UNDERSTANDING THE ACCOUNTABILITY OF INDIAN PARLIAMENT: A CASE-STUDY OF RFCTLARR ACT 2013

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DECLARATION

I declare that the dissertation entitled "**UNDERSTANDING THE ACCOUNTABILITY OF INDIAN PARLIAMENT: A CASE STUDY OF RFCTLARR ACT 2013**" submitted by me in partial fulfillment of the requirements for the award of **Master of Philosophy** has not been previously submitted for any other degree of this University or any other university.

(L.T.I.) **BASANTA BEHERA**

CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

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List of Abbreviations

AIKS: All India Kishan Sabha

BJP: Bharatiya Janata Party

CNG: Compressed Natural Gas

CREDAI: Confederation of Real Estate Developers Association of India

DMRC: Delhi Metro Rail Corporation

DoLR: Department of Land Resources

EPA: Environmental Impact Assessment

LA: Land Acquisition

LARR: Land Acquisition, Rehabilitation and Resettlement

NCR: National Capital Region

NCT: National Capital Territory

PESA Act: Panchayats (Extension to Scheduled Areas) Act

RFCTLARR Act: Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act

SIA: Social Impact Assessment

UT: Union Territory

Introduction

Parliament is the supreme legislative institution in India. It has endeavored to accommodate multifarious interests of the society by representing members from heterogeneous sections across the region religion and caste and class lines. Parliament has been entrusted a gargantuan task to carry forward the developmental agendas by promulgating laws in consonance with societal necessities. The enactment of representation of people act of 1950 and 1951 (RPA) heralded the edifice of parliament by holding first general election in 1952. It is composed of two chamber viz., Lok Sabha the lower and popular house is the reliable index of changing electoral preferences that represents peoples territorially by demarcated constituencies; and Rajya Sabha the upper house, which resuscitates the federal character by representing states as a hole. The constitution has endorsed bicameralism in order to restrain the monopolistic nature of lower chamber. MPs are embroiled in debates, discussions and deliberations to articulate and rearticulate the prime demands and exuberant societal necessities. They do put forth their consents and dissents. Though law making is its major function, but in reality, this task has been dealt with executive branch. To clarify, parliament endows the skeleton of a law, and gets well-framed in the hands of executive. Constitutionally, it has been entitled to hold the executive accountable before it, by employing perennial devices viz., no-confidence motion, adjournment motion, question hour, zero hour and so on. Apart from this, three major standing committees related to finance; public account committee, estimate committee and committee on public undertakings and initiation of 17 departmental related standing committees in 1993, and its proliferation into 24 in 2004 have been there to supervise the functioning of various ministries. By bringing demographic composition and constitutional mandates available to it around the table, if we look into the functioning and accountability of parliament from its inception to existing period, then can be extrapolated that the productivity has got decelerated.

LITERATURE REVIEW

This literature review is broadly organized on the issue of parliamentary accountability and its decline and downfall. Since, the functioning and accountability of the parliament gets interconnected with each other, I may sometimes touch upon the former also.

Accountability of the Parliament: Its Decline and Downfall

The performance of Indian parliament now-a-days has become a grim story. Its business is getting slowdown in terms of number of sittings; numbers of hours per sitting; use of allotted times; passage of bills; standards of debates and discussions and so on. The legislative outputs were somewhat stable during the first four decades of Indian democracy. But it was dropped off in 1990s (Kapur and Mehta, 2006). National Social Watch Coalition (NSWC, 2007) made an assessment that more than 40% of bills were passed in the Lok Sabha in 2006 with less than an hour of debate, while 65% of members of the lower house never said anything about any legislation during that year (Wallack, 2008). Citizens do anticipate from the parliament to enact welfare related new legislations and scrutinize the policies of the government. However, it has never passed any legislations to direct the executive for implementing its enacted legislations within a stipulated period. Most of all scholars are agreed with the declining thesis of the parliament.

Examining the institutional challenges of Indian parliament Devesh Kapur and Pratap Bhanu Mehta (2006) have contended that parliament over the years has lost its efficiency as institution of accountability and oversight. The globalization of economy has derogated the power of the parliament in two respect. First, Most of economic related decisions are being run by international treaties, India's parliament is one of the few parliaments in the world which does not have a provision of treaty oversight. It is not entitled to ratify the international treaties, signed by the executive. Parliaments of

Australia, New Zealand and United Kingdom have all such power of democratizing treaty negotiation. In contrast to that, most Indian parliamentarian have acknowledged, this kind of supervising power would tend to political deadlock, and is a stupendous task. Secondly, restructuring its regulatory framework and by delegating more powers to the non-elected institutions would bring forth transparency and accountability, but parliamentary oversight is very dormant in this regard. It is a fiasco of the parliament to keep surveillance over the executive branch of the government, and this neglected function has been highly politicized.

In a democracy, parliament commonly administers in two ways as a forum of discharging accountability. Firstly, it is the agency through which government is held answerable; And secondly, elections are the instruments which can ensure the accountability of parliamentarians to the peoples (Kapur and Mehta, 2006). In reality, it has been bestowed with a number of devices like no-confidence motion, question hour, adjournment motion to render the functions of accountability in a successful manner. But these noble devices are sometimes getting manhandled by ruling and opposition party to realize their recalcitrant interests. Take one instance of proclamation of internal emergency of 1975. Parliament had approved Indira Gandhi rammed resolutions of emergency with a mass vote, that resolution was even passed before the house by a margin of 336 votes to 59, which had also taken away the fundamental rights of its own citizens. It could not restrain the abusive power of the executive in that critical situation. Since 1989, the ramification of no-confidence motion has been visible in bringing down various governments. In 1989 V.P. Singh government, in 1990 Chandrashekhar government, in 1997 I.K. Gujral government and in 1999 A.B. Bajpayee government have respectively faced the same consequences. This is why to reinforce a stable government, contemporary debates on the use of no-confidence motion in parliament propose that parties should be permitted to vote out the government, if they are assured of any alternative or a credible coalition in coterminous with German model.

To clarify the declining reputation, parliament has also transgressed certain constitutional obligations. As article 100(3) and article 100(4) of the Indian constitution mandate that a minimum one-tenth of the total members to be present in order to carry out the

proceedings; and the speaker is duty bound to adjourn or suspend the meeting, as long as a quorum is not arrived. Contradictorily, in the year of 1982, just 26 out of total 543 members were in the house to assent the finance bill, and sometimes legislative business have been performed by only 11 members. In 2008, United progressive Alliance (UPA-1) has attempted to downplay the role of opposition of bringing no-confidence motion against it, by conjoining monsoon session with winter session (The hindu, 2016). Whereby three session in a year had cut down into two. It is constitutionally permissible not to bring no-confidence twice in one session. This is why, UPA-1 has done to rescue from the opposition. Anyway, parliamentary business got affected. Another striking indicator to measure the declining aspect of the parliament is zero-hour. It promotes MPs with the permission of speaker to raise and debate urgent public matters, which are unlisted. This noble device has subsequently turned into a mode of disorder.

Accepting the declining thesis A Surya Prakash (1995) has analysed, glorification of an era gone by is a common attribute of human beings, although the moral standard of MPs, and quality of debates have gone down. Morris-Jones who noticed the working of the first Lok Sabha, came with the similar point. Some members of parliament who harked back to their periods of old central assembly assert that members at that point of time worked more laboriously, and prepared their facts and arguments meticulously and more coherently in comparison to now. It may be true; since, present members are having deficit of skills and experiences in order to have a intensive study; and also, there is minuscule effort to accomplish prudence in speeches. Apart from this, the tremendous constituency pressure has dissuaded MPs to take part in legislative functions. It confused the common man then, what a MP. ought to do for his constituency? In this context, Edmund Marshall articulated, an MP's task is to represent his constituency in all cases, to which the responsibility of the parliament is specified.

Given the heavy work loads and complaints, it can be hypothesized that MPs could discharge legislative functions, if they had desires. The Lok Sabha normally functions five days in a week and around five months in a year. They can redress grievances of their constituencies during this leasure period. As a result of which, MPs can raise more precious questions during question hour. Pressing for procedural reforms of Indian

parliament, second set of standing committees refered as Departmental related standing committees (DRSCs) was created in 1993. Though it was introduced to ensure the accountability of the executive and to supervise policies of the government, is still struggling for reforms. Annual changes in the composition of committees is subversive to effective committee work. So as to prevent this, barring certain special circumstances as vacancy of members due to death or disability, committee membership should be full five year.

Commenting on departmental related standing committees (DRCs) Valerian Rodrigues (2014) said that this step was taken with a view to strengthen the accountability of the executive to parliament. One substantive purpose behind this move was to guarantee comprehensive legislative participation; and to make a detailed and thorough parliamentary scrutiny of the activities of several ministries. To revitalize public trust on DRCs, its transparency is highly welcome. The working of this committees and statements made before it must be live telecasted, and disclosed before the public. In reality, they meet privately, and their works are being held behind closed doors. Besides this, their meetings are permitted only to the members of the committee, parliament staff, and anybody who is asked to be testified before the committee. Their deliberations are kept confidential, disclosed to the public, only after the committee submitted its report (Indian express 2017).

Analyzing the accountability aspect Arun Agarwal (2005) spelt out that a vibrant and meaningful opposition is indispensable for holding the executive accountable before the legislature. Opposition is indeed an integral part of the parliament, which has the obligation for keeping the government answerable. This task may not be carried forward in the absence of a coherent opposition. But the opposition in India employs parliament more to impair the credibility of the government, rather than holding the latter accountable for the purpose of good governance (Kapur and Mehta, 2006). Concerning over the question hour, he further stated. Less than 50 thousand questions were permited during the term of first Lok Sabha, this number went up to more than 1 Lakh during the period of 11^{th} Lok Sabha. However, raising a huge number of queries during the question hour also indicates, there will be considerably less time to address any particular

question. If we skim through this fact with a deep foresightedness, it would lead to declining of accountability. Question hour is widely considered as a prototype instrument of ensuring accountability, but has lost its essence over the following decades. Elaborating the question hour A Surya Prakash (2003) has said, though MPs are entitled to ask questions, this is restricted under certain grounds. Rules do not grant MPs to make questions on the basis of press reports, or on the items that are specified in list II (state list) of the seventh schedule of Indian constitution. Secretariats also turned down the information based questions, which can be accessible to the MPs through gazettes of government of India, annual reports which are available in libraries and book stores. The matters which are sub judice can not be permited to ask via questions. He further said, questions at the initial year were sharped and to the point and also answered. But in recent time, MPs are appearing comparatively ill-equipped for question hour, and consuming the valuable times with long-winded questions. Ministers are also preferring to deliver prolonged answers with a view to restrict the number of questions.

To evaluate the performance of the parliament, Balveer Arora (2003) has focused on 5 key dimensions. Firstly, parliament has been more democratic in terms of representation of electorates. With regard to the composition of the parliament, the members do possess more formal educational qualification than earlier. The matter of concern is with the entry of criminals into the floor of the legislature, which needs to be checked. Secondly, the quality of proceedings have been diminishing due to the declining standard of debates and mode of behavior. The usage of money and muscle powers which were earlier straitjacketed into electoral arena, have dispersed to the premises of legislatures. Relentless disruptions, adjournments, walkouts and washout of sessions have been the order of the day. Thirdly, the functioning of the parliament is quantitatively and qualitatively getting slow down. It is devoting less amount of time in legislative business, what should be its primary objective. The transformation of balance of power in favour of executive may be a cause of erosion of parliamentary oversight. Fourthly, the diminution of competency of the legislature has become a perceivable fact. Judiciary is increasingly rushing into the space of the executive for policy making on the ground of legislative deficit. Finally, the relevance of the parliament relies upon discipline and decorum, and

ability of MPs. The MPs are attributed with potent instruments in the form of questions and parliamentary committees to question the executive in order to bring out the real facts into lime lite, going even to that extent, in damaging the ruling party in power.

Such techniques are occasionally deployed, comparing the ratio; issues arising from parliament, and electronic and printing media. Concerning over the declining status of the parliament, Amarjit S. Narang (2014) has analyzed that parliament was more efficient in performing its task of examining and cross-examining the policies of the government; and holding the executive responsible by interrogating its action. But eventually, this role has been fading away. In the opinions of critics, parliament has presently turned into a non-functioning body. It is not a platform of reason but a space of confrontation and mutual antagonism. Question hour has been metamorphosed into a ceremonial function of the parliament, rather than making ministers answerable. It is pathetic to say, the horse-trading of MPs during Narasimha Rao government when it was facing no-confidence motion on 28 July 1993; cash-for-queries scam comprising 11 MPs in 2005 and payoffs to MPs for votes during no-confidence motion against Manmohan Sing led UPA government on 22 July 2008 and so on have questioned the credibility of the parliament. And also, freezing of winter session in 2008 by UP(1) with a view to relieve from no-confidence motion initiated by the opposition has further diluted the status of the parliament.

He has also contended, since, the life of a coalition is sticked to bargaining and compromise, the executive accountability towards parliament becomes dispersed at the wills of coalition-makers and coalition-breakers.

Analyzing the decline thesis, Rahul Verma and Vikas Tripathi (2013) have spoken that the credibility of parliament has also been under fire owing to the criminalization of politics, embroilment of massive amount of money in the process of election and corruption scandals. The Vohra committee report of 1993 accentuated that the network of mafia is implicitly pursuing a parallel government by keeping the state apparatus at back seat; and continuing a close tie between politicians and bureaucracy alongside the coterie of mafia, smugglers and underworld. They have further stated that both the democratic and decline thesis overlooked to recount certain paradoxes that are connected with Indian

parliament in a comparative sense. Firstly, scholars have contended that the collapse of one-party dominant system and proliferation of other parties in 1990s, and the corollary of unstable coalition have paved the way for de-institutionalization of democratic governance. On the contrary, Verma and Tripathi have pointed out, the deterioration of parliament in terms of passage of legislation, deliberation on bills, days of sittings, and uproars in the house became acute in post 1999, when India experienced a solid coalition vis-à-vis the period of 1989 to 1999, which was witnessed an unsteady government.

While recently, non-parliamentary institutions like Supreme Court, election commission and comptroller and auditor general have vindicated their autonomy; central vigilance commission, central bureau of investigation and other agencies fell through in asserting their freedom to that extent. Unfortunately, the parliament and government remained in stagnant. Secondly, progressive democratization led to representation of hitherto historically marginalized sections of the society. Parliament and state legislative assemblies as a result of that, became an inclusive forum of representation. Anyway, they have denigrated as the agencies of voice and accountability. Thirdly, unlike in several western democracies, specifically the case of British parliament, the degeneration of Indian parliament is not caused by the reinforcement of the executive. Since, the executive itself has become dismal during the era of parliamentary declining in the literatures.

Finally, despite of having huge hue and cry for parliamentary reforms, Indian parliament has not seen any substantial procedural reform or modernization, except setting up departmental related standing committees (DRCs) in 1993. Concluding their views, Rahul Verma and Vikas Tripathi have uttered that the progressive democratization thesis while applauding the scope of representation and democratic upsurge, have failed to perceive the declining standard of the lower house of the parliament. On the other hand, the declining thesis is unable to admire that the Indian parliament has become a nodal centre of accommodating diversed conflictual interests.

Critiques suggest that a comparison with 1950s to access the current decline on the grounds of numbers of sitting of days and spending times in debates is an awful idea. Accessing technology has reduced timing in preparing the bills, prolonged session for

that purpose is not required. The setting up DRCs has eased the burden of parliament in scrutinizing every bills before the floor of the house, it has presently been the responsibility of the committees. In responding to the critics' suggestions, it may be asked that how far the committees suggestions have been taken for discussion by the members of the house?? And, accessing of technology does not debar MPs for embroiling in constructive discussion within the allotted times.

Noticing the transitional phase in 1990s, Lloyd I. Rudolph and Susanne Hoeber Rudolph (2001) have conceded the balance of power was transfigured in the favour of supreme court, election commission and president at the cost of parliament, prime minister and cabinet. It was harbingered on the account of transformation of one party dominant system to multi-party system and coalition government in political sector; and onset of economic liberalisation.

Focusing on why parliamentary proceedings are getting affected, Jessica Wallack (2008) suggested that a number of analysis on parliamentary function in another countries dole out an assumption that tight government control over controversial issues would deliver an elbowroom to opposition to disrupt the proceedings. It is better for the government to keep remain away from that, and forge a negotiation with the opposition. Government by a majority vote can unilaterally suspend debate. It had stepped in, to revise the business of the parliament in March 2006, for instance, to pass the budget and finance bill with a voice vote without any discussion. It reconvened parliament into session after few days, to discuss the bills as if they were not passed. The office of profit bill was passed during that period. This factor equates Indian parliament more under government control along with countries like France, Greece, Ireland and the UK. While the parliaments of Austria, Belgium, Denmark, Germany, Iceland, Italy, Luxembourg, Norway, Portugal, Spain, and Switzerland follow supermajorities or consensus to terminate the debates. Another dimension accounts for declining reputation of parliament may be, MPs are provided with allowances for personal assistance, free air travel, free phone calls, and other perks but are not granted for their research staffs. Since, MPs are not specialized in every fields, well expert advisors are highly required for them. Indian parliamentary committees however the potential instrument of oversight, are facing the same problem also.

They are understaffed and lagging research budgets. Having said this, how can we expect more outputs from them. The 2007 monsoon session adjourned for four days, following disruption, that costs around 48 hours. The winter session of that year was adjourned sine die just after 17 sittings. Stalling the business of the house has been a habitual practice amongst political parties regardless of ruling and opposition. For instance, in 2007, Indo-US. nuclear deal hit the headline for disruption in parliament, but that issue was never discussed in the parliament. The 10th Lok Sabha had an average of 44 sittings to discuss the budget, which came down to 36 sittings in 13th, 32 sittings in 14th and 30 sittings in the 15th Lok Sabha respectively (Verma and Tripathi, 2013). It is most pathetic to hear, the 2011 budget session was recorded as the shortest in last two decades. Another point needs to be highlighted, Britain has 20 statutory opposition days in which opposition can opt certain issues for discussion. It also permits for debates on private members' bill around 5% time of house is in session. Greek parliament also expends one day per month for taking up pending opposition bills. In contrast to this, Indian parliament has allotted two and half hours per week to private member bills and resolutions.

Private members' bills/resolutions not merely stand for the opposition, it is available to government backbenchers also. Understanding the potentialities of the private members' bill as the instrument for individual members to respond public concerns via legislations, which are not determined by the executive, Raghab P. Dash (2014) has construed that its restricted success is because of the inexorability of the executive, procedural vulnerability, dearth of resources and support for private members to shape qualitative legislative proposal, barring their incapacity to garner supports for the passage of PMBs. Since, the inception of Indian parliament in 1952 to contemporary time, around 14 private members' bills (PMBs) has been passed. However, since 1970, not even a single PMB has cleared by the parliament so far. A PMB requires one month notice prior to its introduction. At the initiation of each session, a few members are selected through ballot to have first enjoyment of parliamentary times stipulated for PMBs. This is very illogical in the sense, certain valuable bills might be missed. Another constraint to PMB is, president recommendation is required for its introduction/consideration. In case, president withhold his assent to it, that PMB cann't be introduced before the house.

Moreover, government has the power to circumscribe the introduction of Private member bills.

Questioning the declining thesis of Indian parliament B.L. Shankar and Valerian Rodrigues (2011) have told that those who are articulating the declining of parliament on the grounds of efficiency, that may not be the soul yardstick to evaluate the role of parliament. It has experienced momentous changes, that changes may not be spelled out in the language of decline; rather can be underscored as the transformation in the character of representation, articulating and presenting the dynamic interests, and alteration in the vision of the nation as a whole. Despite of having numerous challenges, Indian parliament has not only been capable of satisfying the complex demands entrusted upon it, but it has also expanded the horizon of democracy. It may be the incorporation of diversified interests of the society, by extending the scope of representation. It may also be participation of manifold interests in shaping public policy with a view to circumvent trivial interests. Their study has accentuated on certain characteristics of Lok Sabha. Such as, changes in the nature of social composition of Lok Sabha, alteration in its notion of representation, changing mode of expression from hegemonic English language to the vindication of regional languages, and the transformation in the conception of the nation which has addressed multiple diversities (Ibid, 2011).

Going one step ahead, if we consider progressive democratization, we can figure out that this factor is howsoever liable for the disparaging reputation of the parliament. Presenting the social report on parliament in 2007, Ajay K. Mehra (2013) to which he had designated as, Indian parliament and the grammar of anarchy does characterize a situation of stalling the business of the house. To clarify, it implies frequently washing out of the session without or with little transaction, where debates are seldom and government and opposition confronts each other as warring adversaries rather than political stakeholders to think for the people as a whole. By proposing this, he questioned loss of time is indeed a matter of concern from the governance and legislative perspective, but does this kind of pugnacious approach bring forth any advantages to parliamentarians? It requires meticulous study, and depth analysis to get an answer in this regard. Apart from this, A. Surya Prakash (1995) has contended that the declining of

parliamentary business was experienced owing to the degradation of moral standards of MPs.

It may precisely be elucidated that parliament in post 1990s, has lost its reputation. What this noble institution does stand for, is becoming despicable in the course of time. It is thus crystal clear that the net productivity and accountability of the parliament have been slowing down; and its recovery is an urgent task.

Research Problem

The existing literature has not assessed the changing nature of the accountability of Indian parliament by taking a case-study from 15th Lok Sabha, which has experienced a worst performance in its full five year term. Scholars have made a deliberate and conscious attempt to understand the decline and downfall of the parliamentary accountability. Hence, there is a space for the researcher to investigate and compare the accountability aspect of this institution of contemporary era with its wee years of performance.

Central Question

A. How the accountability of Indian parliament has experienced a change?
B. What is the concept of accountability in general, and parliamentary accountability in particular?

