

# Land acquisition and rehabilitation and resettlement bill essay sample

[Science](#), [Agriculture](#)



Land Acquisition, Rehabilitation and Resettlement Bill[1] in India is a much awaited bill for Land acquisition reforms and rehabilitation for the development projects in India. The bill was introduced in Lok Sabha in India on September 7, 2011.[2][3]The bill will be central legislation in India for the rehabilitation and resettlement of families affected by land acquisitions. The Land Acquisition, Rehabilitation and Resettlement, 2011 Bill is also known as LARR 2011. The Bill has 107 clauses. It is currently in public domain and India's parliament for review, as Bill number 77 of 2011. It is expected to be debated, revised and voted upon by about December 2011.

| Contents | |[hide] | | 1 Purpose of the Bill | | 2 Need for the Bill | | 3 Content of the Bill | | 3. 1 Definition of Public Purpose | | 3. 2 Definition of Land Owner and Livelihood Loser | | 3. 3 Limits on Acquisition | | 3. 4 Compensation | | 4 Criticism of the Bill | | 5 See also | | 6 References |

[edit] Purpose of the Bill

LARR 2011 seeks to repeal and replace India's Land Acquisition Act, 1894.

The Bill seeks to enact a law that will apply when:[4] • Government acquires land for its own use, hold and control. • Government acquires land with the ultimate purpose to transfer it for the use of private companies for stated public purpose. The purpose of LARR 2011 includes public-private-partnership projects, but excludes land acquired for state or national highway projects.

- Government acquires land for immediate and declared use by private companies for public purpose. LARR Bill 2011 aims to establish the law on

land acquisition, as well as the rehabilitation and resettlement of those directly affected by the land acquisition in India. The scope of LARR 2011 includes all land acquisition whether it is done by the central government of India, or any state government of India, except the state of Jammu & Kashmir.

### Need for the Bill

The Government of India claims there is heightened public concern on land acquisition issues in India. Of particular concern is that despite many amendments, over the years, to India's Land Acquisition Act of 1894, there is an absence of a cohesive national law that addresses:[4] • fair compensation when private land is acquired for public use, and • fair rehabilitation of land owners and those directly affected from loss of livelihoods. The Government of India believes that a combined law is necessary, one that legally requires rehabilitation and resettlement necessarily and simultaneously follow government acquisition of land for public purposes.

### Content of the Bill

#### Definition of Public Purpose

Clauses 2 and 3 of LARR 2011 define the following as public purpose for land acquisition within India:[5] • Acquisition of land for purposes relating to the armed forces of India, national security or defence, police, safety of the people; • Acquisition of land for railways, highways, ports, power and irrigation purposes for use by government or by government controlled

corporations (also known as public sector companies); • Acquisition of land for planned development or improvement of village or urban sites or for residential purpose to weaker sections of society in rural or urban areas; • Acquisition of land for government administered educational, agricultural, health and research schemes or institutions;

- Acquisition of land for persons residing in areas affected by natural calamities;
- Acquisition of land for resettlement of affected people for any of the above government projects;
- Acquisition of land by the government for public-private-partnership projects for the production of public goods or the provision of public services;
- Acquisition of land for private companies for the production of public goods or provision of public services

When government declares public purpose and shall control the land directly, consent of the land owner shall not be required.

However, when the government acquires the land on behalf of public sector companies or for private companies, LARR 2011 proposes that the consent of at least 80% of the project affected families shall be obtained through a prior informed process before government uses its power under LARR 2011 to acquire the remaining land for public good. LARR 2011 includes an urgency clause for expedited land acquisition. The urgency clause may only be invoked for national defense, security and in the event of rehabilitation of affected people from natural disasters or emergencies.

