

New land bill: A threat to growth prospects of the states

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By Ram Singh

The Parliament has passed the [Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill](#). On several counts, this legislation is better than the extant law. However, it has serious flaws too. Since [the Bill](#) is yet to receive Presidential consent, there is scope for rectifying its deficiencies.

The Bill offers enough opportunities to the resourceful to make money simply by engaging in sales and purchases during the acquisition process. Moreover, by confusing public-private partnerships (PPPs) with private companies, it makes infrastructural development by the states and urban local bodies unnecessarily difficult. Indeed, the Bill throws up serious challenges for the states.

Contrary to perception, the largest proportion of affected projects will be that of the states. The lawmakers have failed to notice that the Bill discriminates between projects of the Centre and those of the states. All of its provisions apply to projects of the state governments, including social impact assessment (SIA), increased compensation to the landowner and the rehabilitation and resettlement (R&R) of the project-affected people.

The proposed acquisition process is unreasonably lengthy. It can take up to 4-5 years. However, as many as 13 categories of projects of the central government have been let off, including mining, coal and railways projects. These projects affect livelihoods of people. Yet, the affected people will continue to get scanty compensation and no R&R benefits, at least as of now. A better balancing of the two extremes is possible.

The bias is even worse when it comes to projects funded through PPPs. These partnerships are used by the Centre as well as the states to mobilise private investment for public goods; the land is provided by the government concerned. Many of [the national](#) and state highways, ports, airports and urban development projects have been funded through this mechanism. Under the new law, the Centre can carry on with this practice. For instance, for highway PPPs, it will continue to acquire land using the National Highways Act, 1956, which provides extremely low compensation and no meaningful R&R.

However, the PPP route has become unnecessarily difficult for states and local bodies. If a state or municipality would need land for a road or flyover funded through PPP, it will require the consent of 70% of landowners. Besides, it will have to comply with all other provisions of the Bill.

There is no valid reason to treat [land acquisition](#) for PPPs differently from the acquisition for publicly-funded projects. This discrimination, affecting interest of the private sector in PPPs, can deliver a deadly blow to resources available for infrastructure development by the states and urban local bodies. Moreover, it is against the spirit of federalism enshrined in our Constitution.

Besides, the Bill is open to strategic manipulation. It requires compensation to be based on sale deeds pertaining to the three years prior to the date of notification under Section 11 of the Bill. The problem is that the stipulated three years include the time period between the dates of Section 4 and Section 11 notifications: through the former notification, the government will announce its intention to acquire land and start the SIA, the acquisition decision will be confirmed formally by the latter.



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The time gap between these two notifications can be as much as 18 months. Therefore, the resourceful can make money simply by engaging in sales of small plots at artificially high rates, and then using these transactions as evidence to demand higher compensation. Disputes over compensation will abound.

The Bill is vulnerable to litigation. Under it, as is the case under the extant law, government officials are required to assess the market rate on the basis of sale deeds. Officials play it safe and award compensation using relatively low-value sale deeds. In contrast, courts tend to use higher-value sale deeds. Acquisition-affected parties have reasons to approach courts to get their due. Now, the compensation will be 2-4 times the assessed market rate. So, gains from litigation will increase. And the incentive to litigate will be stronger.

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