Summary of The Chapters

Indian parliament is the central forum of representation of its citizens, apex law enacting body, and the agency of accountability. Especially, the function of accountability, what it has been discharging, is of two kinds. Firstly, it is the institution through which the executive is held responsible. Secondly, the parliamentarians are held accountable before the electorates via periodic elections. However, the subject of my analysis would be based on the former. It needs to be illustrated that I would like to take a case-study of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement (RFCTLARR) Act 2013 in order to assess the accountability aspect of the Indian parliament. The foremost objective of taking this one as a case-study may be, this legislation was enacted during the tenure of 15th Lok Sabha, when that period was marred with huge interruption as well as experienced worst productivity. Despite of this, that act was extensively discussed, and had a thorough scrutiny of the parliament. After BJP coming to power at the centre in 2014, it had made a deliberate attempt to bring forth certain changes in the act via ordinance, whose ramification was very shocking in nature. However, it has promulgated the ordinance on 31st December 2014, and repromulgated it twice amid stiff resistance from opposition parties, academia and farmer groups. Subsequently, that ordinance was introduced before the Lok Sabha as a bill, also got passed due to the overwhelming majority of the government. But the paucity of majority for ruling party in the upper house, along with the consolidated unity of opposition parties had abled to restrict the bill from the passage. As a consequence, the millions of farmers were pleadged, and RFCTLARR Act 2013 got rescued from the danger. By salvaging such monumental statute, the parliament has discharged its task of accountability meticulously.

This dissertation has comprised four chapters along with a brief conclusion. In the first chapter, I have tried to elaborate the concept of accountability in general, and the accountability of Indian parliament in particular. To execute the task of accountability, what mechanisms have been provided to the parliament? Also, how the parliamentary accountability has been getting altered in previous decades? And, which plausible reasons may be liable for that?

The concept of accountability may be envisaged as, it is the capacity of one actor to seek an explanation of another actor for its action, and to award or penalize the latter on account of its performance and justification (Rubin, 2005). In a democratic polity, the state needs to be answerable before the citizens for its actions; since, the latter is a part and partial of the former. Its exercise would ensure one's obligation towards the duty, and to bring forth transparency in the performance. For this purpose, we do require the framework of participatory democracy as well as informed citizenries. So as to check the

arbitrariness of the powerholders, we must discharge the function of accountability. Likewise, the accountability of Indian parliament refers that it is the duty and responsibility of the legislature to hold the executive/government accountable before it. Constitutionally, it has been granted with certain accountability mechanisms like question hour, zero hour, adjournment motion, half-an-hour discussion, no-confidence motion and so on. The emergence of second set of standing committees known as departmentally related standing committees (DRCs), and its revampment in 2004 have enabled the parliament to make a perusal of the government in more detailed. Moreover, article 75 of the constitution has stated that the council of ministers under the stewardship of prime minister needs to be collectively responsible before the Lok Sabha. This implies, the house of people can introduce a motion to test the confidence of the government. But over the years, Indian parliament has been experiencing a serious decline, and its voice is getting diluted by the treasury and opposition benches respectively. The forum of the parliament has been treated as hub of confrontation and agitation, negotiation and deliberation instead. This transformation has had happened owing to the huge ruckus in the house, frequent adjournment, tumultuous disruption and high absentism. That's why, this institution has become incapable to perform its own task. In post liberalization period, the surveillance of the parliament over regulatory agencies has remained in very dismal. Apart from this, the promulgation and repromulgation of ordinances, initiation of anti-defection law, and perpetuation of coalition politics have impaired the credibility of this agency.

The second chapter has spelled out the key provisions of the RFCTLARR Act 2013. This chapter also highlighted the fact, why central government went on to enact a fresh legislation on land acquisition in 2013 despite of having a parallel statute of 1894? It has assentuated upon another perennial issue, whether the 2013 land acquisition act does have the provision of fair compensation, proper rehabilitation and resettlement measures? After BJP coming to power at the centre in 2014, it has attempted to bring forth certain changes in the act. Therefore, this chapter makes an argument that why central government under the dispensation of BJP made an effort to bring an amendment to this legislation via ordinance towards the end of the 2014?

Unlike the land acquisition act of 1894, the RFCTLARR Act 2013 has offered a greater say to the affected people, whose land would be acquired, as well as the persons whose life is relying upon that land. It has precisely clarified that the prior consent of affected parties is fundamental for land acquisition. Its predecessor Land Acquisition (LA) Act 1894 which had bestowed the unbridled authority over state machinery to obtain land forcibly, even against the will of the land owners. That statute did not deliver proper compensation, and could not address the issue of rehabilitation and resettlement. Such kind of loopholes were wiped out by the new act. Moreover, the 2013 law recounts the significance of social impact assessment (SIA), which entitles to assess how many persons are getting affected by the concerned project, where the land is supposed to be acquired. However, this vital aspect was totally absent in the previous legislation. Apart from this, there are many more essential provisions, those can not be delineated here. After BJP coming to power in 2014, it has contended that this law would slow down the pace of development. Since, its provisions lead to inordinate red tapism. It has viewed the procedure for land acquisition under the 2013 law is highly complicated, and nearly infeasible. Consequently, for this purpose, an ordinance was promulgated on 31st December 2014, which exempted certain category of projects from prior consent, social impact assessment (SIA), public hearing, and restriction on acquiring multi-cropped irrigated lands. Those are considered to be the conspicuous features of RFCTLARR Act 2013. That ordinance has merely stressed on the land owners, leaving the people who are dependant upon that land in a perpetual trepidation.

Finally, in the third and forth chapter, a painstaking effort has been made to construe the bill in more detail, before it turned into an act. While the 15th Lok Sabha was experiencing colossal interruption from the impasse made by its members, the RFCTLARR Act 2013 was extensively discussed, and got thoroughly scrutinized. Initially, the Land Acquisition, Rehabilitation and Resettlement Bill 2011 was introduced before the Lok Sabha. Subsequently, that was reffered to the standing committee for detailed examination. After the recommendation of the committee, the bill again came back to the house. MPs took part in the deliberation, some of them argued in the favour, and others expressed their dissatisfaction. Some MPs questioned the centre's authority to

bring such bill on the item of land, even that specific item is falling under state list. During the debate, one member told to the house that since, land is a source of livelihood for millions of farmers, as well as for the people who are poverty-stricken; it must not be obtained by any means, rather can be taken as a lease for certain period. Whereas, another member posed a question, as per the 2013 law, the amount of compensation would be delivered four times of the market rate in rural area, and two times in urban area; so, how is it going to be simple to map the divergence between the urban area and its vicinities, and rural area and its adjacent regions. Understanding the significance of the matter, one MP demanded that the social impact assessment (SIA), and environmental Impact Assessment (EPA) should be started prior to the initiation of land acquisition proceedings. However, to apprehend the ground reality, the rehabilitation and resettlement (R&R) authority needs to be established in the concerned area, where land is supposed to be acquired. On the other hand, some other members commending the legislation said that this law would bring a sigh of relief to the farmers, and try to remedy the gross injustice which has been committed against them for many years. The provisions pertaining to fair compensation, prior consent of the affected parties, mandatory of SIA, appropriate rehabilitation and resettlement measures and so on will set a new landmark on the acquirement of land.

The recommendation of standing committee on LARR Bill 2011 has been elaborately discussed in the fourth chapter. Along with this, it has assentuated upon, how far those recommendations were accepted by the government, as well as incorporated in the RFCTLARR Act 2013.

Methodology

This research is largely based upon secondary resources. The resources used for this research would comprise journals, articles, books, some reports of DRCs pertaining to aforementioned bill and ordinance as well, certain judicial pronouncements and constitutional provisions.

Chapter 1

Accountability of Indian Parliament and Its Transformation

Parliament is the apex legislative body to enact legislations. The edifice of the parliament which is bicameral in nature, may be traced back to the Indian Council Act 1861 (Agrawal, 2005). It deliberates on wide-ranging issues of national importance covering local/regional, national and international matters. It has emboldened the democratic apparatus by ensuring representation from various section of the society; although the representation of women is lagging behind. In 1990s, the implementation of Mandal commission report, revival of Mandir issue, and adoption of policy of liberalization have transformed the political texture of the country (Palshikar and Yadav, 2006). These three issues and other factors have broken down the dominance of one party in Indian politics, and tended to evolve the era of coalition politics. As a consequence, the scale of representation got augmented. India however, is making a smooth transition of power from one regime to other by conducting periodic election in every five years; whereby, a new Lok Sabha is constituted, and a new government is formed. Unlike its neighbouring countries – Pakistan and Bangladesh, where military made an intervention in the civil and democratic affairs of their states, India has drawn a clear cut line between civil and military affairs. Its military has always been remain away from civil matters. India's sacrosanct election has conflated its electors with their representatives, and the latter will be voted out of power if they can not act in accordance with the preferences of the voters. We may therefore, acclaim this action as guarantee of accountability of the representatives to their electorates. These representatives have endeavored to establish a liaison between peoples and government. The framers of the constitution have adopted parliamentary form of government to ensure a greater accountability of the executive to the legislature. To assure checks and balances within the system, they founded three institutions viz. Legislature (parliament) to promulgate laws, Executive to execute those laws, and an independent judiciary to interpret those laws. This judiciary can also review the enactments passed by the parliament, and strike down if they are not in consonance with the constitutional provisions. But over the years, these three institutions have overlapped in their sphere of functioning. Due to washout of the parliament, and deficit

of legislations, the executive is following the ordinance route and the judiciary is delivering certain judgments like outlawed of instant Triple Talaq, protection of women from sexual harassment at work place, using Compressed Natural Gas (CNG) in NCR, sanitization of rivers, issuing direction for convening assembly, and so on (Madhukar and Roy, 2010; The Hindu, 2017; 2017). Hence, the efficiency of the parliament is under question. Apart from the legislative function, parliament has also the task of holding the executive answerable before it, scrutinizing the budgetary demands of the government, and conducting debates and discussions on various governmental policies. By exercising such means, it can make a supervision over the governmental affairs. If the accountability of Indian parliament may be assessed, it can be understood that the accountability of parliament is getting decelerated in following decades.

In this chapter, I would like to accentuate upon what is accountability in general, and the accountability of Indian parliament in particular. To ensure the functions of accountability, what mechanisms have been provided to the parliament? Also, how the parliamentary accountability has been getting changed in previous decades? And, which plausible reasons may suffice for that? Apart from this, I may contend that how the accountability of this foremost institution has currently been bypassed by the executive.

Meaning of Accountability

Commonly, the accountability may be delineated as the capability of one actor to seek a clarification of other actor for its actions, and to award or penalize the latter on account of its performance and justification (Rubin, 2005). It can also be envisaged as the obligation of power holders to be held responsible for its action and behavior (Posani and Aiyar, 2009). It is a relational concept which involves a link between the actors who discharge the function, or extend a service; and the others who experience an impact of the action (Ibid, 2009). While we are vividly asserting for accountability, it is immediately striking that who should be accountable to whom, and why.

In a democratic polity, the state has to be accountable before the citizens; since, the latter is a part and partial of the former. Its exercise demands answerability, and bring forth transparency in the performance. It can ensure one's obligations and responsibilities.

When an entrusted stakeholder found in dereliction of its duties, it has to be supervised by other. The intrinsic reason for holding one actor accountable is to protect our legitimate interest bestowed by the constitution or any statutes. The incompetency to hold someone whose action encroaches our life, will be considered as a breach of our individual rectitude (Mehta, 2005). *Pratap Bhanu Mehta* has contended that particularly in a democratic society, any debate on the concept of accountability may lose its euphoria, if it does not commence with a correlation between democracy and legitimacy. The underlying issue of crafting an accountable institution is to cover up the space between democracy and legitimacy. For bridging such space, it requires appropriate institution; and suitable notion of politics, an account of principles and anticipations - what a sensible citizen ask for his political prudence (Ibid, 2005).

To execute the function of accountability, citizens need to be informed. For this purpose, Indian parliament has promulgated Right to Information (RTI) act in 2005. This act enables the citizens to access the information of public authorities with a view to promote transparency and accountability (RTI Act, 2005). Section 3 of this legislation entitles every citizens to enjoy Right to Information with subjective restriction laid down therein. Moreover, election is the principle mechanism through which citizens do take part in the formation of government. It is also the same instrument through which they can elicit accountability. By assessing the performance and promises of a government, they do exercise their franchise either to vote it out of power or repossess their preference upon the same regime for another term, to which Posani and Aiyar have designated vertical accountability (Posani and Aiyar, 2009). However, scholar like *Pratap Bhanu Mehta* has contended that election at all the times can not be a legible means to evaluate the accountability of the representatives. So as to enforce such action, citizens have to be allocated all the informations. It is utmost important for the voters to perceive, how their representatives casted votes in the legislature upon a wide range of issues. It is distressing to note that parliament normally approves legislation via voice vote, recorded vote instead. The dearth of recorded vote would uninformed the citizens about how their representatives voted on a specific matter or legislation. During the period of 15th Lok Sabha, there were just 19 cases of recorded voting; whereas, all other bills were approved

by voice vote (Kala and Roy, 2013). Hence, it may be argued that the Indian voters do not possess or solicit such information regarding their representatives. The Independent media or any public discussion also hardly enlighten such detailed information concerning how parliamentarians voted on a specific bill, or what private members' bills they have introduced (Mehta, 2005). This laxity of information would divest the citizens from ensuring their representatives to be fully accountable. Apart from this, there are other mechanism to actualize this function. Certain specialist institutions like Comptroller and Auditor General (CAG), Vigilance Commission, Anti-Corruption Bodies; constitutionally designed institutions namely Legislature and Judiciary and so on – they can supervise or check the abusive powers of the government in order to ensure whether it is discharging its functions in harmony with the interest of the citizens; that may be envisaged as horizontal accountability (Posani and Aiyar, 2009). On the other hand, *Pratap Bhanu Mehta* has contended that abdicating a series of regulatory functions from the direct supervision of elected representatives can magnify the accountability instead of diluting it. The regulatory institutions for instance, the Security and Exchange Board of India (SEBI), Reserve Bank of India (RBI), or Telecom Regulatory Authority of India (TRAI) have been delegated specific task which are not under direct command of the elected representatives; but these autonomous agencies augment the capacity of carrying out advantageous policies, and bring transparency in such manner, the answerability of these specialized regulatory institutions can be smoothly recognized (Mehta, 2005). Although delegation of more powers to such regulatory agencies can boost accountability and transparency; but the parliamentary superintendence over these bodies remains very dismal (Kapur and Mehta, 2006).

Meaning of Accountability of Indian Parliament

The framers of Indian constitution have furnished three key institutions inter alia parliament, executive and judiciary to flourish the democratic trend. This was designed in the purpose of carrying out their own functions independently. Unquestionably, parliament can be contemplated as one of the central pillars of India's democracy, since, it endows representation to the heterogeneous sections of the society, formation of a

government takes its own shape out of it, and it has the obligation of holding the same government responsible before it. While there was a debate going on in the constituent assembly about the adoption of a system of government, three things were emerged. Dr. B. R. Ambedkar put forwarded that a democratic system ought to pledge two traits viz. Stability and Responsibility (Narang, 2014). But it was a matter of distress that this two things can not be squarely addressed in a single system, as he pointed out. Firstly, the system prevailing in USA. And Switzerland would guarantee more stability, and less responsibility, while the parliamentary system followed in Britain puts more focus upon responsibility; Secondly, Dr. Ambedkar proposed that parliamentary model could be able to embrace the India's pluralism, and diverseness; And, finally, it was thought up that India's leaders have already been acquainted with the parliamentary system, so that it would deliver a firm-ground for further continuation (Ibid, 2014). Hence, the parliamentary system was endorsed at the end. Very precisely, the idea of parliamentary accountability may be conceived as, it is the duty and responsibility of the parliament to hold executive/government answerable for its action and performance. To enforce this function, it has been forearmed with Question Hour, Zero Hour, Half-an-hour discussion, Adjournment Motion, No-Confidence Motion, three finance related standing committees like Public Account Committee, Estimate Committee and Committee on Public Undertakings, Departmentally Related Standing Committees (DRCs) and so on. Apart from this, Article 75 of the Indian constitution enumerates that the council of ministers needs to be collectively accountable before the Lok Sabha. This implies that the house of people which is the reliable chamber of voters' preference can introduce a motion for testing the confidence of the government, and make them responsible.

The very first hour of every session is considered as question hour. During this period MPs can raise a series of questions pertaining to policy performance of the government with a view to scrutinize the governmental affairs. By exercising such device, they can elicit information on the subject of public importance. This is a method of parliamentary surveillance over the executive. It is one of the prototype instruments to grill the ministers, inquire the policy paralysis, and bring their inaction before the public. But unfortunately, this hour is getting frequently adjourned owing to the tumultuous

disruption in the house. It is reported that parliament may be working for an extra hour to cover up other part of business, but substantial portion of question hour once missed does not get fulfilled (Madhavan, 2016). One of the structural shortcomings of the existing system may be, there is no incentive for asking questions which are extended over more than one ministries. It is worthwhile to mention that concerned minister can answer those questions which are directly related to his/her ministry. The British parliament has already settled this problem by evolving a practice of prime minister's question hour; wherein, any questions can be asked involving a wide range of issues/policies across the ministries (Madhavan, 2017). Another concern is, the number of questions raised in the period of question hour has been gradually surged in last 5 decades. Anyway, the mere augmentation of asking questions may also signify that there is considerably less time to address any particular question Agrawal, 2005).

Zero hour does commence as soon as the question hour gets over. This hour remains from 12.00 p.m. to 1 p.m. during which period, MPs can raise certain matters of exigent public necessities on the permission of the house.

Half-an-hour discussion can be held on the issues arising out of queries and answers already done in the period of question hour. This would be permited on the subjects which are carrying substantial public interests. Such kind of discussion can be conducted in the Lok Sabha especially on Monday, Wednesday and Friday at the last half-an-hour of the sitting; whereas, this type of discussion can be held in the Rajya Sabha from 5 p.m. to 5.30 p.m. on whichever day allocated by the chairman (Kashyap, 2015).

To bring an immediate attention of the government upon a recent issue which is a matter of urgency, there are several perennial devices being provided, adjournment motion is one of them. Commonly, the house carries out its proceedings in accordance with the fixed agendas. It does not subsume other items without the approval of speaker. However, a matter involving imperative public necessity can be brought into the notice of the house through adjournment motion. Since, this motion leads to censor of the government, it can only be introduced before the Lok Sabha (Ibid, 2015).

No-confidence motion is a potential device to hold the government accountable. This is the ultimate one whose passage would oust the council of ministers from the office. It is being introduced to test the majority of the government in the house. Anyway, this has been victorious in dethroning the governments– the V.P. Singh government in 1989, the Chandrashekhar government in 1990, the I.K. Gujral government in 1997, and finally A.B. Vajpayee government in 1999 (Kapur and Mehta, 2006). The usage of Such potential device can restrict the monopolistic behavior of the government, but sometimes gets straitjacketed at the hands of brute majority. Take the case of proclaimation of emergency in 1975. The fiasco of parliament to forestall the abusive power of the executive was happened, when it had put its signature on the presidential declaration of internal emergency; albeit, that was abrogating the fundamental rights of the citizens (Ibid, 2006). However, it could not succeed to seize the authoritarian tendency of the executive.

Much earlier to the arrival of Departmentally related standing committees (DRCs), there were three important standing committees inter alia public account committee, estimate committee and committee on public undertakings to deal with financial related matters. The DRCS came up in 1990s in the backdrop of the parliament's failure to exercise its oversight function over the executive. They were entitled to ensure the accountability of the executive to parliament, and bring a dynamism in its functioning. Initially, there were 17 subject-based standing committees refered as DRCs, set up to scrutinize the various demand of grants, and to examine several bills sent out by respective chairs of the parliament. However, the origination of parliamentary committee system may be traced back to the Montagu-Chelmsford Reforms of 1919 (Rodrigues, 2014). Although the legitimacy of such committee system was disacknowledged at the wee years of independence; but subsequently, realizing the importance, that was reinstalled. Following the voluminous works of several ministries for parliamentary surveillance, the number of DRCs was raised from 17 to 24 in 2004.

A Paradigm Shift in The Accountability of Indian Parliament

Accountability is a subjective term which can not be statistically assessed. Rather, it can be evaluated by taking certain parameters. While we are saying the accountability has experienced an alteration, it can be anticipated that whether it has transfigured in a positive direction. Constitutionally, parliament is obligated to discharge certain functions viz. to ensure representation from heterogeneous sections of our society, passage of laws, supervision of the demands of grants, oversighting the executive/government and so on. When we are especially talking of accountability, it is referred to the utmost function of the parliament to hold executive answerable for its action and performance. But over the years, this function has been severely declined, and the forum of the parliament has been treated as a hub of confrontation and agitation, negotiation has failed over tumultuous disruption, ideological battle has taken precedent over legitimacy and fareness, local issues have dominated over national and other essential matters, and etc. However, the core function of the parliament remains unaddressed. It has been becoming inefficient for exercising its surveillance over the government. The supervisory function of the legislature over the executive has been getting dismantled owing to the ruckus amongst political parties. It is worthwhile to elucidate that the efficacy of the Indian parliament is under strain.

The accountability of Indian parliament may have been transfigured in following ways. Firstly, the parliament has been marred with huge interruption in legislative proceedings, high absenteeism, declining in the standard of debates and discussions, unsatisfactory level of participation of members, degeneration in the conduct of the members, poorly utilization of question hour, lesser number of sittings, and so on (Arora, 2003; Kala and Roy, 2013; Verma and Tripathi, 2013; Anumeha, 2015; Madhavan, 2016). This has propelled a scornful aptitude towards the parliament, and in reality, hunting the credibility of a premier institution. If this sort of events will be going on persistently, then the accountability of the parliament can be remained far from the anticipation.

Secondly, although parliament over the decades, has represented various sections of the society, at the same time, it has metamorphosed into a theatrical chamber of societal cleavages. It can simply be clarified that the penetration of more regional political parties into the precinct of the parliament has derogated its productivity and performance. Unfortunately, lack of coordination among these parties has very often stalled the business of the house. Aftermath of the collapse of Congress hegemony in 1989 upto 2014, we experienced the era of coalition politics. Since, bargaining and compromise are considered to be the sine-qua-non for sustaining a coalition government, the executive accountability to the legislature sometimes gets mishandled by these rowdy coalition maker-and-breakers (Narang, 2014). Scholar like Balveer Arora has contended, the declining and disorders that the Indian parliament routinely displays are the ramification of its progressive democratization (Arora, 2003). He has ascribed this to the declining in the standard of debates and behavior of MPs, frequent washouts and adjournments, erosion of quantity and quality in conducting legislative business and the like. Subjugation of women, dalits and minorities; and their legitimate status: these things are constantly aired today. Notwithstanding these issues are having greater concerns, they have certainly corroded the decorum of the parliamentary business (Ibid, 2003). For the sake of welfare, those matters need to be resolved in other forums.