Definition of Land Owner and Livelihood Loser

LARR 2011 defines the following as land owners:[5]

<https://assignbuster.com/land-acquisition-and-rehabilitation-and-resettlement-bill-essay-sample/>

- family whose land or other immovable property is to be acquired
- family who was assigned land by the government under any of its social development initiatives
- family who hold rights under India's The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

LARR 2011 defines the following as livelihood losers:

- any family whose livelihood, over most recent three years, was primarily dependent on the land being acquired, including agriculture laborers, tenants or sharecroppers
- any family whose livelihood, over most recent three years, was primarily dependent on forests or waterbodies being acquired; including forest gatherers, hunters, fisher folk and boatmen
- any family whose livelihood, over most recent three years, was dependent primarily on the land being acquired in the urban areas
- any family who was residing on the land being acquired in the urban areas

#### Limits on Acquisition

LARR 2011 forbids land acquisition when such acquisition would:[5]

- cumulatively exceed 5% of multi-crop irrigated area in any district in any state of India, or
- cumulatively exceed 10% of single-crop net sown area in any district in any state of India, if the net sown area in that district was less than 50% of the total area of the district

Even below these threshold, LARR 2011 requires that wherever multi crop irrigated land is acquired an equivalent area of culturable wasteland shall be developed by the state for agricultural purposes. These limits shall not apply to linear projects. LARR

2011 illustrates linear projects with examples such as railways, highways, major district roads, power lines, and irrigation canals.

## Compensation

Clause 26 of LARR 2011 defines the method by which market value of the land shall be computed under the proposed law. Schedule I outlines the proposed minimum compensation based on a multiple of market value. Schedule II through VI outline the resettlement and rehabilitation entitlements to land owners and livelihood losers, which shall be in addition to the minimum compensation per Schedule I. The market value of the proposed land to be acquired, shall be set as the higher of:[5] • the minimum land value, if any, specified in the Indian Stamp Act, 1899[6] for the registration of sale deeds in the area, where the land is situated;

or • the average of the sale price for similar type of land being acquired, ascertained from the highest fifty per cent of the sale deeds registered during the preceding three years in the nearest village or nearest vicinity of the land being acquired LARR 2011 bill proposes that the minimum compensation be a multiple of the total of above ascertained market value plus a solatium.

Specifically, the current version of the Bill proposes the total minimum compensation be: • At least four times the market value for land acquired in rural areas; • At least two times the market value for land acquired in urban areas In addition to above compensation, the draft LARR 2011 bill proposes a wide range of rehabilitation and resettlement entitlements to land owners

and livelihood losers from the land acquirer. For land owners, the Bill proposes:[4]

- an additional subsistence allowance of IN Rs. 36, 000 (US\$ 800) for the first year
  - an additional entitlement of a job to the family member, or a payment of IN Rs. 5, 00, 000 (US\$ 11, 000) up front, or a monthly annuity totaling IN Rs. 24, 000 (US\$ 550) per year for 20 years with adjustment for inflation – the option from these three choices shall be the legal right of the affected land owner family, not the land acquirer
  - an additional upfront compensation of IN Rs. 50, 000 (US\$ 1, 100) for transportation
  - an additional upfront resettlement allowance of IN Rs. 50, 000 (US\$ 1, 100)
  - if the land owner loses a home in a rural area, then an additional entitlement of a house with no less than 50 square meters in plinth area
  - if the land is acquired for urbanization, 20% of the developed land will be reserved and offered to land owning families, in proportion to their land acquired and at a price equal to cost of acquisition plus cost of subsequent development
  - if acquired land is resold without development, 20% of the appreciated land value shall be mandatorily shared with the original owner whose land was acquired
- In addition to minimum compensation explained above, and additional entitlements for the affected land owners, LARR 2011 bill proposes the following additional entitlements to each livelihood loser:[4]
- an additional subsistence allowance of IN Rs. 36, 000 (US\$ 800) for the first year

- an additional entitlement of a job to the family member, or a payment of IN Rs. 5, 00, 000 (US\$ 11, 000) up front, or a monthly annuity totaling IN Rs. 24, 000 (US\$ 550) per year for 20 years with adjustment for inflation – the option from these three choices shall be the legal right of the affected livelihood losing family, not the land acquirer
- an additional upfront compensation of IN Rs. 50, 000 (US\$ 1, 100) for transportation

- an additional upfront resettlement allowance of IN Rs. 50, 000 (US\$ 1, 100)

