated that the Mines and Minerals (Development and Regulation) Bill, 2011 is under consideration by the Standing Committee on Coal and Steel. It has therefore not looked into the issues of LARR relating to mining.

Compensation for acquisition – Clause 26 – 29 and Schedule I

The compensation for the land acquired shall be based on the higher of (a) the minimum land value, specified in the Indian Stamp Act, 1899 for the registration of sale deeds; and (b) the average sale price of the higher priced 50% of all sale deeds registered in the previous 3 years for similar type of land situated in the vicinity. This amount is further doubled in case of rural areas. The value of the assets (trees, plants, buildings etc) attached to the land being acquired will be added to this amount. This total amount will then be multiplied by two to get the final compensation amount. In case of the urgency Clause, there is an additional 75 per cent compensation.

The Committee recommended that the term “minimum value” should be replaced with “market value”. In addition, the appropriate government should constitute a multi-member land pricing commission or authority to finalise the cost of land acquisition state wise/area wise.

The Committee also clarified that the award given for the land acquired should be treated only as compensation and not as a base for circle rate for subsequent acquisitions.

Also, 12 per cent interest per annum should be paid in addition to the compensation from the date of the notification till the date of the award.

Urgency – Clause 38 and Clause 9

In case of land acquisition in urgency, an additional 75 per cent compensation shall be provided.

The Bill provides that if a land is proposed to be acquired under the urgency provisions, an SIA may not be conducted.

The Committee clarified that in cases of urgency it should be clarified that the extra compensation would be 75 per cent of the total compensation package / solatium calculated.

The Committee also recommended that a notice should be issued in case an SIA is not conducted in an acquisition under the urgency provisions.

Publication of Declaration for acquisition – Clause 15 and 19

The Bill states that the declaration to acquire land has to be made within 12 months from the date of the preliminary notification.

The Committee recommended that any delay due to court proceedings shall be excluded from this period of 12 months.

Temporary occupation of land – Clause 75

The Bill provides that the government may acquire land for temporary occupation for any public purpose or for a company for a maximum period of three years.

The Committee recommended that the term “a company” shall be deleted from this Clause.

Unutilised land - Clause 95

If an acquired land is left unutilised for a period of 10 years from the date it was acquired, it shall be returned to the Land Bank or the appropriate government.

The Committee recommended that this period should be reduced to five years and if left unutilised, the land should be returned to the land owners.

Change in the Schedules of the Bill – Clause 99

The Bill proposed that the Schedules in the Bill could be changed by a notification

The Committee stated that since the Schedules deal with the core issues of

given by the central government.

compensation and R&R entitlements, changes to such provisions should be made only through amendment Bills brought in the Parliament. The Committee recommended that therefore this Clause should be deleted.

R&R entitlements – Schedule II & III

The Bill also provides the displaced families with certain R&R entitlements. These include, among other things, (i) land for a house as per the Indira Awas Yojana in rural areas or a constructed house of at least 50 square metres plinth area in urban areas; (ii) a one-time allowance of Rs 50,000 for affected families; and (iii) the option of choosing either mandatory employment in projects where jobs are being created or a one-time payment of Rs 5 lakh or an inflation adjusted annuity of Rs 2,000 per month per family for 20 years.

The Committee recommended that the monetary components in the R&R entitlements given in Schedule II in the Bill should be inflation indexed.

Every resettled area is to be provided with certain infrastructural facilities. These facilities include roads, drainage, provision for drinking water, grazing land, banks, post offices, public distribution outlets, etc.

The Committee also recommended that the infrastructure facilities should be decided on a case by case basis.

Definitions

Affected area and affected family – Clause 3 (b) & (c)

The Bill defines “affected family” to include (i) landowners; (ii) agricultural labourers, tenants who have been working in the affected area for three years prior to the acquisition; (iii) tribals and forest dwellers; (iv) families whose livelihood for the previous three years is dependent on the forests or water bodies; and (v) families who have been given land by the state or central government.

The Committee recommended that within the definition of affected family:

- “Tribals” should be substituted by “Scheduled tribes”
- “Traditional rights” should be substituted by “forest rights”
- “Affected people” should be substituted with “affected family”
- “Three years” in the definition should become “three years or more”

Appropriate government – Clause 3 (e) (iv)

In relation to acquisition of land for public purposes in more than one State, the central government shall be the appropriate government.

The Committee recommended that the central government shall act in consultation with the one or more state governments involved in an acquisition.

Family – Clause 3 (m)

Family includes a person, his or her spouse, minor children, minor brothers and sisters dependent on him.

The Committee recommended that widows and divorcees and abandoned women should be considered a separate family.

Land Bank – no definition

The Committee recommended that the Bill should clearly define the term Land Bank.

Acquisitions under Land Acquisition Act, 1894 – Clause 24

The Bill provides that acquisition process commenced under the LA Act 1894, shall be invalid in case the award has not been given or possession of the land has not been taken before the commencement of the LARR, 2011

The Committee recommended that the Rules to this Bill should be framed to ensure that the compensation and R&R benefits for such acquisitions should be as per the provisions of this Bill, and at the same time the pace of implementing infrastructure projects is not adversely impacted.

Sources: The Land Acquisition and Rehabilitation and Resettlement Bill, 2011; 31st Report of the Standing Committee on Rural Development; PRS.

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