Thirdly, the onset of liberalization has diluted the authority of Indian parliament in two ways. One is, a number of economic decisions are currently administered by international treaties, and Indian parliament unlike its counterparts, does not have a provision for supervising them; and other one is, India like many countries have delegated more powers to its regulatory agencies, whereby, delegation of more powers to such agencies can enhance accountability and transparency, but the parliamentary surveillance over these institutions remains feeble (Kapur and Mehta, 2006). It is not empowered to ratify the international treaties, negotiated by the executive. However, parliaments of Australia, New Zealand and United Kingdom have the powers for ratifying those treaties, signed by the executive. Contradictorily, most Indian parliamentarians have endorsed that this kind of supervisory work would lead to red tapism and deadlock; and in fact, it is a stupendous task (Ibid, 2006).

Finally, the promulgation of a series of ordinance has attenuated the potency of the parliament. Its introduction may have shifted the legislative powers of the parliament in favor of the executive. Article 123 of the constitution spells out that the president can promulgate ordinance at any time, if the situation demands to do so, and this action can be permited while both the houses of the parliament are not in session. The framers of the constitution has provided this clause with a greater sagacity to deal with the unforeseen situations. But the leaders of subsequent generations have used it to overcome the legislative stand off. Moreover, bringing up frequent ordinances just before or after one session has curtailed the efficacy of the parliament. It has sometimes cracked down the debates and discussions of the legislature. However, the slow down in the passage of legislation may have been one of the intrinsic causes for it (PRS, 2015).

Let's analyse the performance of the parliament by taking certain characteristics. It may subsume disruption and declining in the usage of allocated hours; less number of sittings; slowing down of the debates on legislations; question hour which may be considered as the potential device to elicit informations for scrutinizing the governmental affairs; discussion on budget and demands of grants which may be one of the vital functions of the parliament; passage of Private Members' Bills (PMBs) that may have been introduced in the areas of deficit of legislations; working of the departmentally related standing committees, and so on. All these means are entitled to ensure the accountability of the executive to the parliament.

Disruption, Less Number of Sittings and Usage of Productive Hours

Currently, disruption has become a legitimate technique for the opposition to derail the business of the parliament. In fact, rushing into the well of the house, showing the placards, perceivable absenteeism and creating much hullabaloos have become the order of the day. These things have tended to stand frequent adjournment of the house, and loss of crores of public money without satisfying any substantial purposes. This is a win-win situation neither for the government nor for the opposition, and the citizens of this country. Rather, it is hunting the credibility of the parliament, and interrogating the legitimacy of such tactics. The core obligation of one representative is to articulate his

constituents' interests, discuss the issues of national importance, and to deliberate upon certain international issues and its implications for the country; but mere fracas in the floor could not make this things feasible. However, the disruption that visualizes today is not new, it was harbingered at the wee years of our parliamentary democracy. Going back to 1952, when Preventive Detention Amendment Bill was introduced before the parliament, there was a huge hue and cry; and further, during the period of third Lok Sabha, particularly in 1963, when the Official Language Bill was initiated, there was also a stiff resistance (Sen, 2016). Subsequently, a fraction of members attempted to disarray that year's presidential address to both the houses of the parliament. Anyway, such kind of behaviours were candidly disacknowledged by Nehru. Although, this sort of things took place at that point of time, it was very occasional. One incident needs to be celebrated that when there was a deadlock, one of the parliamentarians from opposition bench was enunciating, you have possessed the votes, but we are having the arguments (Ibid, 2016). Certainly, after the demise of Jawaharlal Nehru, the things are started to get altered. From 1970s unwards, the mode of disruption turned into a recurrent practice. But since, 1990s, there has been a tectonic shift in the loss of productive hours owing to the disruption (Ibid, 2016).

> There has been a significant reduction in terms of days and hours of sitting of the parliament. The first three Lok Sabha held its sittings on an average of 600 days, and not less than 3700 hours; while the 15th Lok Sabha in the period between 2009 and by 2013, has abled to seat for around 335 days, and 1329 hours (Kala and Roy, 2013). It may be pointed out here, huge disruption leads to passage of less amount of bills. The first Lok Sabha experienced the passage of 72 bills on a yearly average, but the 15th Lok Sabha in its entire term has approved 179 bills which may be 36 per year (Kumar and Malika, 2012; Malik and Kala, 2014). Actually, the number of passage of bills is coming down in following years. Unlike 15th Lok Sabha, the situation in 13th and 14th Lok Sabha was somehow better, wherein 297 and 248 bills were approved by it. Moreover, the story of productive times of Lok Sabha is very distressing. During the period of 15th Lok Sabha, the lower house amid noisy scenes has worked for 61 per cent,

whereas the upper house has worked for 66 per cent. In comparison to this, the 13th and 14th Lok Sabha (Lower House) have worked for 91 per cent and 87 per cent, but the third and fourth Lok Sabha had the capacity to perform for 107 per cent and 108 per cent respectively of its scheduled times (Ibid, 2014). In fact, it is a clear declining trend of the parliament. Let's see table 1.1 and 1.2 for detailed information.

Table 1.1: Number of Sittings of Parliament

Periodization	Annual Average of Number of Sittings of the Parliament
1952–1961	107.35
1962–1971	107.4
1972–1981	91.7
982–1991	86.05
1992–2001	76.15

(Source: Anumeha, 2015, but tabulated by the author). This table has provided the information about the annual average of number of sittings of both the houses of the parliament, from 1952 to 2001. As per the given statistics, the sittings of the parliament is gradually declining.

Table 1.2: Productive Times of Lok Sabha

Terms of Lok Sabha	Duration	Percentage of Productive Times in Lok Sabha
3rd	1962-67	107%
4th	1967-71	108%
5th	1971-77	110%
6th	1977-80	109%
7th	1980-84	120%
8th	1984-89	111%
9th	1989-91	115%

10th	1991-96	98%
11th	1996-98	109%
12th	1998-99	109%
13th	1999-04	91%
14th	2004-09	87%
15th	2009-14	61%

(Source: Malik and Kala, 2014).

This table has provided the information only about Lok Sabha, from 1962 to 2014. The term productive time refers that the actual working period of Lok Sabha out of the allocated hours. It has illustrated that the lower house of the parliament has performed well upto the end of ninth Lok Sabha. Although the productivity of 6th and 9th Lok Sabha stand at 109 per cent and 115 per cent respectively, but their tenure were shorter than a full-five year term. Similarly, the figures of 11th and 12th Lok Sabha are appearing quite better, but their term were also brief. Since, 1990s, the lower house of the parliament has been suffering a serious decline in terms of its productivity. It is worthwhile to elucidate that the 7th Lok Sabha has worked for 120 per cent. It was the highest ever in its history. While the 15th Lok Sabha has done its ever worst performance, that is just 61 per cent.

Slowing Down of Debates on Legislations

Debate and discussion are considered to be the major crux of a democracy. Its convergence can flourish a plethora of ideas. While a legislation is being processed before the parliament, it needs to be extensively debated. Since, it can deliver a greater clarity, and will try to purge the loopholes. The first Lok Sabha had expended 49 per cent of its allocated times on discussing legislations. That got slipped into 28 per cent in next Lok Sabha. On the other hand, the 15th Lok Sabha by December 2013, has devoted just 23 per cent of its total times on deliberating legislations (Kala and Roy, 2013). Apart from this, around one-sixth of total bills was passed within 5 minutes in the period of 15th Lok Sabha (Madhavan, 2016). It may be stated that no body can disagree on scrutinizing all bills with due diligence. However, the figures conforms, less time has been dedicated for debating legislations.

Utilization of Question Hour

The standard device through which parliamentary accountability can be exercised, is question hour. This hour empowers the MPs for raising their queries to the ministers upon the various aspect of governmental affairs. If such an essential moment gets embroiled in confrontation leading to repeated adjournments, then the real essence of parliamentary accountability will die down. The question hour of previous Lok Sabha received a severe jolt, in which 61 per cent of valuable times got wasted due to ruckus in the house (Malik and Kala, 2014; Madhavan, 2016). It is worthwhile to reveal that once this hour gets squandered, no effort is made to recover it by sitting an extra hour, or on Saturday (Kala and Roy, 2013; Madhavan, 2016).

Discussion on Budgets

Another vital function of the parliament is to scrutinize and approve the financial proposals of the government. Over the years, the time dedicated for discussion of budget is getting slow down. The 15th Lok Sabha experienced a number of cases, in which the budgetary proposals of the government got approved without having any discussion and proper examination. In 1950s, around 123 hours was spent for debating budget, while that number fell down to 39 hours in previous decade (Kala and Roy, 2013). Especially, in the year of 2013, the financial bills and demands for grants worth of Rs 16.6 lakh crore – such a colossal amount were approved without having any deliberation (Ibid, 2013; Malik and Kala, 2014). Despite of having no discussion, the interim budget of 2014 received the assent of the parliament. However, during 15th Lok Sabha, just 29 per cent of its whole productive times was expended for deliberating the budget (Ibid, 2014).

Passage of Private Members' Bills

Apart from the ministers, any member either from ruling party or opposition introduces a bill may be designated as Private Member bill (PMB). As the government is responsible to process governmental bills, likewise, the individual member is liable in case of initiating the PMB. Over the years, the private member' business has been very appalling in India. So far, just 14 Private Members Bills (PMBs) have been enacted into

laws (Kala and Roy, 2013; Dash, 2014). Those 14 PMBs were also passed by 1970, since then, not even a single private member bill has got the approval of the parliament. During the period of 15th Lok Sabha, 372 PMBs were introduced before the Lok Sabha, just 22 out of them discussed, but no effort was made to get them passed (Kala and Roy, 2013). In India, there is hardly any scope for the opposition to set the agendas of the parliament. Specifically, two and a half hour has been allocated on each Friday for discussing the private members' business; but following the imperatives of governmental business, that can also be altered to any other day by the chair of the respective house in consultation with the leader of concerned house (Dash, 2014). In fact, the PMBs may try to bridge the gap, where the legislations have not been promulgated by the day. Although a voluminous amount of legislations, have been passed by the parliament, restraining the passage of PMBs is not a good sign. It is nothing, but eroding the credibility of Indian parliament.

Working of the DRCs

The departmentally related standing committees (DRCS) were introduced in 1993 to bring efficiency in the functioning of Indian parliament. These committees are empowered to make a perusal of legislations, policies and demand for grants of various ministries. The foundational objective of DRCS is to foster a comprehensive legislative participation and to make a supervision of the executive. But the efficacy of such committee system is getting straitjacketed. At the outset, it may be clarified that referring anything to the committee by the speaker of Lok Sabha, or chairman of Rajya Sabha for thorough examination, is not mandatory; and similarly, the recommendations of the committees are not binding upon the government, rather advisory in nature (Agnihotri, 2011; Kala and Roy, 2013; Madhavan, 2017). Take one instance, in the year of 2011, demand for grants were not sent to the committees for purpose of scrutinizing, and an alibi was provided that senior MPs were preoccupied with campaigning for their parties in run up to 5 state legislative assembly elections (Ibid, 2017). It is known that most of the committees' reports are not scheduled for discussion in parliament, if they are contrary to the interest of the government; but treated as superfluous, when they are

reflecting the stance of the government (Kapur and Mehta, 2006). During the period of 15th Lok Sabha, government had endorsed 54 per cent of the recommendations, and did not deliver its response for 12 per cent of cases made by the committees; while the DRCs got pleadged on its replies in 13 per cent of cases; and the government had rebuffed 21 per cent of responses (Madhavan, 2017). It is therefore propelling us to think up, if the reports are not tabled before the parliament, and the recommendations are not endorsed by the government, then there is no essence of reffering anything to the committee for its consideration. Unless we reinforce our committee system, it would lose its vitality, and fail to discharge its responsibility.

Promulgation of Ordinance

Apart from the aforementioned areas, in which the accountability of Indian parliament has been corroded, promulgation of frequent ordinances is another mechanism that may gradually be diluting its proficiency. Indian constitution under article 123, has bestowed the Ordinance-making power to the president, who is a de jure head of the executive. The substantive intention of delivering such power was to deal with unprecedented situations; wherein the legislations are deficit, and while both the houses of the parliament are not in session. But it was not intended to bypass the legislature, and to subvert its efficiency. Apprehending the dreadful consequences of ordinance-making power given to Governor General under articles 42 and 43 of Government of India Act 1935, in Constituent Assembly, members like Prof. K. T. Shah and Hriday Nath Kunzru had proposed for restraining the executive from promulgating ordinance (Burman, 2013). However, the views of both Prof. Shah and Kunzru could not get prevailed. Dr. B. R. Ambedkar articulated that the power of promulgating ordinance is essential to confront the unforeseen situation, since the existing legislations may not be sufficient (Ibid, 2013). In the course of time, ordinance route has been chosen an alternative option to enforce certain actions. Take some instances, the Telecom Regulatory Authority of India (TRAI) was formed in 1997, initially by an ordinance and subsequently got the approval of the parliament; likewise, the establishment of Electricity Regulatory Commission was made

through an Ordinance in 1998 (Ibid, 2013). It has sometimes been the case, even when the bills are getting stalled in the parliament, ordinances are kept introduced by the executive. For instance, Criminal Laws (Amendment) Ordinance 2012, and National Food Security Ordinance 2013 (Kala and Roy, 2013). Furthermore, we have noticed that the same ordinances being repromulgated for multiple times. The Indian Medical Council (Amendment) Ordinance 2013, and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance 2013 have been reintroduced for several times (Ibid, 2013). Another case may be cited here, aftermath of Bharatiya Janata Party (BJP) coming to power in 2014, it had endeavored to change the texture of RFCTLARR Act 2013 which was passed under Congress regime. For this purpose, it brought up the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014 on 31 December 2014. Following this, the RFCTLARR (Amendment) Bill 2015 was introduced before the Lok Sabha, and Eventually, that bill got passed by it amid huge ruckus in the house. After the consent of Lok Sabha, that bill placed in the Rajya Sabha for its passage. While the bill was debated in the upper house, government had repromulgated the same ordinance thrice viz. RFCTLARR (Amendment) Ordinance 2015 on 3 April 2015, and RFCTLARR Second (Amendment) Ordinance 2015 on 30 May 2015 respectively (Kohli and Gupta, 2016). Overall, the power of making ordinance is vested with the executive to encounter the unprecedented situations. Observing the promulgation and repromulgation of ordinances, the supreme court in D.C. Wadhwa v. State of Bihar has stated that in fact, enactment of laws is a function of the legislature. If the executive attempted to take over that power by promulgating ordinance and exercising its repromulgation, would be amount to subvertion of democratic process, and usurpation of legislative powers of the legislature by the executive (Para 6, D.C. Wadhwa v. State of Bihar, SCC Online, 1987). It has also enunciated that the executive can not bypass the legislature by using such emergency power. Despite of having this judgement, we have experienced the repromulgation of same ordinance for multiple times.

Plausible Reasons for The alteration of Accountability of Indian Parliament

Let's dissect the credible factors shortly, which may be responsible for the alteration of accountability of Indian parliament.

At the wee years of our parliamentary democracy, from 1952 to 1967, Congress party had a preponderance in states as well as at the centre. It has also a pre-eminent position in the parliament. During this period, parliament had experienced fair participation of MPs, sound debate amongst them, and with rare agitation in the house. Although the then opposition did not have majority of votes, but they had substantial arguments. The intrinsic reason for the better functioning of the parliament may be many of its leaders were nurtured within the british parliamentary nerms and edicates. However, the predominant position of Congress party came under challenge after 1967, and since, 1970s, the disruption became a regular practice. Subsequently, in post 1990s, parliament has suffered a serious decline due to arrival of a number of political parties into its princincts, and appearance of a fractured verdict from the electorates. It is needless to mention that parliament – the supreme legislature of the country got democratized, but rearticulation of diversified interests with a narrow objective of creating ruckus in the house has vitiated its responsibility. Scholar like Balveer Arora has pointed out that the periodically declining of Indian parliament is the ramification of its progressive democratization (Arora, 2003). Having saying this, it is underestimating neither the issue of democratization, nor the revitalization of multifarious interests. But the real matter is, those diverse interests can be addressed by alternative forums, and the technique of tumultuous disruption needs to be replaced by negotiation and deliberation. Thus, the laxity of these things have led to alter the accountability of Indian parliament on a downslide manner.

Another thing needs to be highlighted. The legislation on anti-defection enacted by 52nd constitutional amendment act in 1985 has aimed at circumscribing the political defection. It has made a provision that if any member inside the parliament or state legislature violates the direction made by his party, and may not cast his vote in comply with his party order, or abstain from voting will be disqualified from being a memver of

that house on the ground of anti-defection law. In fact, the objective is unambiguously stated, and will serve to fortify our democratic edifice. The supreme court in its judgement - Kihoto Hollohan v. Zachillhu 1992, has also upheld this act. It has enunciated that the freedom of speech granted to members of parliament or state legislature inside the house, is subject to restriction under articles 105(1) and 194(1) of the constitution. Hence, the disqualification of a member laid down by anti-defection law, must be envisaged as not transgressing the freedom of expression of a member (Para 122, Kihoto Hollohan v. Zachillhu, SCC Online, 1992). Further, it went on to clarify, if a member fails to adhere the direction of a party to which it belongs, in case of voting on a motion, that determines the stability or confidence of a government; and also, does not vote on certain key policies of a party on the basis of which the candidate got elected, would be considered as a dishonor to the faith of the electorates reposed by them (Ibid, 1992). This is one of the aspects of anti-defection law. Kindly take another side into consideration. Members of parliament or state legislature are primarily vested with the power to represent the interest of their constituencies, and to takepart on the discussion of various issues in the house. If the members will be tied with the dictation of their parties, how they can hold the executive accountable before the legislature, and deliberate on several issues with an implication to their constituencies. This is nothing but shifting the balance of power in favor of the executive. Members of the legislature instead holding the executive accountable, they are being held responsible to their respective political parties.

How the Accountability of Indian Parliament has been Bypassed by The Executive?

The supreme legislature of this country has not only been dismantled by its own member, but also by the executive. The prime intention of bestowing the power of promulgating ordinance is to deal with the exigent situation. Unfortunately, this power is often being misused to subvert the democratic process. One of such cases, I am encountering in my research is, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act 2013. This statute has embraced certain substantial features which are democratic and humanely in nature. This statute

was also extensively debated, and thoroughly scrutinized by the parliament. Despite the good deliberation on it, and assent of the parliament, the BJP no sooner come into power at the centre in 2014, has tried to change the texture of that act through ordinance. On 31st December 2014, it has promulgated the RFCTLARR Amendment ordinance in order to introduce certain changes to that legislation. It may be reminded that the supreme court in D.C. Wadhwa v. State of Bihar has stated that law making is a function of the legislature. But to take over that power through the promulgation and repromulgation of ordinance is nothing but bypassing the efficiency of the parliament. However, the perpetuation of such strategy has straightjacketed the accountability aspect of the Indian parliament.

Undoubtedly, the accountability of Indian parliament has been receiving an alteration. We are also familiar with the fact that whether this alteration is on its downslide, or trying to upgrade its standard. Both the treasury and opposition benches are culpable for this transition. Currently, parliament is getting hijacked either by government or opposition, which may have led to depreciate the value and responsibility of such premier institution. The continuation of this technique may no longer serve the actual purpose, rather keep the credibility of the parliament at stake.

Chapter 2

Introduction of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act 2013

The changing nature of the society demands, Indian parliament to be dynamic in its function and to refurbish its obligation for smooth functioning. It is deemed to be the progressive forum for the representation of citizens, recognition and rearticulation of their interests. After the enforcement of the constitution, it has been entrusted the responsibility to enact laws for the country. Although, we have successfully driven the colonial forces out of the Indian soil, we are still carrying out some of colonial legislations: repealed land acquisition act of 1894 was one of them. When this legislation was capricious for land owners,the problem of rehabilitation and resettlement was never addressed, redressing the grievances of the victims was at the discretion of district collector, and vested undue power over the state machinery, we could not do away with it forthwith. After independence, this act was remain in force until the right to fair compensation in land acquisition, rehabilitation and resettlement act of 2013 came into operation. It was persisted with successive amendments. Three major amendments were made to this in 1962, 1967 and 1984. The 1984 amendment was most extensive in nature wherein, 21 sections were amended, 5 sections were incorporated and 1 section was dropped (Ramesh and Khan, 2015). This amendment was brought in to annihilate certain ambiguities in original land acquisition act of 1894, and to endow some benefits to land owners. With respect to compensation, it was entitled to proffer generation and payment of interest, computed from the date of first notification under section 4 came into notice, until the date of granting award or acquisition of lands whichever came earlier (section 4a, LA Amendment act, 1984). It had augmented the payment of solatium of 15 per cent to 30 per cent. It has amended the provision of issuing declaration of intention for acquiring some portions of lands by acquiring authority from three year to one year, since, the date of publication of first notice under section 4;otherwise, the same would be considered to have relapsed (Section 6, LA Amendment Act, 1984). This amendment act

has further prescribed a time frame of two year, within which the timing of acquiring lands and issuing awards would be made following the proclamation of section 6. Previously, the land owners had remained in horror, when that land was supposed to be procured or acquired. It has directed the acquiring authority to publish "section 4 notice" in two local news papers, one of them must be in vernacular language.

Though the 1984 amendment attempted to modify certain provisions of original land acquisition act of 1894 with a view to make more humane and accessible, that was hardly feasible. The standing committee of the parliament had sagaciously looked into the matter and descried that the 1984 amendment has liquidated the divergence between acquisition of lands for public purpose and private enterprise or state enterprise. By amending the section 4 of original legislation, it inserted the word (Company) along with the public purpose (Ramesh and Khan, 2015). It had proliferated the hand of the state to acquire land for private company, which eventually resulted much rural and tribal backlash against this. Moreover, it generated a sense of havoc in the minds of citizens. This was initiated to carry forward the developmental agendas, putting the lives of land owners in a perpetual trepidation. Following the rapacious nature of land acquisition, some of significant popular movements was flourished. Such as, Narmada BachaoAndolan was occurred with a aim of seeking justice and rehabilitation for displaced families as a consequence of acquisition of lands for constructing Sardar Sarvor dam over Narmada river; the tarapur agitation developed on the ground of land acquisition for Tarapur atomic project; Nandigram violence erupted ensuing forcible land acquisition from farmers; and most essentially Singur agitation in West Bengal came into centre stage when Buddhadeb Bhattacharya led CPI(M) left-front government in 2006 acquired a 1000 acres of lands from peoples for allocating it to Tata Motor to install Tata Motor Nano Car factory and so on. These cases have received the national attention for their rrelevant reasons, but could not yield substantial results. However, they acted as a bulwark against the arbitrary nature of the state. Subsequently, they set up as a precedent for persuading the state authority to introduce Right to fair compensation in land acquisition, rehabilitation and resettlement legislation.