- whether the livelihood loser is homeless or has a home on the proposed land to be acquired, he or she shall have a right to a house with no less than 50 square meters in plinth area In addition to the above compensation and entitlements under the proposed LARR 2011, scheduled caste and schedule tribe (SC/ST) families will be entitled to several other additional benefits per Schedule II of the proposed bill. India has over 250 million people protected and classified as SC/ST, about 22% of its total population. The proposed additional benefits to these families include:[5]
- an additional land grant of 2. 5 acres per affected family
- an additional assistance of IN Rs. 50, 000 (US\$ 1, 100)

- free land for community and social gatherings, and special Schedule V and VI benefits

Schedule III of LARR 2011 proposes additional amenities over and beyond those outlined above. Schedule III proposes that the land acquirer shall provide 25 additional services to families affected by the land acquisition.[5] Some examples of the 25 additional services include schools, health centers, roads, safe drinking water, child support services, places of worship, burial and cremation grounds, post offices, fair price shops, and



storage facilities. The Bill as drafted mandates compensation and entitlements without limit to number of claimants.

Thus, for clarity and as an example, if 1000 acres of rural land is to be acquired for a project, with market price of IN Rs. 2, 25, 000 per acre (US\$ 5000 per acre), 100 families claim to be land owners, and 5 families per acre claim their rights as livelihood losers under the proposed LARR 2011 Bill, the total cost to acquire the 1000 acre would be • Land compensation = IN Rs. 90, 00, 00, 000 (US\$ 20, 000, 000) • Land owner entitlements = IN Rs. 6, 30, 00, 000 (US\$ 1, 400, 000) + 100 replacement homes

• Livelihood loser entitlements = IN Rs. 3, 65, 00, 00, 000 (US\$ 70, 000, 000) + 5000 replacement homes The average effective cost of land, in the above example will be at least IN Rs. 41, 00, 000 (US\$ 91, 400) per acre plus replacement homes and additional services per Schedule III to VI of the proposed bill. Even if the pre-acquisition average market price for land were just IN Rs. 22, 500 per acre (US\$ 500 per acre) in the above example, the proposed R&R, other entitlements and Schedule III to VI would raise the effective cost of land to at least IN Rs. 33, 03, 000 (US\$ 73, 400) per acre. The LARR Bill of 2011 proposes the above benchmarks as minimum.

The state governments of India, or private companies, may choose to set and implement a policy that pays more than the minimum proposed by LARR 2011. For context purposes, the proposed land prices because of compensation and R&R LARR 2011 may be compared with land prices elsewhere in the world: • According to The Financial Times, in 2008, the

farmland prices in France were Euro 6, 000 per hectare (\$2, 430 per acre; IN Rs. 1, 09, 350 per acre).[7] • According to the United States Department of Agriculture, as of January 2010, the average farmland value in the United States was \$2, 140 per acre (IN Rs. 96, 300 per acre). The farmland prices in the United States varied between different parts of the country, ranging between \$480 per acre to \$4, 690 per acre.[8]

### Criticism of the Bill

The proposed Bill, LARR 2011, is being criticized on a number of fronts: • It is heavily loaded in favour of land owners and ignores the needs of poor Indians who need affordable housing, impoverished families who need affordable hospitals, schools, employment opportunities and infrastructure. For example, ASSOCHAM, the Indian organization that represents the interests of trade and commerce in India, with over 200, 000 small business and large corporate members, claims that LARR 2011 in its current version, prevents a conducive environment for economic growth.

[9] • Economists who have studied LARR 2011 as tabled in India's parliament suggest it as well intentioned but seriously flawed. Its principal defect is that it attaches an arbitrary mark-up to the historical market price to determine compensation amounts, along with its numerous entitlements to potentially unlimited number of claimants. Such a Bill, some claim, will guarantee neither social justice nor the efficient use of resources. For example, Ghatak of London School of Economics and Ghosh of Delhi School of Economics,[10] claim that the Bill places unnecessary and severe conditions on land

acquisition which will stifle the pace of India's development without promoting the interests of farmers.

