

1. **Article 31 of the Constitution symbolized the power of eminent domain vested in the state and this was embodied in the Land Acquisition Act 1894. To what extent was the Land Acquisition Rehabilitation and Resettlement (LARR) Act 2013 an improvement over it? Critically examine the recent 2014 amendments brought in by the ordinance. (250 Words)**

Answer:

Article 31 of the constitution provided that any state acquisition of property must only be upon enactment of a valid law, for a public purpose and upon payment of compensation. The doctrine of eminent domain, which was practiced pre-1978 and repealed by the 44th Amendment act meant the sovereign right of the state to compulsorily acquire property belonging to private persons for a public purpose upon payment of just compensation. The land acquisition act of 1894, which symbolized the state's power of eminent domain had the following problems inbuilt in it :-

- The act only recognizes the rights and interests of land title holders and does not take into account the interests of those dependent on it for their livelihood
- The act of 1894 does not properly define 'public purpose'
- Fair compensation was not paid
- Procedure followed was cumbersome and costly, often resulting in inordinate delay in land acquisition
- Many experts argued that the act is draconian claim that a number of projects with no public purpose attached, usurped land from property owners, with the help of the Land Acquisition Act.

The LARR act has been seen as an improvement upon the following problems by incorporating the following provisions:

- The process for land acquisition involves a Social Impact Assessment survey, preliminary notification stating the intent for acquisition, a declaration of acquisition, and compensation to be given by a certain time, require rehabilitation and resettlement to be provided to the people affected by the acquisition
- A more detailed listing of 'public purpose'
- Fair compensation, currently computed at approximately four times the value of the average of registered sale deeds.
- For private companies land may be acquired only if at least 80% of the affected people have already consented to such acquisition.

With a view to expedite the process of land acquisition for strategic and developmental activities, such as, national security, defence, rural infrastructure including electrification; affordable housing and housing for poor; industrial corridors; infrastructure and social infrastructure projects Government introduced amendment to the LARR act 2013 via recent ordinance dated 31 December.

Pros

- The existing Act kept 13 most frequently used acts such as national highways, metro rail for Land Acquisition for Central Government Projects out of the purview. The present amendments bring all the those exempted from the 13 acts under the purview of this Act for the purpose of compensation, rehabilitation and resettlement. Therefore, the amendment benefits farmers and affected families.
- The proposed changes will fast track process of acquisition of land for project of national importance eg defense production etc. This will make developmental and security related works much faster without compromising on the benefits/compensation to be given to the farmers.
- In the process of prolonged procedure for land acquisition, neither the farmer is able to get benefit nor is the project completed in time for the benefit of society at large.

Cons:

- The original Land Acquisition Act, 2013 had a consent clause for acquiring land but the proposed amendment exempted five categories where government owns the land. These are (i) defence, (ii) rural infrastructure, (iii) affordable housing, (iv) industrial corridors, and (v) infrastructure projects.
- Social Impact assessment, which was mandatory before acquitting land has also been exempted.
- As per the existing law, land will be given back to the farmer if it remains unused for five years. The proposed amendment says the land will be returned only if the specified project on the land fails to complete the deadline.
- As per the changes brought in the Ordinance, multi-crop irrigated land can also be acquired, which earlier could not be acquired beyond a certain limit.
- If an offence is committed by a government official or the head of the department, then s/he cannot be prosecuted without the prior sanction of the government.
- There is need for simplifying the complex and impractical procedures involved in land acquisition but at the same time the issue are also highly emotive and associated with livelihood of many people. Thus a balanced and consensual approach is needed in bringing these amendments.

PRACTICE QUESTIONS**Answer the following Questions**

1. Over the years, there have been many initiatives across India to promote the girl child and improve its poor child sex ratio. The schemes have differed in name, but converged in their general inefficiency. Examine. How does the “Beti Padhao Beti Bachao Yojna” seek to address this gap?
2. Constitutionally, both the Governor and Speaker are expected to maintain impartiality. Elaborate the discretionary powers of the Governor and the Speaker. What role do they play in times of uncertainty such as government formation and trust votes?