Prior to proceed into land acquisition act in detail, it would be judicious to ask who is the competent authority to enact legislations on the subject of land acquisition. Indian constitution has listed out land is a state subject which designates that state is the competent authority to make laws in this regard. However, the item acquisition and requisitioning of property enumerated in the entry 42 of concurrent list wherein, both centre and state are qualified to enact laws (Seventh schedule of Indian constitution). For the purpose of constructing buildings and roads, setting up industries, constructing dams or installing hydro-electric projects and so on; land is a prime necessity. Since, a huge number of national projects like building of railways, highways and atomic projects; and construction of defence related apparatus are of the interstate in nature and pledged for the development of India as a whole; the framer of the constitution have vested the power of promulgating laws to acquire lands on the centre (Ramesh and Khan, 2015). Thus, it may be illustrated that though land is a state subject, it is not an encroachment on the part of the centre to make laws on the subject of acquiring land. Here another question is revolving that how centre is authorized to make laws pertaining to rehabilitation and resettlement. Entry 97 of union list clarifies that any other items which are not specified either in state list or concurrent list; is an apparent gesture of residuary power. Unlike in USA., The framers of Indian constitution have attributed residuary powers in the hands of the centre. Since, the issue of rehabilitation and resettlement is emergeing out of displacement due to land acquisition, and is not mentioned in any other lists, it is understood that central government could evoke residuary power to enact legislation in this regard (Ibid, 2015).

In this chapter, I would like to sketch out the key provisions of right to fair compensation and transparency in land acquisition, rehabilitation and resettlement (RFCTLARR) Act 2013. It is a recurring theme to which entire analysis is sticking, why central government went on to enact a fresh legislation on land acquisition in 2013 despite of having a parallel colonial legislation of 1894? Another perennial question needed to be asked whether the 2013 land acquisition act has the provision of fair compensation, and proper rehabilitation and resettlement measures? Finally, this chapter

would spell out why central government under the dispensation of BJP made an attempt to bring an amendment to this legislation towards the end of 2014 via ordinance?

Key Provisions of RFCTLARR act 2013

In the 67th year of Indian independence, we witnessed one of the monumental legislations namely, Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) act 2013 was enacted by the parliament. This legislation itself suggests that it has persuasive provisions on fair compensation, and appropriate measures relating to rehabilitation and resettlement; which were unnoticed in the preceding legislations , and even in the parent act of 1894. After prolonged debates and discussions among various parliamentarians, civil servants, administrators and social activists this act came into existence on 5 September 2013, and subsequently remained in force since January first 2014. It repealed the colonial legislation on land acquisition act of 1894 forthwith. For this, the land acquisition rehabilitation and resettlement bill 2011, was introduced before lok Sabha on 7 September 2011. Prior to this, two similar bills were introduced in 2007, but that stood lapsed due to the dissolution of 14th Lok Sabha. However, the land acquisition rehabilitation and resettlement bill 2011 then refered to the standing committee on 13 September 2011 for getting more scrutiny and thorough examination. The committee delivered its report in May 2012. After obtaining extensive consultation and deliberation, LARR bill 2011, and along with the right to fair compensation and transparency in land acquisition, rehabilitation and resettlement (RFCTLARR) bill 2013 was introduced before Lok Sabha on 29 August 2013. After receiving the signature of Lok Sabha, that was introduced in Rajya Sabha on 4 September 2013. Rajya Sabha delivered its approval to this bill with certain amendments. Then the amended bill again sent back to the Lok Sabha for its approval. Fortunately, this house gave its consent on 5 September 2013. This monumental legislation brought a shigh of relief to land owners. Its predecessor, the land acquisition act of 1894 which had bestowed unbridled and unrestrained authority over state machinery to acquire land forcibly even neither offering fair compensation nor taking the issue of rehabilitation of

land owners into account came to an end (Ramesh and Khan, 2015). This anomaly was wiped out by the new act. Under the land acquisition act of 1894, compensation was provided on the basis of market price. Though, it appears to be attractive, but due to poor land record management and gross erroneous value of the lands, owners were severely affected (Ibid, 2015). This new act indeed has a fair and reasonable provision, what I shall discuss on the latter. Sub-section 2 of section 2 of RFCTLARR Act 2013 clarifies that the prior consent of affected parties is prerequisite for acquiring land. If the project is being held through public private partnership, the consent for acquiring land would be 70 per cent. In case, the land is acquired for private company which will serve for public purpose, the consent would be 80 per cent. This act further made a provision for rehabilitation and resettlement, which was never addressed in land acquisition act of 1894. Apart from this, this new act recounts the essence of social impact assessment (SIA). It refers to ascertain how many persons are being affected by the project, where land is supposed to be acquired. However, this vital aspect was entirely absent in former act. Earlier the beneficiaries who were compensated, were only the land owners, but as a matter of fact, the persons who were dependant on that land remained in appalling condition. This historical injustice was persisted so long, which demanded for course correction. The RFCLARR Act 2013 has taken this issue into consideration. It has encompassed boaththe beneficiaries who will be compensated are land owners and whose livelihood rely upon that land. Moreover, this new act has also made a provision regarding food security.

Despite this act is having a huge number of fair provisions, it is not immune from criticism. Critiques anyway associated to the wide explanation of public purpose, whereas industrial bodies were apprehensive that the process of acquiring land would be time consuming and very costly under the RFCLARR Act 2013 (Kohli and Gupta, 2016). It is worthwhile to mention that this enduring criticism from corporate sectors was a steering wheel for NDA-Led BJP government to put forth an amendment in RFCTLARR Act 2013. As a consequence, BJP government brought an ordinance on 31 December 2014 in this regard. Prior to this, an all states meeting was convened by then union minister for rural development Nitin Gadkari to have a discussion on the provisions

of RFCTLARR Act 2013, where it was proposed that a numerous phenomenal changes would be introduced through an amendment (ibid, 2016).

Land is the keystone for the development of infrastructures. To carry out developmental agendas, state/government must be allowed to acquire land. The process of acquisition needs to be fair and reasonable. Unlike archaic land acquisition act of 1894, RFCTLARR Act 2013 has contained some eye-catching provisions. Let's go into detail.

Priliminary Notification

Under chapter 4 and section 11 of RFCTLARR Act 2013,it has specified that when land is supposed to be acquired for a public purpose in a particular area, the appropriate government would be obliged to issue a detailed notification in this regard. The notification shall be published in government gazette, two daily news paper of that region either of which needs to be in vernacular language, in the offices of panchayat, municipality, municipal corporation, and to be uploaded in the appropriate government website (Section 11, RFCTLARR Act, 2013). If the situation demands that it may be reported in the offices of Tehasil, sub-divisional magistrate, and in district collectorate. After the notification is out, its contents shall be spelled out in detailed to the concerned Gram Sabhas, municipalities, and autonomous councils if that region is coming under the purview of the six-schedule of Indian constitution. This notification shall comprise a statement expressing the nature of public purpose, grounds of dislocation of affected persons,an outline of social impact assessment report and regarding the administrator appointed to discharge the task of rehabilitation and resettlement (Section 11(3), RFCTLARR Act, 2013). Moreover, land record requires to be updated by the collector within the stipulated period of two months, after the notification made to public under sub-section 1 of section 11. It has to be carried out prior to make a declaration under section 19 of the same act.

Social Impact Assessment

Social impact assessment (SIA) for the first time was incorporated in right to fair compensation and transparency in land acquisition, rehabilitation and resettlement (RFCTLARR) Act 2013. It has endeavored to address the issues and concerns of land owners as well as the peoples who are the dependant on that land. Land issue as vital as the survival of human life is concerned. Its acquisition has to be reasonable and fair. Otherwise, flawed acquisition would lead to degradation by putting thousands of lives in a sense of horror. As we are exceedingly concerned for environmental protection, and subsumed environmental impact assessment (EPA) prior to the inauguration of a project, we must pay a heed to the lives of human beings on the same account. Utmost emphasis requires to be given to the lives of affected persons at the cost of any industrial projects. Chapter 2 of RFCTLARR Act 2013 has contained a detailed provisions regarding social impact assessment. Such a humanitarian feature is absolutely absent in archaic land acquisition act of 1894. Under section 109 (1), of RFCTLARR Act 2013, the appropriate government, state/centre is empowered to make rules to carry forward certain provisions of the act including social impact assessment. Infact, social impact assessment (SIA) refers that how many persons are going to be affected by the project where land would be acquired. Further, it would examine the lives of affected persons at the expense of cost and benefit of the project. Previously, the beneficiaries who were compensated, were merely the land owners, but this new act has brought some changes to it. It has listed out land owners as well as the persons who have been relying upon that land. No project which defines public purpose cann't be moved forward without obtaining the SIA report; unless, that project is corresponded to defense and national security. In other word, SIA would merely be applicable at the time of acquiring land for public purpose.

Social impact assessment is a broader idea, which have been carrying the attention of the public. It has been carrying out to assess the repercussion in conflict-prone regions. On the other hand, world bank is using social impact analysis to identify the extent of their poverty reduction schemes, and world health organization has been employing it in order to perceive the environmental concerns (Ramesh and Khan, 2015).

However, in India, a study on social impact assessment had been granted under ministry of rural development, and to be discharged by the council for social development (Ibid, 2015). This allegory has assisted the draft legislators to incorporate some SIA features.

The foremost intention of carrying out the process of SIA is to ascertain the societal significance. When the appropriate government is proposed to acquire a particular land, it has to be enforced via social impact assessment. SIA has to be conducted for such items as specified in the section 2 of RFCTLARR Act 2013. Notwithstanding this well articulated provision, section 9 has spelt out that SIA would be exempted when the appropriate government is sought to acquire land for national security or defence of India or any emergency mounted as a consequence of natural calamities or else, by citing the urgency clause under section 40 with the consent of the parliament (Section 9 and 40, RFCTLARR Act, 2013). And also, in case of irrigation project, where environmental impact assessment is so vital, the sections pertaining to social impact assessment shall not be applicable. SIA has to be carried out through the process of consultation with concerned Panchayat at village level, and municipality and municipal corporation at the ward level respectively (Section 4(1), RFCTLARR Act, 2013). The notification in this regard shall be published in vernacular language. While laying out SIA study, the appropriate government shall guarantee to have a public hearing in the affected region. It must be held after widely informing the timing, date and venue to the affected peoples. Due representation must be provided during the process of the SIA study. Further, this new act elucidates that SIA study needs to be concluded within the period of 6 month from the date of its inception. In order to fructify this, it has subsumed an attractive provision. Section 14 elucidates that social impact assessment report would be relapsed within a stipulated period of 12-months, if it was not executed. Consequently, a fresh SIA shall be undertaken before to proceed to acquire land.

Given the wider interpretation, substantial impact, and perennial necessity; it would be a meticulous exercise that what requires to be embraced in SIA study. Section 4(4) has listed out– whether the intended land acquisition is administering the public purpose; appraisal of how many families are going to be affected as well as dislocated;

estimation of affected public and private dwellings, settlements and other common properties; whether the land acquisition at another place has been pointed out, but appeared to be unfeasible; and the costs and benefits of the project (Section 4(4), RFCTLARR Act, 2013). Apart from this, the assessment report has to take into account the other components as specified in section 4(5) in order to identify social impact assessment.

Subsequently, a question is striking, who would scrutinize the social impact assessment report, or it would be a sole excersise by bureaucrats? The perusal of SIA report to be made by an independent expert group. This expert group shall be formed by – 2 non-official social scientists; 2 representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation; 2 experts on rehabilitation; and a technical expert on the subject pertaining to the project (Section 7(2), RFCTLARR Act, 2013). A person may be nominated from amongst its members as the chairperson of the group. It is notified under section 7 (4) and section 7 (5), if the expert group is of the view that the specified project does not administer public purpose, or social cost and adverse social impact overshadows the greater advantages and vice versa, it would give its recommendation in writing within the stipulated period of 2 monts of its commencement. The report may be in favor or opposition of the project. If the expert group is not in its favor, it can recommend to relinquish the project forthwith, and no more steps to be taken to acquire land. However, Despite of having such recommendations the appropriate government can move on to acquire land by citing bonafide public purpose, and justifying the greater vantages would stand to surpass the social cost and adverse social impact. Thus, it can supposedly be stated as, the stubborn nature of the government may dilute the essence of SIA report submitted by the expert group. In responding this criticism, Ramesh and Khan have contended that delivering so much power to an unelected non-executive group to approve or disapprove an administrative decision is highly exorbitant in nature (Ramesh and Khan, 2015). Anyhow, there must be a middle ground to deal with such hectic situation. Neither the appropriate government nor the expert group should be entrusted with undue power to exceed over others. Unless we fortify this mechanism, the meaning of SIA study would be futile.

Prior Consent

The prior consent of affected land owners is indispensable in carrying out the process of land acquisition. Consent is necessitated, when the appropriate government is sought to acquire land for (public purpose) as enumerated in section 2 (1) of RFCTLARR Act 2013. Section 2 (2) of this new act has a conspicuous interpretation on prior consent. Contradictorily, land acquisition act of 1894 has conferred unbridle authority to state machinery to acquire land forcibly even ignoring the consent of the affected land owners. To clarify, section 5A of this archaic act has intended that the affected party can make objection in writing to the collector, and the objector must be allowed to be heard, but the collector is not obligated to take those demands into consideration (Section 5A, LA Act, 1894). In fact, the demands are nonjusticiable, and nothing has been provided in this act to ensure substantive consultation and constructive negotiation with affected parties to usher the process of land acquisition (Ramesh and Khan, 2015). The new act has a specific provision to ascert the consent in unambiguous manner. In case, the land is acquired for private company the prior consent of around 80 per cent of affected families, and in case, land is acquired for public private partnership projects the prior consent of at least 70 per cent of affected families has to be obtained (Section 2(2), RFCTLARR Act, 2013). Here, a perennial question may be asked that why so big number is necessary? The reasons may be;

Firstly, the requirement of consent needs to be high in number, hence it can't be favorably manipulated; and

Secondly, it would conform the willingness of greater mass who are going to be affected by commencement of the concerned project, therefore, it will not create a stumbling-block in the way of execution (Ramesh and Khan, 2015).

It is also stated that the process of securing prior consent has to be carried out in conjunction with SIA study. No consent is required, when the land acquisition will be made for defence of India or national security or any crisis cropped up due to natural

calamity. The consent would be produced not through force or intimidation rather by deliberate consultation. It is worthwhile to mention that the prior consent is solicited not only from the land owners but also from the peoples whose livelihood have been banking upon that land. If the land owners were merely asked, the proper justice might not have administered. This factor therefore was taken into account while framing the legislation.

Fair Compensation

Fair compensation is an exquisite provision in the RFCTLARR Act 2013. The quantum of compensation requires to be high and fair in order to satisfy the needs and necessities of affected persons who are subjected to displacement in the wake of land acquisition. Though someone's possession over its own land can never be underestimated, its acquisition can be addressed by attractive remuneration. According to land acquisition act of 1894, the quantum of compensation which was to be disbursed, was figured out from case to case, and was based on market price of the land (Kohli and Gupta, 2016). It may prima facie appear to be good, but was pervading gross injustice to the land owners indeed. The cause of poor land record management and under reporting of value of land by purchasing party had led to the distortion of market rate of the land (Ibid, 2016). It is worthwhile to mention that market price was not fixed. Subsequently, a perennial question is striking, how the market value was determined at that point of time? Market value of a property was an amount what a private client was expected to give, where the land owner could disagree with it. There were three factors that had led to determine the market value. Such as, firstly, the price at which the land was taken, or any part of it has sold on previous occasions; Secondly, the present rental of property which may be capitalized at so many years' purchase; And thirdly, the price at which similar land in the neighbourhood has been sold (Ramesh and Khan, 2016, pp. 49-50). In fact, the idea of fair compensation was quite absent in old land acquisition act, because the compensation under this act was defined on the basis of market rate; but the market rate, as embedded on the record was indeed lower than the actual price of the land. Contrarily, the RFCTLARR Act 2013 has devised an agreeable formula for compensation. It must be elucidated that the market value as defined under the former act was not uniformly in

nature. So that the foremost objective of new act is to fix up the deficiency of the market value.

Section 26(1) of the RFCLARR Act 2013 entitles that the Collector shall take the following criteria to assess the market value of the land:

Firstly, the market price as laid down in the Indian Stamp Act 1899, under which an item can be sold. It needs to be assessed in the area, where the land is located. Or

Secondly, the average selling cost for similar kind of land in the neighboring regions; Or

Thirdly, consented quantum of compensation of affected parties (Section 26(1), RFCTLARR Act, 2013). It is an obligation of land acquisition officer along with the concerned court to decide the actual payment of compensation for acquiring land by the date or the day itself, when the notification would be published under section 4 of this act. To clarify, any amount awarded as a compensation for the acquisition of land on previous circumstance in a district under the new act, must not be picked up as a base for the further acquisition in that region. The convincing formula devised by this new act may be, the market rate requires to be multiplied by a fixed number (Multiplying factor), and next, a solatium would be imposed at the arrived value (Kohli and Gupta, 2016). As per the procedure, the market rate has been stipulated- four times in rural area and two times in urban area respectively. Moreover, the fixed number set to be decided by the appropriate government, in consonance with the provisions of RFCTLARR Act 2013. Subsequently, the issue of solatium has become one of its integral part. Solatium was not pioneered for the first time in 2013 act, it was also enshrined in the repealed land acquisition act of 1894. Initiating an amendment to the outdated land acquisition act 1894 in 1984, the amount of solatium was raised up to 30 per cent. Since, 30 per cent was a tiny amount on the eyes of forcible acquisition, it was persuasively augmented into 100 per cent in RFCTLARR Act 2013 (Ramesh and Khan, 2016). The amount which shall be paid to the affected persons, stand to attract 12 per cent of interest rate per annum till its actual payment. Hence, the notion of fair compensation was properly addressed in the new act.

Provisions for SCs and STs

Another far reaching provision of this act is to give focal attention to the scheduled Castes and Scheduled Tribes. Section 41 and 42 of RFCTLARR Act 2013 have especially devoted to safeguard their interests. It specifies that no land shall be acquired in the scheduled area as far as feasible in the first instance, but can be obtained as an ultimate resort. If any acquisition of lands call for mandatory displacement of SCs and STs, a congenial habitat shall be developed for them, along with furnishing all other rights including forests and fishing what they had enjoyed before. It is worthwhile to mention that the prior consent of appropriate bodies like Gram Sabha, or Panchayats, or autonomous district councils is a precondition for acquiring lands (RFCTLARR Act, 2013). Moreover, this legislation also requires that if the land is taken over from SCs and STs, a minimum one-third amount of compensation shall be paid as the first instalment and other could be delivered on the latter. Since, the SCs and STs are the most vulnerable section of the society, their interests should be revitalized.

Urgency Clause

Urgency clause was the most draconian section of land acquisition act 1894. What constitute the framework of urgency was vaguely defined in that act. But it had bestowed unbridled authority to the district collector to acquire land on the ground of unforeseen emergency. However, the greater autonomy to him, and lack of restrictions had further diluted the faulty legislation. Such kind of error was rectified in the new act. It may be acknowledged here, the urgency clause should be there to deal with the exigent situation. But its usage should be invoked when there is genuine emergency. Keeping this thing in mind, the urgency clause was inserted under section 40 of RFCTLARR Act 2013. This was confined into national defence or security of India, any crisis emerging out of natural calamity, or any other emergency with the consent of the parliament (Ibid, 2013). It may be elucidated that the term any other emergency which is associated with urgency clause, can not be misused; because that needs the prior-assent of the parliament. Apart from this, this act mandates that prior to take over the land, the collector has to pay 80 per cent of the amount of compensation as convinced by the aggrieved parties. Unlike in other

cases, when the land acquisition is made by citing urgency clause, the procedures namely – SIA, Public Purpose, provision on protecting food security, R&R Package, and etc. would not be applied, if the government may notify in this regard (Ibid, 2013).

Retrospective Clause

Section 24 of RFCTLARR Act 2013 spells out the retrospective clause in detail. It refers the application of 2013 law into the land acquisition cases which have already been set out under the Land Acquisition Act 1894. Given the wider anticipation of the people, it was realized that if the 2013 law would not be applied into certain foregoing cases, it may lead to the gross violation of principle of natural justice (Ramesh and Khan, 2015). The 2013 law has put certain conditions to which this act can be applied –

Where the process of land acquisition has already been started under the land acquisition law of 1894, but no award has been made, then the provisions of RFCTLARR act 2013 with regard to compensation can be enforced;

In case, the award has already been passed under the land acquisition act of 1894, then the proceeding of land acquisition would be carried out under the same law;

Where the process for acquiring land has already been set in motion through the land acquisition law of 1894, and the award has been passed under the same law five years or more earlier to the enforcement of RFCTLARR act 2013, but that land has not been actually obtained, or the compensation is still to be paid, then the concerned land acquisition proceeding stands to be set aside;

Where the award has been passed under the previous land acquisition act of 1894, but the payment has not been deposited in the accounts of majority of land occupiers, then those recipients are designated to get compensation as per the 2013 law (Section 24, RFCTLARR Act, 2013). In fact, the retrospective clause enshrined in the RFCTLARR act 2013, was upheld by supreme court in Pune Municipal Corporation v. Harakchand Solanki case 2014. The supreme court in that judgement has clarified that the compensation would be considered as paid, if it has been extended to the concerned

persons, and that amount of compensation has been deposited before the court (Para 17, Pune Municipal Corporation v. Harakchand Solanki, SCC On line, 2014).