They suggest that the Bill should be amended to allow free market dynamism, such as competitive land auction. These economists claim that India's greatest challenge in enacting laws and opening up to international markets is to balance the needs of economic growth, equitable distribution and human rights, while rescuing complex and sometimes conflicting objectives from the demagoguery of single issue advocates and political opportunists. The current Bill, they claim, fails to do so.

- LARR 2011 as proposed mandates that compensation and rehabilitation payments to land owners and livelihood losers be upfront. This misaligns the interests of land acquirer and those affected. Once the payment is made, one or more of the affected families may seek to delay the progress of the project to extract additional compensation, thereby adversely affecting those who chose long term employment in the affected families. LARR 2011 places no limit on total compensation or number of claimants; nor does it place any statute of limitations on claims or claimants. The Bill, these economists suggest, should link compensation and entitlements to the progress and success of the project, such as through partial compensation in form of success bonds. Additionally, the Bill should place a limit on total value of entitlement benefits that can be annually claimed per acre, and that this entitlement pool should then be divided between the affected families.

- LARR 2011 as proposed severely curtails free market transactions between willing sellers and willing buyers. For example, DLF Limited – India’s largest real estate developer – claims that the current bill may limit private companies such as DLF from developing affordable housing for millions of Indians. DLF suggests that direct land transactions with owners on a willing voluntary basis, at market-determined rate, should be kept out of the purview of the bill.[11] There should be no conditions imposed on free market transactions between willing sellers and willing buyers.
- Amartya Sen, the India-born Nobel Laureate in economics, claims prohibiting the use of fertile agricultural land for industries is ultimately self-defeating.

[12] Sen claims industry is based near cities, rivers, coast lines, expressways and other places for logistical necessities, quality of life for workers, cost of operations, and various reasons. Sen, further suggests that even though the land may be very fertile, industrial production generates many times more than the value of the product produced by agriculture. History of industrialization and global distribution of industry hubs, Sen claims, show that the locations of great industry, be it Manchester, London, Munich, Paris, Pittsburgh, Shanghai or Lancashire, these were all on heavily fertile land. Industry always competes with agriculture, Sen claims, because the shared land was convenient for industry for trade and transportation.

Amartya Sen further argues that in countries like Australia, the US or Canada, where agriculture has prospered, only a very tiny population is involved in agriculture. Agriculture prospers by increasing productivity and efficiency. Most people move out to industry. Industry has to be convenient,

has to be absorbing. When people move out of agriculture, total production does not go down; rather, per capita income increases. For the prosperity of industry, agriculture and the economy, India needs industrialization. Those in India, who in effect prevent industrialization, either by politically making it impossible for entrepreneurs to feel comfortable in starting a business, or by making it difficult to buy land for industry, do not serve the interest of the poor well, claims Sen. The proposed LARR 2011 bill prohibits the acquisition of fertile agriculture land beyond 5% per district.

- An article in The Wall Street Journal claims that the proposed LARR 2011 rules will apply even when any private company acquires 100 acres of land or more.[13] For context, POSCO India seeks about 4000 acres for its US\$ 12 billion proposed steel manufacturing plant in the Indian state of Orissa. In most cases, even small companies planning US\$10-US\$300 million investment, seeking 100 or more acres will be affected by the compensation plus rehabilitation effort and expenses of LARR 2011. The WSJ article further claims that the proposed LARR 2011 bill doesn't actually define the word "acquisition," and leaves open a loophole that could allow government agencies to continue banking land indefinitely.

- The Confederation of Real Estate Developers' Association of India claims that the proposed LARR 2011 bill is kind of one-sided, its ill-thought-out entitlements may sound very altruistic and pro-poor, but these are unsustainable and will kill the goose that lays the golden egg.[14] This group further claims that the bill, if passed, will increase the cost of acquisition of

land to unrealistic level. It will be almost impossible to acquire 50-acre or 100-acre land at one place for planned development.

They suggest that if India does not facilitate urbanization in an organized manner, all the incremental population will be housed in disorganized housing developments such as slums with dire consequences for Indian economy. In the long run, even farmers will suffer as fringe development of urban centres will largely be in the form of unauthorized developments and they will not realize the true economic potential of their lands.