Rehabilitation and Resettlement

Rehabilitation and resettlement is considered to be the very foundation for the survival of human beings. Development provokes displacement; since, all developmental works may rely upon the bedrock of land, where the lives of mankind, and its bread and butter are highly entrenched. Developmental initiatives must not be carry forwarded at the expense of thousands of innocent lives, and by setting aside their genuine concerns. It has to be initiated through a deliberate consultation and negotiation with them. The displaced peoples should be informed that they are happened to accrue the benefits arising out of the upcoming project. In a democratic state, we have to protect the the legitimate rights of all citizens, including the dispossessed persons. Yes! We would generously appreciate the urbanization and industrialization, at the same time, we have to be concerned for the affected persons also. The stubborn nature of state machinery very often has dismantled a thousands of lives by taking away their lands. Take the case of Sardar Sarovar Dam. The construction of Sardar Sarovar Dam over Narmada river has been completed, and itsdedication to the nation's development has been celebrated, but the issue of rehabilitation for affected persons remains unaddressed. The supreme court in its order dated on 8 February 2017, said that the persons who are the land holder should be paid Rs. 60 lakh, and in case, those were previously awarded an insufficient amount, be paid Rs. 15 lakh (Patkar, 2017). It has further directed that all requirements mandated under the law shall be accomplished in the resettlement cite by June 2017. However, it is imperative to refer here, the state and grievance redressal authority are yet to execute their task but have been contending that the persons who are about to evict, should have departed their land by July 31st2017 (Ibid, 2017). When the qualified persons are not received their due, and the rehabilitation cite are not fully-prepared, how would they depart their own land is a question for us. Is it not legitimate to ask that their rehabilitation related issues should be addressed prior to the completion of acquisition of land? It may be pointed out, the developmental process can not be justified on the

account of this traumatic experience. Given this fact into wider attention, it may be ensure that development is preceded by the displacement. Hence, the development, and rehabilitation and resettlement should go hand in hand.

Rehabilitation and Resettlement for the displaced persons is an inclusive provision in RFCTLARR Act 2013. It may be, the additional requirements viz. survival and settlement, other than the financial compensation to be awarded to the affected persons. Following the rampant displacement, and in the absence of any central legislation on rehabilitation and resettlement, the life of the affected peoples had been subsisted in a perpetual trepidation. To ameliorate this age-old problem, government of India for the first time generously recognized this issue in national policy on resettlement and rehabilitation for project affected families 2003 (Ramesh and Khan, 2015). However, taking into account, united progressive alliance-1 (UPA) again formulated a national policy on resettlement and rehabilitation 2007. In the light of persisting necessities from the public, the same government went on to draft a legislation on this. The issue of rehabilitation and resettlement was previously founded in a policy document, but subsequently introduced as a bill before Lok Sabha in order to get legal backing. Rehabilitation and resettlement bill was introduced in 2007 before Lok Sabha, and got passed, but then lapsed due to the dissolution of 14th Lok Sabha in 2009 (PRS, 2017). However, this thing assisted the framers further introducing "Rehabilitation and Resettlement" in RFCTLARR Act 2013.

Chapter V, schedule 2 and 3 of RFCTLARR Act 2013 have contained a comprehensive provision on rehabilitation and resettlement. Let's go into detail. Schedule 3 has enumerated as follows:

With respect to housing: If a family is losing its house in rural area due to land acquisition, it must be provided a constructed house on the basis of Indira Awas Yojana. In case, a family is subjected to loss a house in urban area, it shall be delivered a constructed house which size must not be less than 50 square metre in a plinth area. There is also a provision if any affected family which does not hold land, but can prove that they have been residing there not less than three years prior to the notification is out

for acquisition, must be provided the same. To clarify, if any affected family either in rural or urban area may not prefer to take that house as offered by concerned authority, may be awarded equivalent price of that house in place of constructed one, and shall be offered one time allowance no less than 1 lakh 50 thousand respectively. Further, there is a cap placed by this act, the affected family must not be allocated more than one house.

With respect to land: When affected family would lose its agricultural land on account of acquisition for irrigation project, or whoever would be dwindled into the rank of marginal farmer as a result of dispossession or landless, must be provided not at least 1 acre of land in place of compensation, at the command region of the project. If the land loser is belonging to SCS and STS, then corresponding amount of land or two and a half acre of lands, whichever is lesser to be paid. It may be emphasized that certain states made their apprehension with regard to the allocation of landin exchange for land. They contended as, it would be a stupendous task for them to get a great deal of lands to dole out for the purpose of assuaging rehabilitation and resettlement (Ramesh and Khan, 2015). It was henceforth concluded that the affected family should be rewarded either land or compensation, but not the both (Ibid, 2015). And also, land would be kept as an alternative, in case it is founded.

With respect to affordable land: Around 20 percentage of developed land would be retained out of acquired lands, if that is made for urbanization, and will be served to the land holding families who might be displaced by the specific project, in proportion to their land. If the concerned family may prefer to take that land, the corresponding amount then requires to be subtracted from the paid compensation amount.

With respect to employment: The appropriate government should extend three alternatives to which the affected persons can opt anyone. Firstly, if jobs are generated as a consequence of that project, the acquiring authority would ensure employment, one person per family at a cost not less than the minimum wages, as defined under the available law, or to arrange similar jobs in correlated projects; [Training and skill development facility shall be delivered by acquiring authority] or

Secondly, Rs. 5 lakh to be provided as a onetime payment per affected family; or

Thirdly, annuity policy i.e. at least Rs. 2,000 per affected family to be delivered for a period of 20 years (Schedule 2 of RFCTLARR Act 2013).

With respect to other financial grants: The act mandates that every affected families, in case of dispossession from their land, should be rewarded Rs. 3,000 per month, as a subsistence package for a duration of one year. It shall be commenced from the day of award. Furthermore, the SCs and STs, if they are dislocated from the scheduled region, must be offered equal to 50 thousand. They should be settled down in such a area, where they can preserve and promote their culture, language, community living and economic necessities. Apart from this, the affected families should be remunerated around 50 thousand for transportation charges, and those having petty shop and cattle to be awarded not less than 25 thousand, as appropriate government would take a decision in this effect (Ibid, 2013). Finally, it may be illustrated as, every affected families should merely be awarded not less than 50 thousand for the purpose of resettlement. On the other hand, all the requisite infrastructural facilities are to be fortified, and congenial atmosphere to be generated in the resettlement area, as preconditioned under the act (Schedule 3, RFCTLARR Act, 2013).

It is vital to accentuate here, the land acquisition should be commenced after ensuring due compensation, and providing requisite rehabilitation and resettlement measures. It is also stated that if land is acquired for irrigation and hydel project, the rehabilitation and resettlement should be fulfilled 6 months prior to the possession of the land (Section 38, RFCTLARR Act, 2013). Apart from this, no land would be acquired in the scheduled regions, unless the exceptional situation arises.

Food Security Safeguards

The 67th years of independent India witnessed the passage of another monumental legislation namely, national food security act 2013 by the parliament. Chapter 3 and section 10 of the RFCTLARR Act 2013 has contained a special provision regarding food security. That act restrains to acquire irrigated multi-cropped land. It may be acquired at extraordinary circumstances, as a demonstrable and ultimate option. Such acquisition must not be exceeded the limitation, as notified by the appropriate government. In case of

acquisition, the corresponding amount of lands to be developed for agricultural purpose. Or equivalent amount of the acquired land to be deposited before the government for upgrading food security.

RFCTLARR Amendment Ordinance 2014

After answering two questions, what I put forwarded before, let's move on to third question. Why the central government under the dispensation of BJP attempted to bring an amendment to RFCTLARR Act 2013, via ordinance?

After BJP coming to power in 2014, it made a high pitch for the amendment of RFCTLARR Act 2013. It viewed that the procedure for land acquisition under the 2013 law is highly complicated and nearly infeasible, which would stalemate the developmental process (Jaitley, 2015). The corporate and business bodies also questioned the structures of this law, and contended that it would slow down the process of land acquisition, and dissuade the investment temper (Kohli and Gupta, 2016). It would bring a halt to the Delhi and Mumbai Industrial Corridor (DMIC) projects, sluggish the manufacturing sectors and discourage the intended urbanization across the country (Kumar and Kumar, 2013). There was an argument; the social impact assessment of the project and the prior consent from affected families would generate serious red tapism. Moreover, section 105 (1) of RFCTLARR Act 2013 entitles that this act will be inapplicable to the land acquisition related legislations as enshrined in the 4 schedule. But section 105 (3) of the same act on the other hand, contends that the central government, within one year of the enforcement of this law, by issuing a notification shall direct the provisions with respect to determination of compensation and rehabilitation and resettlement, which would be applied to the existing land acquisition related legislation, as mentioned in the 4 schedule (Section 105(3), RFCTLARR Act, 2013). The then union finance minister Arun Jaitley contended that the proposed notification needs to be placed before the floor of the parliament for a period of one month in order to get its consent. Since, 31st December 2014 was the final day for such notification, and the central government decided to amend section 105 of RFCTLARR Act 2013 accordingly, an

ordinance was brought forth (Jaitley, 2015). That was RFCTLARR Amendment Ordinance 2014.

Let's see what is RFCTLARR Amendment Ordinance 2014 in detailed. Section 10A of the RFCTLARR Amendment Ordinance 2014 has exempted certain category of projects from the prior consent, social impact assessment, public hearing and restriction on acquiring multi-crop irrigated lands, which were enshrined in the RFCTLARR Act 2013, and became conspicuous features of that act. These projects are national security and defence of India; rural infrastructure comprising electrification, affordable housing and housing for the poor people, industrial corridor; and social infrastructure projects comprising public private partnership (Section 10A, RFCTLARR Ordinance, 2014). The urgency clause was previously confined into national security or defence of India, but this ordinance has extended it towards a wider category (Ramesh and Khan, 2015; Verma, 2015). Since, most of land acquisition is coming under these classification, as demarcated in section 10A of RFCTLARR ordinance 2014; it would dilute the speciality and essentiality given under RFCTLARR Act 2013. This ordinance has merely talked of land owners, leaving the lives of peoples who are dependant upon that land in a perpetual horror. It is not premature to conclude, the full-fledged operation of this ordinance would lead to large scale land acquisition, and fortify the arms of state machinery. The process of development can not be carry forwarded at the expense of legitimate interests of the affected parties. Apart from this, 13 land acquisition related enactments were exempted from the application of RFCTLARR Act 2013, were incorporated in this ordinance. The 2013 act per se, suggested that the provisions pertaining to compensation and rehabilitation and resettlement would be made applicable to the existing legislations mentioned in the 4 schedule of the same act, within one year of its enforcement. It would be done through a notification by the central government. In order to ensure the greater accountability, it was specified as, if any offense occurred in the course of implementation of the act, the head of the department shall be punished accordingly, unless that person delivers a credible evidence by refering, that offense is committed without his acquaintance (Section 87, RFCTLARR Act, 2013). Nevertheless, this was undermined by the latter. Now, the defaulting officers are protected by the ordinance, any

prosecution against them requires the prior sanction of the appropriate government. It is worthwhile to point out, the section dealing with return of unutilized land to the land owner or land bank of the appropriate government has been vitiated. The earlier act mandated that if the acquired land has not been used for a term of 5 year, the same should be restored to the appropriate government or land owner. Contradictorily, the ordinance substituted this provision with 5 year or whichever is more. Along with this, the ordinance also replaced the term private entity with private company,which was not enunciated in the 2013 act. Last but not least, the land acquisition was ruled out under parent act of 2013 for private hospitals, private educational institutions and private hotels (RFCTLARR Act, 2013), but these were incorporated in the ordinance.

In a nutshell, it may be elucidated that the foremost intent of RFCTLARR Amendment Ordinance 2014 is to initiate developmental agendas. Land has been considered to be the very foundation of the development. Keeping the complicated procedures of RFCTLARR Act 2013 in mind, an ordinance was introduced to speed up land acquisition. Having saying this, it can be pointed out that development should not be carried out at the cost of legitimate interests of affected parties. It should rather, find out a middle ground to arrive at the solution.

Chapter 3

Parliamentary Debate on LARR Bill 2011

In India, we conceive parliament as the monumental institution of democracy. It commands due respect and greater admiration. It is the upholder of democratic ideas and have a commitment towards the welfare of its citizens. It is also entitled to act in accordance with the constitutional principles to accomplish people's aspiration as well as their necessities. This institution therefore requires dedicated public spirited functionaries who can work with greater sincerity, and become sensitive to the societal problems. This is the forum wherein every issues of national interest can be discussed, debated, and arrived at a conclusion via consent and negotiation. The parliament has been empowered by various mechanisms to check the capricious behavior of the executive. Needless to say, when parliamentary methods faile to discharge its task, the MPs especially from the opposition benches try to resort the extra-parliamentary methods to force the government be responsible towards the pressing demands. Most of times, such kind of modus operandi has brought out disastrous consequences. It is happened due to the adamantine attitude of the government. Suppose, the opposition parties wish to hold a discussion on certain topics, if the government will not pay a heed to their demands, then this kind of situation would befall. Apart from this, civil society movements in conjunction with political parties have also paved the way for executive accountability. One of such issues I am encountering in this chapter is land acquisition in India.

The genesis of land acquisition legislation in India may be traced back to the colonial era. First such statue was enacted by british government in 1824, which is refered as Bengal resolution I of 1824. It was enforced in the entire Bengal province on the matters relating to the presidency of Fort William. It was further expanded to Kalcutta (Kolkata) in 1950 through another legislation, that is the act I 1850. Similar legislations were enacted in Bombay (Mumbai), and Madras (Chennai) in 1839 and 1852 respectively to enable land acquisition in these presidencies. However, British enacted a fresh legislation i.e. the act VI of 1857 which had repealed all other preceeding acquisition related legislations, and applied in the entire British India (Livemint, 2015). Following

unfair settlement, and incapable to tackle the situation, it was amended in 1861 in 1863, and led to the promulgation of a new act of 1870. For the first time, this 1870 act incorporated a mechanism with respect to settlement. It was said that if the collector could not resolve the dispute of compensation, shall be settled by the civil court. Anyway, the 1870 act could not address the shortcomings and discontents over the years, and finally replaced with a new act of 1894. This archaic law served the colonial administration to acquire land in India. Aftermath of India's independence, the process of land acquisition was also carried out through this old act. Although its provisions were inhuman in nature; no say was given to the land owners, no fair compensation provisions, no prior consent from land owners, no rehabilitation and resettlement facility, and unbridled authority conferred on the state to acquire land at its discretion, this act was enforced for many years. It was the year of 2013, when a fresh legislation on land acquisition was enacted and came into effect from 2014. That is Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement (RFCTLARR) act 2013. Since, then the land acquisition act 1894 was repealed.

In this chapter, I would make a thematic analysis of the debates of both Lok Sabha and Rajya sabha on the LARR bill 2011 before it turned into an act. Apart from this, I would focus upon, how this RFCTLARR Act 2013 was salvaged by the parliament from the clutches of the executive.

Legitimacy of The Centre's Power to Enact on The Subject of Land

Questioning the centre's power to enact legislation on the subject of land, N. Balaganga, a member of Rajya Sabha, advocated that land is a state subject, and therefore states are empowered to make legislations in this regard. In reality, farmers life, details of the lands, its utilization along with consequences are well informed to the states. If the centre desires certain procedures to be abided by the states on the subject of land acquisition, the states are willing to do so. Despite the centre is having such option, it is stepping into the legislative domain of the states. He strongly objected this move. Along with him, M. Thambidurai, a member of Lok Sabha, also asked the competency of the centre to come with such legislation. In responding their queries, the then honourable minister Jairam

Ramesh said, the Entry 42 of the concurrent list namely Acquisition and requisitioning, which were inserted as a consequence of 42nd constitutional amendment act in 1976, empowers the centre to enact any legislation pertaining to land acquisition (Lok Sabha Debate, 2013). Subsequently, Thambidurai replied, although there is such provision contained in the concurrent list; the centre must not appropriate the authority of the states by exercising this option. To settle the controversy, the minister conveyed to the house that we are not preempting the jurisdiction of the states. With reference to the remarks of Thambidurai, he said, if Tamil Nadu is interested to enact any legislation which would upgrade compensation, rehabilitation and resettlement, you are very independent to do so. But the state can not promulgate certain provisions relating to compensation and R&R which is lesser than the central act. Thambidurai also voiced his concern on appropriate authority. Whenever the appropriate authority is being spoken out, it does signify as you are referring the central government. But when you are obtaining land, you need to secure the state government's consent. At that moment, the state government will carry out the necessary functions what centre is expected to perform for acquiring land. Another thing he elucidated that when you are supposed to acquire land and that comprehends two or more states; at that situation, you can not notify central government as the appropriate authority. Rather, you have to approach before them, and gain their consent in this regard. Then, it would be considered as appropriate one (Ibid, 2013).

Social Impact Assessment

Social Impact Assessment (SIA), one of the favorable provisions was for the first time incorporated in the RFCTLARR act 2013. It is entitled to assess the cost and benefit of the concerned project vis-à-vis the lives of affected persons. Affected persons hereby refers that the owners of the land as wel as the persons who are relying upon that land for their survival. According to the archaic land acquisition act 1894, the land owners were merely compensated, leaving the life of the other persons in a perpetual horror. Let's move to see, how MPs debated on this issue.

Realizing the significance of the matter, Rajnath Singh, a member of Lok Sabha, proposed that the Social Impact Assessment (SIA) and Environmental Impact

Assessment (EPA) should be initiated prior to the the process of land acquisition is started. If this process spans over the years, would lose its own value. It needs to be time-bound, otherwise the genuine interests of the farmers could be at stake (Ibid, 2013). SIA study has to be compulsory, and ought not to be overruled, another MP. Said. Drawing the correlation between SIA and infrastructure, Devender Goud from Rajya Sabha has accentuated that under LARR Bill 2011, the SIA report to be scrutinized by an expert group following the government servay. Then, any decisions can be heared in the court of law. He has pointed out that this lengthy procedure would lead to red-tapism; hold off industrialization, urbanization; and forestall the growth trajectory of this country (Ramesh and Khan, 2015). Having said this, he sought the response of the minister, how he is planning to resolve such contradiction. Taking part in the debate, Dr. Chandan Mitra also from the same house drew the attention of the Rajya Sabha regarding the menace of Mall mafia, land mafia and other troublemakers in the outskirts of Delhi who have acquired thousands of farmers' land. Undoubtedly this legislation would bring that to an end. But it is said, SIA has to be conducted on the possession of every 100 acres of rural land and every 50 acres of urban land. Who Knows, some builders may not be going to purchase minuscule amount of land like 3 acres or 4 acres of land to bypass SIA, and such tiny portion of land would also come under private dealing? If someone keeps purchasing the small amount of land in a particular area, one day it can become around 200 or 300 acres. In fact, there was no compensation and no SIA, since, that was just little amount. This is the abuse and exploitation, which has been persistently occurring over the years.

To take the discussion forward, it is noteworthy to have an attention on expert committee which is constituted to assess the SIA report. As per the bill, The expert group would be composed of members from multi-disciplinary background comprising two non-official social scientist. Refering this, T.K.S. Elangovan from Lok Sabha said, the bill has not given a proper definition of a social scientist. It is ambiguous that whether the social scientist will be hailed from same or other state, or same or different district or some where else; And also doubtful, whether he is aware of the situation where the government is intended to acquire land (Lok Sabha Debate, 2013). Thus, the definition of a social

scientist should be clearly illustrated. Furthermore, the persons who are in the committee must have the area specific knowledge where the land is supposed to be obtained. Upholding the social impact assessment, M. Thambidurai advocated that this clause must not be invoked when the state government is acquiring some lands for public purpose. Because, it would slow down the execution of certain projects. Along with this, he favored that the SIA shall be conducted on the acquisition of 50 acres of lands (Ibid, 2013). Participating in the debate, Mohammed E.T. Basheer from the same house, admired the provision on appraisal of SIA and public purpose; and designated this legislation as progressive one. As it articulates that whenever the appropriate government is sought to obtain a land for public purpose, it has to conduct a SIA in consonance with Gram Sabha at village level, or with corresponding institution in urban areas. In fact, participation of the affected peoples to adjudicate the public purpose is a salutary step which is enshrined in this bill he pointed out.

Public Purpose and Infrastructure

Renouncing the power of the government to acquire land for corporate, P. Rajeev a member of Rajya Sabha, threw the question to the floor, whether the government is possessing land for the corporates in any parts of the world? Is it done by United States, or any countries in the European union? This is the government of India who is intending to obtain land for the corporates, and fostering a milieu for them. The reference was the executive must not engage in land dealing for the private party. It should be left to the latter. The task of the government is to ensure the acquisition of lands for the public purpose. In its report, the standing committee had delivered certain explicit recommendations on the definition of public purpose and infrastructure. Though a few modifications have been made by the minister, it is still ambiguous in nature. The government must not be converted into the property agent for companies to possess land. It furnishes the executive an elbowroom to demarcate the scope. Keeping this thing in mind, the public purpose may be executed for the corporates as well as for the private sectors. Hence, he demanded that the public purpose should be thoroughly and exclusively delineated, objectively identified, approved through a consensus, confined to

the activities which are direct advantages of the peoples, and has to be enforceable (Ramesh and Khan, 2015). Questioning the legitimate intention of the government to acquire land, Derek O'Brien from the same house, told that Trinamool Congress party knows better how to maintain an equilibrium between agriculture and industry. Nothing should be flourished at the expense of other. It signifies the land should be acquired for the development of industry but it must not be done by overriding the interest of the farmers. When the land is acquired for industry, industry on the latter requires labour as well as other requisite inputs. O'Brien especially has not mentioned about other inputs but gestured with regard to employment. If the industry is not paying an attention to this, then does government make an intervention? So that why the government is wished to meddle in purchasing the land? Coincidently, this is to be judged by the skills of the farmers. Subsequently, he goes on to ask, whether the farmers do possess required skills to hold discussion either with the government or the private parties who are supposed to procure the land. The answer would be reasonably yes. It may be anticipated that they do render this task by taking few guidance. But we must believe the prudence of our Indian farmer.

The foremost intent of the new land acquisition legislation is to guarantee that land acquisition to be made for public purpose, and concurrently strives to forestall acquisition for the private purpose. Andhra Pradesh is one of the states who has been suffering intensively due to the land acquisition done for private purpose, as Devender Goud T. reported to Rajya Sabha. Since 2004, the state government has been rapaciously possessing lakhs of acres of land, comprising multi-cropped cultivable land for private end, without ensuring just compensation. Even though, it was adverse to the interest of farmers and land owners. The private parties are yet to extend the compensation to the victims. Moreover, the occupied lands are not being utilized for so long. They have expended over Rs. 70,000 croer for Jalayagnam. Extracting the CAG report, he told that there is huge flip-flops in case of Jalayagnam. As acquired land remains unutilized, and the project is yet to be transpired. Henceforth, he demanded that the land which was taken for the private purpose, must be returned to the land owners (Ramesh and Khan, 2015).

Besides him, Prabodh Panda from Lok Sabha, citing the recommendation of standing committee on rural development, stated that the public purpose must not signify for the private purpose. To take the argument forward, let's make out, whether the developmental agendas will get a severe jolt due to the execution of this act. During the ongoing debate in Rajya Sabha, N. Balaganga – one MP. Communicated to the house as, news papers and analysts are reportedly to have suggested that it is a setback to the ambitious one trillion investment project which is earmarked in the 12th five-year plan for infrastructure development. This is because, to acquire land, the new law foresees heavy compensation and consent of almost every persons, that is otherwise idealistic in nature. Subsequently, he went on to ask the response of the government with respect to the impact of this legislation on forthcoming infrastructure projects. Presently, the economic condition in India is very distressful, and the value of rupee compare to dollar is depreciating. At this juncture, if the huge infrastructure projects do not come to India, our economic situation would not get better (Ibid, 2015). Contradictorily, Mohammed E.T. Basheer, a member of Lok Sabha favoured the bill, and said that it would assure the involvement of victims in the developmental process (Lok Sabha Debate, 2013). And, bringing all the sufferings to an end, this bill will also carry forward the development of infrastructures in our country. Considering India as one of the fastest growing economy, Supriya Sule from the same house, enunciated, the land acquisition should be carried out fairly to accelerate the India's growth story and make it all-inclusive. The centiment of market and people's will have to be paid coequal importance, whereby each segments of our society can be brought together. However, we can not thwart the life of one section at the cost of other. Defending the bill, K.P. Ramalingam from Rajya Sabha said, this bill can be envisaged as farmer security bill (Ramesh and Khan, 2015). Although land is a scant resource, its acquisition is a pre-condition for the development. Its acquisition is based on two central principles. One is, acquirement of private property is a pushing factor to extend welfare activities; and other is, public necessity is more vital than private requirement (Ibid, 2015). Engaging in the discussion, D. Raja also from Rajya Sabha, spoke to the house that the term public purpose is not tightly defined; therefore, the state can make any intervention to assist private entrepreneurs in appropriating farm land for

their own advantages. To fix up this anomaly, he requested the minister to contemplate that resale of land must not be permited. It may be clarified as, for which purpose, the land was previously acquired, if the purpose was not accomplished, that land can not be sold to others. Rather, that should be given back to the land owners or to their heirs. If it remains unworkable, that land can be obtained by the government, and utilized for agricultural purpose by inspiring cooperative farming, and concurrently dispensing it to the landless persons (Ibid, 2015). Having saying this, he informed the house that almost 40 per cent of peoples in countryside do not occupy any other land besides their residence. In adition to this, those who have possessed farm land, around 80 per cent of them are small and marginal farmers. However, farming in reality, can not be carried out with such minuscule holdings. Thus, he anticipated that the government should frame a white paper on the usage of land, whereby the public purpose can be ensured. So as to satisfy the public necessity, S.K. Saidul Haque from Lok Sabha conceded the land acquisition should be done. But that ought to be done from a humane perspective, hence, the deprived persons can receive just compensation and other perquisites. The appropriate favor should be endowed to the farmers. Apart from this, he expressed that the land which is obtained for public purpose should not be shifted to the private enterprises.

Prior Consent

The consent of the land owners was not taken into consideration while acquiring land. The compulsory nature of acquisition enshrined in the archaic 1894 act had transgressed the fundamental rights of the individuals. Even though objections were permited to be heard but the district collector who was entrusted with unbridled authority to execute the provisions of that act, was not obligated to take those claims into consideration. This arbitrariness was ameliorated by introducing the term prior consent in new land acquisition act 2013. The provision with respect to consent would be made applicable while the land is acquired for public purpose. Let's se, how MPs. Put forwarded their points on this.

Speaking on this significant matter, Rajnath Singh from Lok Sabha, articulated that land can not be deemed as a sheer commodity or financial asset, rather it is holding the

emotional centimens of the farmers along with their cultural traditions. Land is also treated as a mother. The consent of those persons are highly indispensible, whose lands supposed to be possessed. He asked the minister, in case, the land acquisition is made for public private partnership project, the prior consent of 70 per cent of affected families is required, and in case of private company, it is 80 per cent. But there is no consent is stipulated for the governmental project (Lok Sabha Debate, 2013). Hence, it does not extend a level-playing field to all parties. Why such uneven policy is framed by the government? Subsequently, he enquired that whether there would be compulsory acquisition after this new act came into force? It is worthwhile to elucidate that according to RFCTLARR act 2013, consent is an integral part of the land acquisition. This is to be produced through democratic negotiation or persuation, but not by coercion and intimidation.

Participating in the debate, Derek O'brien from Rajya Sabha, drew the attention of the house to Nandigram violence broke out in West Bengal in 2007, following the forcible land acquisition. There was firing upon the lifes of unblemished farmers and householders. Had their assent accumulated earlier, such kind of horroic incident would not have happened. Posing this question before the floor, his mind revolves around, who should purchase the land, state or industry? There are three broad responses to this question. Firstly, the farmers right to be safeguarded; secondly, attention should be paid on food security; thirdly, agriculture and industry to be flourished simultaneously (Ramesh and Khan, 2015). It is thus crystal-clear, whoever should go on to purchase the land, they have to pay a heed towards the aforementioned matters. During the proceeding, the concept of (eminent domain) was invoked. The eminent domain may envisage that Every sovereign state enjoys authority over their land resources, and for that reason, states are empowered to express their will upon them. By exercising it, the government can acquire land for the greater interest of the nation. The intrinsic nature of eminent domain acknowledges the power of the government to acquire private poverty by offering fare compensation, and its application would facilitate the public as a whole (Ibid, 2015). Several countries in the world are using it in accordance with their enforcement of property right. Take the instance of US. The 5th amendment to US. constitution

articulates that no person shall be deprived of life, liberty and property without due process of law, nor the private property shall be acquired for community use in the absence of fair compensation. This can be noticed in conjunction with the 14th amendment to US. constitution, which entitles that no state can enact any laws that would tamper the rights of United States of America, nor to hold back the equal protection of law to its citizens. On the other hand, in UK. compensation on the mandatory procurement of land is to be computed on the basis of current market price at the time of acquiring land (Ibid, 2015). Essentially, one thing needs to be exposed that this process has to be circumscribed by law, and can withhold judicial scrutiny. In Indian context, the eminent domain has been sustained in the form of statue. The supreme court for a longer period had also recognized that the rights of the citizens can no way be taken away by the executive without the procedure established by law, although this view was modified on the latter. Hence the state according to land acquisition act 1894, was empowered to acquire land. This process was continued over the years by perpetuating the thousands of innocent lives in a state of oblivion. Eventually, the state of mind was changed. In 2013 land acquisition act, consent was approved through hectic negotiation. Although, the prior consent from the affected parties would be solicited, the state still retains the authority to acquire land. In his speech, O'brien demanded that no land can forcibly be taken away at any cost. He asked that you are saying, consent of 80 per cent for private company, 70 per cent for public-private-partnership project to be required, but our opinion is, what we are claiming through out the land movement. It is neither 80:20, nor 70:30, rather 100 that refers the consent of everybody must be taken on board (Ibid, 2015). A detailed response to this, why specifically consent of 70/80 per cent of affected persons, has been provided in the second chapter.

Here one thing may be articulated with respect to the consent of 100 per cent of affected persons. The prior consent of 100 is apparently unfeasible. It may be democratically sounded good, but administratively not so easy to carry out. The dissenters can take it as a chance to keep the developmental projects at bay. Rather vindicating for 100 per centage of consent, we must consider the genuine concerns of affected persons along with the specified number.

Another MP. Of Rajya Sabha, N. Balaganga also vindicated for the consent of land owners. In his opinion, there must be a clause in the bill which would ensure, no land acquisition activities or use, will be taken under any existing laws without obtaining the consent from the land owners. He picked up one instance from his own state of Tamil Nadu to justify his claim. The Gas Authority of India in western part of Tamil Nadu performed the installation of pipelines in the arable lands. As a consequence, there was a heavy revolt from the farmers side. They had expressed their deep anguish, and latter went into the collapse of law and order. Subsequently, the situation was under control due to the arduous effort made by the then chief minister, Dr. Puratchi Thalaivi, as she assured that the projects are for the people and not vice versa (Ibid, 2015). She also proposed that the pipelines should be executed alongside the highways. The intrinsic reason for such inconvenience was the central government has not negotiated the state on this issue. Like Derek O'brien, Prabodh Panda, a member of Lok Sabha was not also convinced with respect to 80-20 per centage of consent of affected parties vis-à-vis the acquisition of land. Many members of this noble house have already spoken on article 300A of the constitution. It is understood as, no person shall be deprived of his property, which is otherwise protected by the authority of law. It is the fundamental right of every citizens to furnish their respective consent. Notwithstanding this provision, how the government is intending to initiate the process for acquisition which is ultimately anchored in the consent of 80 per cent. It should rather be 100 per cent. During the debate, he raised another point with respect to consent of 70-30 or 80-20 in the context of public private partnership. At a point of time, when 80 per cent of land is procured by an investor, the farmer would be provided only the value of the land. But when just 20 per cent of land is being proffered by the state governments, farmer in that case will be rewarded with the value of the land, compensation, solatium and rehabilitation and resettlement facility (Lok Sabha Debate, 2013). Why this kind of gross discrimination is being created? And had such practice been perpetuated, what would be the fortune of the farmers? Needless to say, it

would allow the investors to acquire countless amount of land. Hence, there should be certain circumscription on it. If an investor does require adequate land, he should appeal before the government, and the latter scrutinizing the matter, would extend the land. There must not be any divergence with regard to acquisition of land by government or private entrepreneurs. However, land ceiling law should not be annulled.

Since, the concept of eminent domain was a heated debate amongst MPs, and so vital; that may tamper the consent of affected persons, we must revert our attention to this issue again. The eminent domain was refered as a princely prerogative, as accentuated by D. Bandyopadhyay – a Member of rajya Sabha. It was speculated that all lands theoretically belonged to the king, although individuals were the real and absolute holders of that property. Nowadays, when the peoples are the real owners of the land, the state is the paramount one. Hence, when the state is desired to acquire land for its own sake, it can be done by offering just compensation (Ramesh and Khan, 2015). As Sitaram Yechury from Rajya Sabha, pointed out that to secure the prior consent of the citizens, the task of the Gram Sabha and Panchayats are so vital. The role of these institutions should be brought into the purview of this act, and the rights of Scheduled Castes and Scheduled Tribes in relation to land acquisition need to be preserved and protected. Moreover, special attention should be paid particularly for STs in the scheduled area. He also informed the house that this thing would remain undone unless Gram Sabhas do exist there. Prior to proceed in detail, Sudip Bandyopadhyay a member of Lok Sabha, has provided certain reliable evidence. Observing the land acquisition act 1894, justice G.S. Singhvi of supreme court depicted that the legislation has become an instrument of deception (Lok Sabha Debate, 2013). Another Bench of this court had also commented that this legislation does not extend the rehabilitation facility to those persons who are being displaced from their own lands, as a result of which their lives have been

> severely affected. Needless to say, since this act mandates compulsory acquisition of land, and has become obsolete, ought to be superseded by a fresh legislation. It is to be done in accordance with the spirit of the Indian constitution, with a special reference to the article 300A. The government, private entrepreneurs and industrial bodies do require land. The government inherently may require land to facilitate public welfares viz. to construct roads, health centres, schools, and also for certain PPP projects, whereas the private entrepreneurs including corporate bodies need land to install industries. However, a question is striking here, what would be the policy for obtaining land? Drawing one instance, he said, when the farmers were struggling in West Bengal for their own land, no one was there to stand by them. They were marginalized and harassed in stead of receiving protection. Further, the farmers are appropriated at the time of election. Hence, the MP. Sought a word of honor from the minister that no land of the farmers shall be acquired by coercion. He vehemently resisted the forcible acquisition of land of the land owners and farmers. More emphasis must be paid on this, because the process for acquiring land by and large is being carried out by suppressing the farmers.

To advance the discussion, let's take the argument made by T.K.S. Elangovan, who is also a member from the same house. Centre's legislation on land acquisition should not make an attempt to dilute the act of the states. For instance, the state of Tamil Nadu has the Panchami land act, which entitles land to the peoples of Scheduled castes (Ibid, 2013). In fact, this land is not meant for selling, albeit some persons are unconsciously selling it out. Thus, such land ought not to be obtained for any other purposes; Rather should be left to the discretion of Scheduled Castes who were provided land by the government. Anyway, this matter should be protected by the legislation. Like others, S.K. Saidul Haque also demanded the provisions pertaining to consent, fair compensation, R&R should be made applicable to all cases comprehending when the government is taking over land for its own use as well as for public sector undertakings (Ibid, 2013).

Acquisition of Multi-Cropped Irrigated Land

Keeping in view the colossal food crisis and severe malnutrition, National Food Security legislation was enacted in the same year when RFCTLARR act 2013 was passed. To deal with food security challenges, a special chapter was placed in the RFCTLARR act 2013. Although a series of steps have been taken to fight against under-nutrition, India is yet to accomplish the target. It was assured that food security must not face any kind of threat as a consequence of land acquisition. For that purpose, RFCTLARR act 2013 stated that no irrigated multi-cropped land shall be acquired unless there is exceptional situation (RFCTLARR Act, 2013). And, it would be carried out as evidently as an ultimate option. Moreover, the acquisition of multi-cropped land shall not be done beyond the limit as specified by the appropriate government. So as to bring an equilibrium to the loss of multi-cropped arable land, an equivalent amount of culturable barren land shall be developed for agricultural purpose, or an amount corresponding to the value of acquired land shall be deposited before the appropriate government for the augmentation of food security (Ibid, 2013). However, the abovementioned provisions would be inapplicable, if the land is being acquired for the project like railways, highways, canals for irrigation facility, or major city rodes and so on. It is worthwhile to elucidate that this is to be held in case those projects are linear in character, and that prescribed path can not be averted.

When the food crisis in the country is looming, we should strive for the augmentation of production of food grains. Highlighting this clause, Devender Goud T. in Rajya Sabha, had warned that acquisition of multi-cropped irrigated land evidently as the ultimate resort would not only tend to the abatement of productivity but also to erode the cultivable land (Ramesh and Khan, 2015). He told that agricultural production in India is around below 4 per cent, and the yielding capacity of our land is highly miserable. The bill allows to take over 5 per cent of irrigated land for the purpose of commerse. Since, it was suggested by Mahajan committee, the government is applying this route to get sanctuary. This is not appropriate, as he said. Moreover, he vociferously demanded that no irrigated land ought to be shifted for any additional purpose, rather be

utilized to advance the yielding capacity and food grains (Ibid, 2015). Along with this, Sitaram Yechury from Rajya Sabha, had also shared his thought on the preservation of food security. He anticipated the house to dwell on the arid or semi-arid lands which have been counted out in relation to the notion of food grains. That is not accurate, since, arid and semi-arid lands are helping to generate food grains, and enhancing the food production capacity. Hence, that can not be entirely eliminated, and should be taken into consideration. Besides this, Sudip Bandyopadhyay from Lok Sabha, had brought to the notice that the standing committee delivered 13 recommendations with respect to this bill. Out of which, eleven recommendations have been inducted within the bill, and other two recommendations are left out. But we are standing for those two excluded recommendations. One of those is concerning circumscription on acquiring multicrop-land to be delegated to the states. Since, the states do understand the nitty-gritty of their regions in pretty well and aware of the specific circumstances of their localities, this issue should be left to them, and an amendment has to be introduced to permit the states to fix up the ceiling on the acquirement of multi-crop land as well as agricultural land (Lok Sabha Debate, 2013). Therefore, he urged the minister to endorse the entire report of the standing committee without leaving anything at backside. Like other MPs, he also demanded for the nullification of 80-20 ratio of prior consent from affected parties, and instead vindicated for 100 per cent of consent. We must endeavor to preserve the multi-crop land to meet food crisis. Barren or mono-crop land can be utilized for the installation of industry in place of multi-crop land. It is reported that in various states, there may not be found 100 acres of land at one place, which is indeed a huge amount. Perceiving the incongruous availability of land, he suggested for small and medium enterprises over big one. It should be kept in mind as, land is the vital source of livelihood for the rural peoples and of the farmers. We have to ensure this, and no acquisition would adversely affect them, or put their lives in trouble. Engaging in the discussion, K.P. Ramalingam of Rajya Sabha, warned that the reduction of agricultural land would not only shackle the production capacity but also vitiate the trend of cultivation for upcoming generation. When the firming activities in our country will be less, then the slogan on (Garibi Hatao)

or (Removal of Hunger) can never be realized. For that reason, agricultural land ought to be remained untouched.

Fair Compensation

Fair compensation is one of the seminal provisions enshrined in the RFCTLARR act 2013. It has endowed four times of the market price of the land in rural area and two times of the market price of the land in urban area at the time of acquisition. Unlike the colonial act of 1894, this act has subsumed a comprehensive formula for the determination and calculation of compensation. Along with this, it has promised to deliver 100 percentage of solatium to the affected parties. Although someone's right of ownership upon his land can never be diluted, just compensation would be a rational justification to acquire land for the purpose of development. Going one step backward, we may figure out dispute on compensation has been an age-old problem. Widespread protest was erupted in places like Singhur (West Bengal) and Yamuna Expressway (Uttar Pradesh) following the payment of inadequate compensation (Singh, 2016). To clarify here, when Tata Motors moved out of Singur (West Bengal), and relocated in Sanand (Gujarat) for installing Nano Car Plant; the state government had paid 5 million to 7 million rupees for per acres of land acquisition (Ibid, 2016). Henceforth, it did not encounter any troublesome situation. Just compensation being the most vital issue, we must contemplate how MPS are deliberating on this matter.

Concentrating on the quantum of compensation; Devender Goud T. from Rajya Sabha stated that the bill articulates to extend four times compensation of the land in rural area, and two times compensation of the land in urban area. But the perennial concern is, how the price is being determined. Citing one case, said in 1995, when he was revenue minister in Andhra Pradesh, a huge number of farmers come to his office to convey their grievances. So, he knows how this things get managed. This house is also familiar of such matters. To bypass the payment of stamp duty, they underreported the value of their lands during the period of registration. Hence, the current market price should be taken into account to assess the cost of the land (Ramesh and Khan, 2015). Basudeb Acharia

another MP of Lok Sabha also shared the similar centiment, as Devender Goud T. did. Questioning the methodology of determining the quantum of compensation, he said that the similar method has been approved what was enshrined in the 1894 act. The Land Acquisition act 1894 had adopted the Indian Stamp act 1899, where the cost of the land was underreported. Less price was exposed at the time of registration in order to reduce the stamp duty. So, the matter of concern here is, if we take the cost of the land as refered in the Indian Stamp act 1899 further, the land owners may not get the actual due in real sence. To guarantee the just compensation, the current market price must be taken as a base to assess the value of the land (Lok Sabha Debate, 2013). MPs were by and large convinced on the amount of compensation, but apparently diverged from each other in relation to their arguments. Rajnath Singh was satisfied on the quantum of compensation as to be provided to the affected persons; but on the other hand, expressed his anguish over the price determination which is based on the demarcated distances. It is very complicated to recognize a point which would distinguish urban region from rural area, and on that basis the price would be fixed. Unlike the previous speakers, Tathagata Satpathy a member of the same house, stressed on retaining land with the land owners vis-a-vis selling out to the industries. In India, land is deemed to be the only viable asset for many persons including the downtrodden section of the society. They have not only used it to maintain their livelihood but also for other financial activities. When the father in a family passed away, they used to deal in a small piece of land for organizing the cremation; or some families are selling out their lands to get their daughter married. Hence, it may be assumed that land is the soul sustainable source of the survival for a family. Moreover, he conveyed the house that land should be retained with the land owner; and lease to government or industry ought to be delivered for fifty-years, for which monthly rent should be offered to the land owners (Ibid, 2013). The land must not be procured from the land owners, because it may bring their lives into a standstill. Another drawback of this bill is payment of compensation is taxable. It is mournful to unveil here, when you are taking away someone's land to which his life was intrinsically imbedded, and was the source of his livelihood; in exchange of that you offered them compensation. But on the same hand, how are you levying taxes upon the provided

compensation, as he posed this question to the minister. Following this, Jairam Ramesh abruptly responded that we would bring an amendment very soon to make the entire compensation income tax free. With regard to compensation, the honorable minister had clarified that the affected parties can be provided land or money as per the rule. That's why, M. Thambidurai requested, they may be offered land in exchange of land; since, the farmers are obsessed to receive land. Whenever you have obtained land, and if such land is not being used for a prolonged period, then that should be returned to the land owners instantly without making much delay. Subsequently, he went on to say, you are offering the interest at the rate of 12 per cent on the payment of compensation, that should be raised up to 15 per cent (Ibid, 2013). Then, it can be claimed as beneficial for the farmers. Participating in the debate, Prabodh Panda of the same house, had asserted for setting up a price commission to determine just compensation. The compensation is commonly calculated on the basis of the value of the land. But it is a pertinent question to ask here, how is the value of the land figured out? For that purpose, there are two methods. One is based on the market price; wherein the value of the commodity is underreported. And, other is founded on Indian Stamp Act 1899 which was enacted during colonial era. Since, we are in a position to supersede land acquisition act 1894 with a fresh legislation, we must replace the Indian Stamp act 1899, as he told to the house. Hence, he suggested the government to come out with a proposal for constituting a price commission at state and district level (Ibid, 2013). Although the standing committee has made its recommendation in this regard, the government did not give its consent. Venturing into the debate, Supriya Sule – a member of the same house, had suggested to embrace Maharashtra Model with regard to compensation; since, Maharashtra is such a state in which most of industries are located, and there is no such tumultuous protest in relation to payment of compensation. She illustrated one instance from Pune district of Maharashtra, where hundreds of acres of land acquisition have been done in a successful manner. That is Hinjewadi in which Rajiv Gandhi Infotech Park is situated. She also communicated to the house that the price of the land is so expensive therein. Anyway, the contemporary price would be around 5 croer per one acre. So, we may conclude that the price is the major bone of contention. To passify the stormy agitators, the acquiring authority has to

furnish high compensation. Arguing in favor, another MP. K.P. Ramalingam from Rajya Sabha, expressed that those persons dispossesses their land on account of land acquisition, the bill is entitled to offer them just compensation. The modus operandi of payment of compensation is thoroughly written down in the scheduled-I.

Retrospective Clause

Since, the ferocious land acquisition had been inflicting gross injustices to the victims and put their valuable lives in a wretched condition, the retrospective clause was inserted in the new law to ameliorate the sufferings. Certain situation may occur due to the application of colonial land acquisition act 1894 which would tend to the breach of justice to human beings. Although the RFCTLARR act 2013 has altogether annulled the archaic law, some critical circumstances may be developed where the process for acquisition has already set in motion under the old law. Given this context, the retrospective clause was drafted to rectify the loopholes which has been committed to the previous generations. Had such clause not incorporated concurrently, the intended purpose of new law would not have accomplished. This section was widely debated amongst the stake holders, all party meeting and during the proceedings of the parliament. Prior to the enactment of a fresh legislation on land acquisition, some villages in the western part of Uttar Pradesh had experienced widespread protests and carnage owing to the faulty procedure of land acquisition. It occurred when the land was to be acquired for Yamuna Expressway. The protest was erupted on the issue when the acquired land solt out to the private parties at multiple times of the amount that was already been delivered to the land owners from whom the land was acquired (Ramesh and Khan, 2015). This has abruptly turned into violent and led to the loss of lives. Although this matter was taken into court, no fruitful solution came up. Hence, this deadly event might propel the central government to pay a heed towards the retrospective clause.

Section 24 of the RFCTLARR act 2013 has embraced the retrospective clause. This clause shall be applicable in certain cases pertaining to land acquisition.

Where the process for land acquisition has already set in motion under the land acquisition act 1894, but no award has been made, then the provisions of new act pertaining to fair compensation shall be applicable;

If the award has been made under section 11 of the land acquisition act 1894, then the ongoing proceeding of land acquisition shall be deemed beyond the jurisdiction of new act, and to be carried out in accordance with the old law;

Where the award under the previous land acquisition act 1894 was made five years or more prior to the enforcement of the RFCTLARR act 2013, but no compensation has been rewarded to the peoples or the physical possession of the land has not been carried out, then all the proceedings considered to be lapsed, and if the appropriate government desires a fresh process of land acquisition would be initiated in compliant with the new law;

Where the award has been passed under section 11 of the land acquisition act 1894, but compensation with respect to majority land holdings has not been deposited in the recipients' account, then all the beneficiaries are entitled to deserve compensation as stipulated in the new law (RFCTLARR Act, 2013). The supreme court has also upheld the retrospective clause in Pune Municipal Corporation v. Harakchand Solanki case 2014.

Venturing into the debate, Rajnath Singh from Lok Sabha, demanded that the RFCTLARR act 2013 must come into force with retrospective effect. It would be executed where the people has not been rewarded compensation by the government, or people per se have not deliberately taken the amount of compensation. To take forward the debate on this, let's see the remark made by another MP of the same house. Prabodh Panda. He was also in favour of this clause. According to him, retrospective effect does not imply where the land has not been physically possessed, or the compensation is still to be paid. Rather this requires to be enforced since 1990s. the peoples who are protesting in huge number across the country, would be deprived of, if this clause had not obtained the approval of such august house (Lok Sabha Debate, 2013).

Special Provisions for SCs and STs

Over the years, the scheduled castes and scheduled tribes have been at the receiving end of the India's developmental story. The development which is one-dimensional in nature can not enrich india's future, rather the equitable and participatory development can put it at best. Very often land acquisition is made to serve the interest of the public. But simultaneously it has to be an unshakable obligation to rehabilitate those who have been displaced owing to the land acquisition. One study made by National Commission for Scheduled Castes and Tribes in 1985 has suggested that the tribal community is around 40 per cent out of displaced families (Ramesh and Khan, 2015). Another study done by one sociologist like Walter Fernandes has conformed that around 60 million persons have been displaced in the years between 1947 and 2004, and less than one-third of them have been resettled (The Hindu Businessline, 2015). Of which, around 40 per cent are aborigines, and 20 per cent Dalits (The Hindu, 2015). The unbridled authority of the state has deprived them from their own land at the cost of development. Land being their fundamental asset, its dispossession has propelled their lives into subhuman condition. In this backdrop, we should understand the RFCTLARR act 2013. But prior to that, it is imperative to perceive how the public resistance in case of mining project at Niyamgiri, and construction of steel plant in Jagatsinghpur in Odisha has pushed the decision in favor of marginalized section of the society. Thousands of Dongria Kondhas had been campaigning against the attempt of Vedanta Resource's to mine bauxite at Niyamgiri. Defying the alleged intimidation, the tribal community endeavored to retain their land. Like many other tribals in the world, the Dongria have intrinsic relationship with their land. Their livelihood entirely depends upon it. Many activists and organizations comprising Survival and Amnesty International had strived to voice their demands. The pressure on Vedanta was amplified by Survival's grievance to the government of United Kingdom through the Organization for Economic Cooperation and Development guidelines for multinational companies (The Guardian, 2014). It was trying to convince many of its shareholders to withdraw the investment on moral ground. Subsequently in 2010, government of India blocked the Vedanta's request for mining, and in April 2013, supreme court's direction as, the informed consent of tribals is necessary for the

furtherance of the project have brought a sigh of relief for the Dongria community. In another incident, a memorandum of understanding was signed in 2005 between Odisha government and Posco to install a steel power plant with a capacity of 12 million tone per annum near Paradip coast Jagatsinghpur district. Following this, a huge public protest was errupted to call off the project. The villegers realized that approval to the ongoing project would perish their cultivation as well as livelihood. Amid protest and violence, around 2700 acres of land was acquired. Fortunately, prior to the transfer of whole land into the company, an amendment to the Mines and Minerals Development and Regulation act was passed. The amended law laid down that the company had to follow the auction route to obtain the raw materials. However, this new law disqualified the company's application for Khandadhar mine, and on the latter, company was forced to return the land to the states (the hindu, 2017). Needless to say, the public resistance and directives of central government as well as the promulgation of rules have pacified the victims in certain extent.

The RFCTLARR act 2013 has dedicated section 41 and 42 especially with respect to scheduled castes and scheduled tribes. It has acknowledged as far as feasible, no land acquisition shall be done in scheduled area at normal circumstances, rather to be taken over apparently as an ultimate option (RFCTLARR Act, 2013). The consent of the respective Gram Sabha or Panchayat or Autonomous Districts Councils (ADCs) is necessary prior to the acquisition. To clarify, in the absence of Panchayat, the prior consent of Gram Sabha or ADCs has to be secured. When the land is being acquired from SCs and STs, the act mandates that at least one-third amount of total compensation should be furnished to them as per the first installment. And the rest would be extended after acquiring land. The affected scheduled tribe families have to relocated in such a place, where they can maintain and preserve their language, culture and ethnicity. The reservation facility which was granted earlier to them would be applied the same in the resettled area. Moreover, all other perquisites as refered in the four scheduled of this act shall also be put in place (Ibid, 2013). Let's observe, the arguments of MPs on this clause.

Speaking on this issue, P. Rajeev from Rajya Sabha, has articulated that the laws which are operative in the scheduled area should be deemed more vital than the proposed legislation. The persons belonging to Scheduled Castes, Scheduled Tribes and marginal/small farmers should be offered land in exchange of land (Ramesh and Khan, 2015). Another MP demanded that the safeguards which are proposed in the law for SCs and STs should be extended for the minority community also. Although the safeguards for historically neglected sections of the society including tribals have been elucidated, Sudip Bandyopadhyay from Lok Sabha asked that they should be executed with law and spirit.

Return of Unused Land

The inherent motive of returning unutilized land after a specified period is to guarantee the accountability of acquired land. The general perception may be, if the obtained land remains unused, then the objective would be misplaced for which it was acquired. During the discussion, one member from Rajya Sabha - N. Balaganga brought the statement of objects and reasons into the table. As it designates that if the land within 10 years of its acquisition, has not been utilize in accordance with the objectives would be transferred to the land bank of the state governments. On every transfer of land, where no progress is made, 20 per cent of appreciated land value would be extended to the land owners. But he requested the minister, in liu of sharing out the appreciated land value, the unused obtained land should be restored to the land owners (Ramesh and Khan, 2015). Echoing the similar centiment, T.K.S. Elangovan from Lok Sabha, had disapproved the return of unutilized land to the land bank of the state government. It has sometimes come to our notice that more than required amount of land is being taken for the project. Albeit, that land falls vacant over the years. Since, the land is a scarce resource, its misappropriation should be done away with. Refering the clause on return of unused land, Rajnath Singh from the same house, articulated, if the acquired land is not in use for a period of 5 years, then that land would be returned either to the farmers or to the state's land bank. Having said this, he cited the recommendation of the standing committee. Where it is reportedly

expressed that in case, the farmers paid back the compensation, and the land is otherwise not in use, then the same land should be returned to the farmers.

Exclusion Clause

MPs. Were in favour of revoking the archaic land acquisition act of 1894. Speaking in the Rajya Sabha, P. Rajeev had pointed out that the new legislation on land acquisition is a monumental one, but a transition from one side to another, that is colonial to neo-liberal form of legislative apparatus (Ibid, 2015). It would no doubt serve the neo-liberal purposes of the state which were adopted after 1991. He questioned the alterior motive of the government by picking up the exclusion clause as enshrined in the section 98 (1) of LARR bill 2011. There is Schedule (iv) which exempted 13 legislations from the application of this new act. The urban peoples are enthusiastically hanging on for the passage of this new bill. In case, their land is acquired under the RFCTLARRact 2013, for national highway project, or railway project, or generation of electric power project; whether these displaced persons would avail the facilities in accordance with the new law. Of course no. So far, the statistics conformed us, around 90 per cent of lands are being taken on the basis of these 13 legislations. It is thus clarified that the major chunk of lands would not come under the ambit of this new legislation. Subsequently, he went on to say regarding clause 98 (2), which authorizes the central government to alter any of the provisions of schedule IV. It refers that the executive hereafter can take a decision to add or subtract or modify any of the provisions in the schedule IV. In fact, it would deliver an elbowroom to executive to put any things at its discretion in land acquisition policy. Justifying his claim, he cited the report of the standing committee. The unanimous view of the standing committee was to count out the exclusion clause. As long as the clause 98 (1 and 98 (2) are there, around 90 per cent of land acquisition in this country would not come under the ambit of this new legislation (Ibid, 2015). Hence, he demanded these two clauses to be annulled. He further said, if the government is really interested to address the concerns of the peoples, it could terminate the exclusion clause, and should make an endeavor to amend all the existing legislations enshrined in the schedule IV in compliant with the new law.

Participating in the debate, Sitaram Yechury of Rajya Sabha, said, one year is not essential to bring all those existing legislations under the jurisdiction of this act, although the assurance given by the honourable minister of rural development. During that period, several of these statutes can be altered by the executive. So that it may create huge problem. This matter must be taken into consideration.

Taking this debate forward, another MP. From Lok Sabha - T.K.S. Elangovan said, section 98 (1) and section 98 (2) are contradictory to each other. On one hand, the former clarifies with subject to proviso 3 of section 98, the provisions of this act would not made applicable to the statues pertaining to land acquisition as mentioned in the Schedule IV. On the other, the latter elucidates that subject to proviso 2 of section 99, the central government by issuing a notification may add or remove any legislations demarcated in the four-schedule (Lok Sabha Debate, 2013). If the executive would act on its own discretion, the section 98 (1) may erode its sagacity. Anyway, the exclusion clause with certain limitations was placed under section 105 (1) of the RFCTLARR act 2013. Like other Mps, M. Thambidurai had also wanted the deletion of exclusion clause. The section 98 of LARR bill 2011 has exempted certain central statutes from the application of this bill, wich on the other hand permit for land acquisition. Following the observation of parliamentary standing committee, although the provision pertaining to compensation and R&R of LARR bill 2011 can be extended to the exempted acts through a notification, it is still appeared to be gloomy in nature. Going one step ahead, another MP from the same house, Prabodh Panda pointed out that the exempted legislations enshrined in the four scheduled are not uniform in nature with respect to land acquisition. Take certain instances: the statute of West Bengal is entitled to deliver a solatium of 30 per cent; while it is around 60 per cent in railways; and no solatium at the context of national highways (ibid, 2013). But the LARR bill 2011 proposes to offer a solatium of 100 per cent, as he narrated before the Lok Sabha. It is therefore he demanded for an uniformity in the exempted acts.

Urgency Clause

The urgency clause can be invoked at the time of exigency. It enables the government to act swiftly in order to satisfy the pressing demands. Unlike other cases, the urgency clause does not adhere the prescribed process for land acquisition. This provision should be exercised with much prudence, otherwise its misapplication may cause catastrophic consequences to the people. Section 17 of land acquisition act 1894 which contents urgency provisions, was used to evict the peoples arbitrarily from their own land without complying the due procedures (LA Act, 1894). It was carried out at the interest of the executive to expedite the process of possessing land bypassing their wishes. That act vested the exclusive authority upon district collector to acquire land as directed by the appropriate government. What constitute the urgency provision was not properly defined in the statute, rather left to the discretion of the collector, who can determine which circumstance may call for urgency provision. Overall, 1894 act emboldened his authority to enforce the urgency clause. This section is appeared to be draconian in nature, since, no strict definition was provided in this regard, and vast autonomy was sanctioned to district collector for executing it. Aditionally, inadequate safeguards had further imperiled the legislation. Such kind of flaws were done away with in the new land acquisition act 2013. Unlike the previous one, the RFCTLARR act 2013 has offered an unambiguous definition of urgency clause. Presently, this clause is confined to the cases of natural calamities and national security (RFCTLARR Act, 2013). Along with this, urgency clause could also be invoked in case of other emergency with the consent from the parliament. Now, the collector can no way take over the land on the grounds of urgency. It is not he, who can settle down the urgency provision through his own interpretation, rather this has been fixed by the parliament. Let's go forward to take a look, how MPs. Have contributed to this through their deliberation.

When the Land Acquisition, Rehabilitation and Resettlement (LARR) bill 2011 was debated in the Lok Sabha, Rajnath Singh had mooted the section 38 of that bill, which contents urgency provision. It entitles when the government would acquire land for public purpose on the grounds of urgency, the provisions like prior consent, social

impact assessment, safeguard to food security and rehabilitation and resettlement award shall not be applied, if the appropriate government may direct in this regard (LARR Bill, 2011). This is the most disheartening clause which is immune from SIA and EPA, as he told to Lok Sabha. Its exercise would make a deleterious effect upon the society for a prolonged period. Having said this, he supported the urgency clause, and advised that its invocation ought to be made when there is genuine emergency; otherwise, this risky section should be done away with. And latter, Singh went on to question the minister that how are you going to fix the conflictual issues arising out of land acquisition in case of urgency (Ibid, 2013). Expressing his annoyance on this clause, another MP. From Rajya Sabha - P. Rajeev said, urgency provision is another ambiguous interpretation to dilute the essence of this bill. He demanded this section should not be enforced for the private company, rather strictly be restricted to national defence. Furthermore, all other processes would require the approval of the parliament. Contesting the urgency clause, M. Thambidurai of Lok Sabha, had warned that this provision would severely affect the interests of farmers. It empowers the government to acquire land without adhering due procedures. When the land is accepted as an invaluable property, farmers are doing cultivation on it for the sake of their livelihood and for years, they have also been relying upon it; we should strive to save the interest of farmers. Anyway, it can be speculated that the government is attempting to protect the interest of the former by regulating land. For this purpose, it has endeavored to supersede the archaic land legislation of 1894 with LARR bill 2011. But the matter of fact is the application of urgency clause would give a severe jolt to the farmers. Many impoverished farmers would be deprived of their property rights which they have been possessing for centuries. Since, they cann't approach the court for their defence, Thambidurai requested the minister to safeguard the interest of farmers and guarantee their legal rights. Further, the scope of urgency clause which is confined to national defence or security of India, or any emergency arising out of natural calamity can also be extended to certain desperate infrastructure projects of the state (Ibid, 2013). While other MPs. Unveiled their agony and anguish in relation to this provision, K.P. Ramalingam of Rajya Sabha, supported it. The section 17 of Land Acquisition act 1894 enabled the government to take over land without adhering proper

procedures via urgency route. This arbitrariness was sorted out on the latter in the new bill. Clause 41 of the new bill has laid down certain criteria to which the urgency provision is confined (Lok Sabha Debate, 2013). It does henceforth maintain a check and balance in the system.

Clause on Rehabilitation and Resettlement

Although, land acquisition is essential for the initiation and upgradation of infrastructures, development of industries and military centres, expansion of communication facilities, progress of the country, and so on; its adverse consequences pave the way for massive displacement. The life of these displaced persons should be taken care of at all costs. While concerning for the development, we must think of development must not be held for one section or a particular class of the society. Rather, it should be equitably shared amongst all. Ever since, our independence, how many times, we have paid attention to rehabilitation and resettlement of those persons, whose lands have already been acquired for developmental purpose. For the first time, the term rehabilitation and resettlement was recognized in the National Policy on Resettlement and Rehabilitation for Project Affected Families 2003 (Ramesh and Khan, 2015). Perceiving the societal necessity, R&R received statutory back-up in 2013.

While debating on the Rehabilitation and Resettlement clause, S.K. Saidul Haque from Lok Sabha, spelled out that under land acquisition act 1894, the R&R was not offered to the persons who were affected on the account of land acquisition. But the present bill wants to introduce the R&R provision along with land acquisition. It may be reminded here, when this matter was under consideration, R&R was managed by National Rehabilitation and Resettlement policy of 2007. On the other hand, Rajnath Singh from Lok Sabha, articulated, the displaced persons must be ensured that they would not be dislocated further. Speaking on the rehabilitation and resettlement authority, he questioned the executive, how many authorities would be set up? May it be at central level, or state level? The details are not provided in the bill. Since, the land acquisition is a matter of grave concern, the authority should be set up at district head quarter, or the nearby place where the land is supposed to be acquired, as he demanded (Lok Sabha

Debate, 2013). Unlike the centre, the states are quite familiar about the seriousness of this thing. The R&R authority should be entrusted with adequate power to act as a first-track court to dispose the cases as soon as possible. To advance the argument on this clause, Basudeb Acharia from the same house, inquired that how the rehabilitation and resettlement would be assured unless the persons who are dispossessing their land in the name of development do not get employment? If the whole land is obtained on which the farmer is relying upon, and that land is also considered to be the soul source of his income; in that case, offering an employment can be a greater incentive for his livelihood. Endorsing LARR bill 2011, another MP. Also from the same house - Mohammed E.T. Basheer pronounced that R&R clause expounded in this bill is very broad and inclusive in nature, and the transparency in disbursing it, is unambiguous. Furthermore, the rehabilitation and resettlement package as illustrated in the chapter five is very expansive. It comprises land allocation, sustenance fee, transportation allowance, fishing right, mandatory employment, allowance for petty dealers and artisans, and so on (Ibid, 2013). Hence, he stated that these outstanding steps are abled to encounter the sufferings faced by the victims. Taking part in the deliberation, K.P. Ramalingam from Rajya Sabha, had accentuated upon R&R Authority. After the dispersal of compensation, if any dispute appears then the matter will be refered to the rehabilitation and resettlement authority. The peoples who will be affected due to land acquisition can appeal to this authority in place of moving to the civil court. This authority is entitled to pronounce appropriate order; if the victim does not get gratified with this, then the decree of the R&R authority can be challenged in the high court. Subsequently, he also reported that the item rehabilitation and resettlement for the first time has been granted statutory status in this bill (Ramesh and Khan, 2015).

Notwithstanding the divergence of opinions across the party lines, the RFCTLARR act 2013 was enacted by the parliament. So far as the centrality of land acquisition and its ramification is concerned, this legislation would pave the way for a participatory and democratic process of land acquisition. Unlike the land acquisition act of 1894, this statute would put the unbridled power of the district collector to an end. To assuage the grievance of the victims, this act has enabled to set up a rehabilitation and

resettlement authority for ensuring the disposal of cases. However, to get this legislation enacted, the parliament took around two-years in particular, or four-years or more in general. But if we compare this statute with other substantial ones, we may conform that the RFCTLARR act 2013 has been swiftly promulgated. Let's see at least two legislations which have been taking prolonged period for receiving the assent of the parliament. One is Women Reservation Bill; that was introduced for the first time in 1996 in Lok Sabha, and sought to reserve one-third of total number of seats for women in state legislative assemblies and Lok Sabha. Whatsoever the significance of the bill may be, it is yet to receive the signature of the parliament. The bill amid huge pandemonium got approved by Rajya Sabha in 2010, but due to dearth of unanimity in Lok Sabha, the bill is still pending (The Hindu, 2016). Successive governments are mustering their efforts to get the bill passed, nevertheless the opposition of the day has been trying to vitiate it. After the introduction of the bill, it was refered to the joint parliamentary committee. That committee also submitted its report in the same year. But it could not get processed. Subsequently, when the bill was reintroduced in 12^{th} and 13^{th} Lok Sabha respectively, sometimes, it got snatched and tore into pieces, and in other times, it could not get negotiated amongst MPs, or the huge scuffles propelled in putting off the bill. Aftermath of this, when that bill was again initiated during UPA-I, the ramification was same. Recall another issue on Goods and Services Tax [GST]. The 122^{nd} constitutional amendment bill with reference to GST was passed by the parliament in 2016, whose history of journey may be traced back to 15 years earlier. It has endeavored to harness all the indirect taxes under the ambit of a single tax. This is a substantial reform which sought to ease the transactional charges for professing business in India, and entitled to integrate a plethora of taxes into a single one in order to lessen the administrative costs in the longer run. Apart from this, the GST would remove the taxes like Octroi, and guarantee for a unified market (Rao, 2017). It may boost the revenue output of income taxes in a considerable manner. Thus, we may conceive here that some of the substantial legislations are getting hold off in subsequent years. We are also experiencing repeated adjournment of the houses of the parliament on account of various issues. Frequent postponement of bills are not the way-out for arriving at the solution. If any bill may have

certain pitfalls, it can be rectified, or modified through purposeful negotiation and due deliberation. Then, it can become a win-win situation for both the treasury and opposition benches, as well as for the prescient institution like parliament, which is considered to be the nodal-centre of peoples' representation.

Let's discern the situations of 15th Lok Sabha, when the RFCTLARR act 2013 was promulgated by the parliament.

15th Lok Sabha will be contemplated as most disrupted one in terms of its performance in the India's history of parliament. During this stormy periods, the Lok Sabha was even unable to take no-confidence motion, introduced in the winter session of 2013, which is entitled to assess the trust of the council of ministers (Madhavan, 2018). Although several members had delivered a notice for no-trust vote, the house was repeatedly adjourned owing to the huge ruckus amongst MPs, and agitation for carving out Telangana from Andhra Pradesh. However, the bill for carving out Telangana was passed amidst tempestuous moment, but no-confidence motion was never taken. This term of Lok Sabha has also shed a gloomy picture, in which the maximum time went in disruption, less amount of time was utilized for deliberating on budgetary grants, certain legislations got enacted having hardly any discussion, and question hour faced a steady decline. Over its full five-year tenure, it has approved 179 bills, out of 328 bills which were scheduled for consideration and passage (Malik and Kala, 2014). This is the lowest number of legislations approved in an entire term. Whereas, the 13th and 14th Lok Sabha have ratified 297 bills and 248 bills respectively. In 15th Lok Sabha, out of the allocated hours, just 13 per cent was devoted for legislative functions (PRS, 2014). And, around 36 per cent of all bills got approved in the Lok Sabha having a discussion for not more than 30 minutes, out of them 20 bills got passed, which were deliberated for less than five minutes; while just 38 per cent of all bills were received the consent of Rajya Sabha, that were discussed for more than two hours, out of which 7 bills were discussed for not more than 5 minutes (The Hindu Businessline, 2014). Moreover, the question hour was also very dismal in nature. During this period, out of 6479 questions listed for answer in both the houses, just 10 per cent of questions in Lok Sabha, and 12 per cent of the questions in

Rajya Sabha were answered respectively (Ibid, 2014). The intrinsic reason for the disruption, and frequent uproar in last Lok Sabha may be, the scams like allocation of 2G spectrum and Coal blocks, and some of the issues pertaining to FDI in retail, and resistance over the bifurcation of Andhra Pradesh and so on (PRS, 2014). These issues had by and large plagued the valuable times of the parliament.

Salvaging The RFCTLARR Act 2013

Ever since the Indian independence, the prolonged conflict on land acquisition has been persisted for many decades. Although this conflict may be traced back to colonial era, and could not get settled down prior to our independence, we can not take it as an alibi in post-1947. Because, during that period, we were not our own master. However, sensing the ailments and sufferings of our farmers, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) act was enacted in 2013. It is indeed a fair one which has granted a greater say to the land owners and the affected parties. It has brought the unbridled authority of the state to an end by restraining it from making undue intervention. Baring this, this statute has protected the rights of SCs and STs, and of every body by enlisting a clause to evaluate the project for which land acquisition will be made vis-à-vis the life of of the persons of that area. Notwithstanding the favorable provisions in that legislation, BJP no sooner com into power had attempted to amend the texture of that act. The then union minister of rural development Nitin Gadkari had convened an all-states meeting to put forth a discussion on the provisions of RFCTLARR act 2013; wherein, it was proposed that a series of amendment would be initiated against this act via ordinance (Kohli and Gupta, 2016). However, the ordinance was issued on 31st December 2014. It is distressing to note that the ordinance was promulgated thrice amid huge protest from all corners of the society comprising academia, politicians, farmer groups, and so on. The prime motto of issuing ordinance was to do away with the application of prior consent and SIA, when the government will acquire land on the grounds of national security or defence of India, rural infrastructure comprehending electrification, affordable housing and housing for the poor people, industrial corridors, infrastructure and social infrastructure projects under

PPP (RFCTLARR Amendment Ordinance, 2014). This issue created a perception of anti-poor and pro-corporate image in the minds of people. As a consequence, huge public protests were demonstrated outside of the parliament, and opposition parties launched intense protest inside the parliament also. Anyway, that ordinance was introduced as RFCTLARR Amendment Bill 2015 before Lok Sabha. It got passed in the lower house, but the paucity of majority of ruling party as well as the firm resistance of opposition benches had restricted the bill in Rajya Sabha from getting its signature. Consequently, the prolonged effort of the government could not stifle the voice of the opposition. Rather, it was forced to take back the proposed ordinance at the end.

To Ensure the greater accountability, the parliament has stood to saved the RFCTLARR Act 2013 from the danger. It has restrained the abuse of power of the executive through its own arms. In fact, the RFCTLARR Act 2013 which is a seminal legislation framed in the interest of the farmers as well as for the development of our country got alive.

Chapter 4

Report of Standing Committee on Rural Development on LARR Bill 2011

Prior to make a depth analysis on the report submitted by standing committee on Rural Development regarding Land Acquisition, Rehabilitation and Resettlement (LARR) Bill 2011, it is pertinent to shed a light on the committee system of Indian parliament. Parliamentary committees are there to ensure the accountability of the executive, and to bring a vitality in the functioning of the parliament. These committees stand to scrutinize the bills referred by the chair of the respective houses, assess the demand of grants as well as outlay of the government, and supervise its functions. Their reports are permitted for widely discussion on the floor of the houses. Further, the committees deliver an elbowroom for forging a consensus across the political parties; offer know-how on the concerned subjects; and bring forth the views of other stakeholders and specialists in order to develop a proper understanding (prs, 2011). However, the origination of the legislative committee system in India may be traced back to the Montagu-Chelmsford Reforms of 1919 (Rodrigues, 2014). Aftermath of India's independence, the significance of standing committees were seemed to be circumscribed, since, it was realized that when the executive held accountable to the legislature, there is no necessity of them (Ibid, 2014). Anyway, despite of having certain disinclination at the outset, several standing committees were set up. Such as, public account committee, committee on government assurances of the Lok Sabha, and so on.

The committee system of Indian parliament may be broadly classified into two parts, namely – Standing Committees and Ad hoc Committees (Kapur and Mehta, 2006; Agnihotri, 2011; Rodrigues, 2014). The standing committees are permanent ones who work on a continuous basis. Three important financial standing committees are public account committee, estimate committee, and committee on public undertakings. Apart from this, there are other standing committees like business advisory committee, committee on governmental assurances, general purpose committee, and etc. On the other hand, the ad hoc committees are constituted by the house for discharging a specific task, and become dysfunctional after their assigned task is over. The select committees and

joint-select committees which are set up to scrutinize the bills can be come under the purview of the ad hoc committees. One instance of ad hoc committee may be, Joint Parliamentary Committee (jpc) was formed in 2011 to investigate 2G spectrum scam. Thus, such committees are not only engaging with the parliamentarians but also negotiating with the other stakeholders and civil society activists.

In 1980s, it was appeared that parliament was unable to render its own function, and failed to hold the executive accountable before it. This sort of institutional challenges in subsequent periods were trying to hunt the credibility of the parliament. To overcome that critical situation, one suggestion was brought up as, comprehensive legislative participation and systematic perusal of functions of diversified ministries via subject-based parliamentary standing committees (Ibid, 2014). Keeping this thing in mind, three legislative standing committees on specific subjects inter alia agriculture, science and technology, and environment and forest were created in 1989. On the latter, both the houses relying upon the recommendations of rules committee, went on to set up 17 Departmental Related Standing Committees (DRCs) in 1993. With the arrival of DRCs, the three subject-based standing committees which were previously established got disbanded. In 2004, the number of DRCs were raised into 24 with a view to superintend the voluminous works of the several ministries. Much earlier to India, British parliament as a consequence of Crossman Reforms of 1966, had constituted 18 specialist committees to ensure the transparency and effectiveness in its functioning (Ibid, 2014). These committees were supposed to assess the activities of various governmental departments and to offer a forum for MPs to share their views. These committees also grills the civil servants and ministers pertaining to the administration, whereby, a greater supervision of the government was made by the legislature.

A second set up standing committees commonly refered as Departmental Related Standing Committees (DRCs) were installed in 1993 to foster a more surveillance over the executive. Their mandate is to assess the pros and cons of the bill refered by the chairs of the respective house and furnish recommendation, scrutinize the demand of grants, evaluate the annual policy of the government, and make an inquiry into various

policy of the government (Agnihotri, 2011; Madhaban, 2017). The recommendations of these committees are merely recommendatory in nature. The government may endorse certain recommendations, and there is no statutory provision to ask why it is unwilling to subscribe the other ones. It has been informed that parliament per se disregards the reports of the committee. When the reports of the committees do not advocate the stance of the government, most of them are not placed before the house for a deliberation; contradictorily, if those reports favors the will of the government, then they are deemed to be superfluous (Kapur and Mehta, 2006). It may be elucidated here, when something is refered to the committee for a thorough examination, and after submission of their recommendation the reports are not being taken; the parliament is nothing but passing over the painstaking efforts of the committees. Thereby, the essence of the committee is getting compromised. The primordial objective of such committees is not to call down the government, rather to enrich the parliamentary process by offering constructive reports. Given the necessity of executing the recommendations made by the DRCs, the chairman/speaker of the respective houses in 2004 directed that the concerned ministers have to inform the house once in a period of six-months, with regard to the status of implementation of the reports (Agnihotri, 2011). Although the introduction of DRCs in Indian parliament is a fair experiment, but it needs some course correction. Since, the membership of these committees are one-year, the repeated transfer of member from one committee to other, and induction of new members have been led to the dismantling in its function. The fellow parliamentarians are facing serious challenges to engage properly with an issue instead. Hence the membership of committee should be static, which may allow them to deal with a matter in detail. Another thing may be, the DRCs should be provided adequate staffs, so that they can discharge their own tasks independently. One of the path breaking success of this committee system is the party whips are not applicable to it (Madhaban, 2017). The members therefore, do work with a greater conviction, and in most of instances submit a consensus report. This view came under challenge in 2011, when the public account committee (PAC) after reading out the report of the Comptroller General in relation to 2G spectrum scam, failed to deliver a consensus report. A 30 member joint committee was constituted to investigate the issue. That

committee was also got divided in their opinion, and handed over their report with 16-11 votes and 3 remained abstained (Ibid, 2017). Notwithstanding this, the committee system has been claimed as a great success.

In this chapter, I would profoundly discuss the recommendations of the Standing Committee on Rural Development on Land Acquisition, Rehabilitation and Resettlement bill 2011. Along with this, I may spell out how far those recommendations are accepted by the government, and incorporated in the RFCTLARR Act 2013. The purpose of taking LARR bill 2011 into account is, this was a precursor to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013.

The Land Acquisition, Rehabilitation and Resettlement (LARR) bill was introduced in the Lok Sabha on 7 September 2011. Subsequently, on 13 September 2011, that bill was refered to the Standing committee on Rural Development by the speaker for a thorough scrutiny. The committee in this regard submitted its 31st report in May 2012. Since, land is a valuable resource, and consider as the lifeline for the millions of farmers; fundamental for the development of infrastructures; and a decisive factor to meet the growing aspiration of a modern state, its acquisition should be done meticulously. Prior to the initiation of LARR bill 2011, two similar bills namely – Land Acquisition Amendment bill, and Rehabilitation and Resettlement bill were introduced in 2007. Those two bills were also gone through by the standing committee. The bills were approved by the Lok Sabha in 2009, but could not get the assent of RajyaSabha before the tenure of 14th Lok Sabha coming to an end.

Eminent Domain

The doctrine of eminent domain may imply supreme authority. the property of all citizens can be come under the ambit of eminent domain of a state. By invoking this, the sovereign states may acquire private property for the greater necessity of the public. It needs to be stress that at the time of acquisition, if anybody deprives of his property, the state is obliged to compensate that loss. The genesis of Eminent Domain in Indian jurisprudence may be way back to the early 19th century, especially to the land acquisition act 1894 (Standing committee on Rural Development, 2012). It has taken the

shape of land acquisition by the state which differs from procurement of land by a private stakeholder. In 1984, when an amendment was introduced to the parent land legislation of 1894, the distinction with regard to the land acquisition for the state and private enterprise, or state enterprise became blurred. As a result, it opened a huge space for the state to acquire lands for private company. Consequently, this caused a string of agonies amongst the tribals and rural peoples, and propel the central government to come with a new act. It is worthwhile to mention that LARR bill 2011 without returning to, or attenuating the idea of eminent domain, has liquidated the divergence between the acquisition of land by the state for its own sake, and procurement of land by a company for private purpose comprising Public Private Partnership [PPP] (Ibid, 2012). Thus, this bill has delivered a broad definition of public purpose for which land can be obtained.

During the course of examination by the standing committee on rural development, Many more organizations, social activists, stakeholders and public representatives have submitted their opinions with regard to LARR bill 2011. The Delhi Metro Railway Corporation (DMRC) has suggested that the private companies must not be allowed for acquiring land to install Special Economic Zones (SEZs), or to perform for any other public ends. On the other hand, the delegates of Sangharsh Ms. Medha Patekar and other have informed that there ought not to be any interference of the government in the matters of PPP Projects. Assistance does not signify the government should be an intermediate instrument of any private corporations, said the delegates of All India Kishan Sabha. Since, they can purchase the lands on their own. Another organization like Bhartiya Kisan Sangha enunciated that the government has to pronounce the objective prior to acquire land, and advised as, land should no way be shifted to the private entities. Along with this, the committee itself has drawn attention that the concept of eminent domain needs to be reviewed especially in relation to the acquisition of multiple acres of land, since it was started during colonial era. In response to the aforementioned suggestions, the Department of Land Resources (DoLR) cited, the article 31(A) of the constitution empowers that the legislations can be framed to acquires lands in the larger public interest, and the deprived ones shall be awarded compensation as per the current market price. Since, the country is at a growing stage, and calls for

rapid infrastructure development, the line between public and private sector is becoming so thin. Furthermore, the public purpose has been delineated so broadly which would authorize to acquire land for those projects, wherein, the people would be intensely benefited. Considering the views of the representatives of various organization, and response of the DoLR, committee has questioned the government as, while the developed countries viz., USA, Japan, Canada, and so on are not obtaining lands for any private enterprises, rather, they are procuring for themselves; why India is going to adopt such aberrant practice (Ibid, 2012)? Henceforth, the description of public purpose should be restricted and precise, and can be put up through the funds of the state. In fact, the definition of public purpose as specified in the RFCTLARR act 2013, is not restricted, rather broader in scope.

Significance of Local Self-government in Land Acquisition and R&R

India on the basis of 73rd and 74th constitutional amendment act has upheld the local self-governments. It has consolidated our democratic system by creating a third tier at grass root level. The local self-government has been entrusted to do certain tasks, which is especially in favor of the local people. When the committee enquired about the role of local institutions vis-à-vis land acquisition in the LARR bill 2011, the Dolr responded that the rural self-government and urban self-government, along with affected families have been provided utmost priority on the subject of land acquisition, and R&R facility. For some projects, the consent of not less than 80 per cent of affected families is necessary to acquire lands. The bill mandates that the consultation with the concerned Gram Sabha or Panchayat at village level; municipalities in urban area; and Autonomous District Councils in the 6-scheduled regions is mandatory, prior to bring any notification for land acquisition (Ibid, 2012). After receiving the response of DoLR, the committee recommended that mere consultation with local institutions may not satisfy the quintessence of the local self-government. Rather, the role of these institutions should be fortified in order to make the process of land acquisition more participatory and inclusive. However, the consent of Gram Sabha, or Panchayats, or Autonomous District Councils (ADCs) at respective level is imperative in case of land acquisition in scheduled areas

(RFCTLARR Act, 2013). It was pointed out, the consent of 70 per cent of affected families in case of PPP Projects, and consent of 80 per cent of affected parties for private company will be sought at the time of land acquisition (Ibid, 2013).

Application of LARR Bill 2011 in Scheduled Areas

Over the years, there has been massive unrest in the countryside due to the large-scale displacement of tribals from their homelands. Acquisition of Thousands acres of land for the sake of development has led to the standoff between authority and tribal peoples. The latter are also sometimes being targeted as the illegal-occupier of forest lands, which eventually disdain their life condition. So as to forestall their further marginalization, it is imperative to pay a heed to the possession of their resources like land, water and forest; on which their life is relied (Standing Committee on Rural Development, 2012).

While the LARR bill 2011 was under scrutiny by the committee, the representatives of Chhattisgarh informed that the tribals may not remain satisfied, in case, they get rehabilitated in some other places. Hence, the tribal peoples should be provided an employment therein. The Adivasi Adhikar Manch on the other side, has proposed that mere "consultation" with tribals is not adequate; rather, it should be substituted by "consent", wherever is necessary. Citing the special provisions accorded under article 371A of the Indian constitution, the state of Nagaland has contended that the LARR bill 2011 may not be applied to it. The DoLR also got convinced, and replied, no statutes of the parliament with regard to possession and relocation of land and its resources would not be enforced in the state of Nagaland, except the state approved a resolution in this regard (Ibid, 2012). Thus, it is up to the state of Nagaland to make a choice on the issue of enforcement of LARR bill 2011. Subsequently, the state of Meghalaya requested the committee to keep it out from the perview of LARR bill 2011. Although the bill is entitled to offer fare compensation and proper R&R, safeguards the the scheduled areas and promises to preserve their cultures; the state government should be granted the right to legislate on the subject of land. Because, the land occupancy system of Meghalaya is widely diversed from the other states. Here the land is owned by community and clans. They may transfer the land to the individual families. The families are deemed to be the

proprietor of that land, as long they are professing work over there. Consequently, that land would be restored to the former, when they remain away from using it. Another thing is, the bill authorizes that the consent of local institutions is imperative at the time of land acquisition. But in actual sense, the 73rd and 74th constitutional amendment acts are yet to be enforced in the state, which could have paved the way for institution of local self-government at grass root level. Hence, the application of LARR bill 2011 in the state of Meghalaya amid the absence of corresponding institutions, would make the situation worse (Ibid, 2012). In a response to the concerns made by Meghalaya, the DoLR said that the LARR bill 2011 has already been framed in consonance with the provisions of Panchayats (Extension to Scheduled Areas) [PESA] act of 1996 to sort out any kinds of maladies. Further, the DoLR added, the Land Acquisition act 1894 has already enforced in the state, and LARR bill 2011 will just supersede the former one. Anyway, it is up to the state to make necessary amendment to its legislation after the new law came into operation. Taking all views into consideration, the committee recommended that no land should be acquired in the scheduled areas as far as feasible. In case of unavoidable circumstances, where the projects involves greater public necessity, land acquisition may be permited. But special arrangements with respect to higher compensation; appropriate R&R facilities; preservation of their language, culture and community; and so on ought to be executed. Apart from this, the committee advocated that the consent of Gram Sabha and Autonomous District Councils (ADCs) is necessary, and must not be confined to the mere consultation with them (Ibid, 2012). Anyway, the recommendations of the committee in this regard were accepted by the government, and enshrined under section 41 and 42 of the RFCTLARR act 2013 (RFCTLARR Act, 2013).

Defending Food Security

Perceiving the fear of starvation, and loss of hectares of arable lands, a special chapter on food security was enclosed in RFCTLARR act of 2013. Its primordial objective was to ensure that no irrigated multi-cropped lands can be possessed, unless there is an extra-ordinary situation. When the production of foodgrains is at stake, acquisition of multi-cropped lands would aggravate the situation further. Thus, the 2013 law has delivered

certain safeguards for food security. Let's see the recommendations of the committee on this matter, and views of other stakeholders.

The state of Chhatisgarh informed the committee that the section 10 of the LARR bill 2011 is dissuading to install agro-industries in the suitable area. That section is also restraining urbanization and industrialization in the regions which have especially been irrigated. Moreover, the same section does articulate that when the irrigated multi-cropped land would be obtained, the corresponding amount of arable barren lands should be allocated for cultivation purpose (Standing Committee on Rural Development, 2012). Such kind of provision should not be held mandatory; since, it is a stupendous task to figure out a cultivable ravaged land. On the other side, the state of Madhya Pradesh suggested that this chapter ought to be absolutely dismissed. Because, the concept of never obtaining irrigated multi-cropped land is unworkable and abhorrent in nature. It has not forecasted to meet the unforeseen situations of the country. However, this clause may be stood up as a discouraging factor for irrigation. Responding to the aforementioned concerns, the DoLR said that the bill has already fixed certain ceiling on the acquisition of multi-cropped irrigated lands, that's why, the state of Chhattisgarh would not face any hardship in establishing the agro-industries. So as to remove the misgivings of Madhya Pradesh, DoLR clarified that this chapter should be there to salvage the food security. However, this bill has endeavored to maintain an equilibrium between food security and development by bringing restriction on the acquirement of irrigated lands. Subsequently, the committee in its report noted that over the years, the output of coarse cereals, oilseeds and pulses has been gradually declining in rain-fed and dryland regions. It is painful to spell out here, the production of coarse cereals is getting decelerated, that furnishes sufficient amount of energy to the most disadvantaged consumers of our country. Nevertheless, the idea of food security which enshrined in this bill, is entirely based on multi-cropped irrigated land, accentuating on the safeguards to boost production capacity in the rainfed areas instead. It is therefore, the committee has recommended that all provisions vis-à-vis the multi-cropped irrigated land should be substituted by any land under agricultural cultivation in rainfed regions with a view to defend food security (Ibid, 2012). This recommendation was possibly not accepted by the government. Since, the

concept of food security as illustrated in the RFCTLARR act 2013, is prima facie based upon multi-cropped irrigated land (RFCTLARR Act, 2013). Moreover, when some states and union territories voiced about the impractical nature of the proposition pertaining to execution of 5% district-wise ceiling on the acquisition of multi-cropped irrigated lands, and its enforcement may arrest development in some regions; the committee advised that the matter on fixation of ceiling on acquisition should be left to the states to fix it on district-wise or state as a whole (Standing committee on Rural Development, 2012). This advice was presumably not endorsed by the government, since, the RFCTLARR act 2013 envisaged that the ceiling on acquisition will be decided by the appropriate government (RFCTLARR Act, 2013). Thus, the appropriate government refers here as, state or central government may be.

Exemption Clause

Section 98 of Land Acquisition bill 2011 articulates to exempt certain land acquisition legislation, elucidated in the fourth-schedule from its purview. When the standing committee on rural development questioned, why the government is intending to exclude a series of enactments from the application of LARR bill 2011, especially in relation to offering compensation and R&R facilities; the DoLR in their note, enunciated that these statutes were promulgated to acquire land for particular sectors, and these sector-specific issues can not be resolved in one particular bill (Standing Committee on Rural Development, 2012). However, the section 98 of the LARR bill 2011 pronounces that the government by issuing a notification, may extend the provisions of R&R facilities, and determination of compensation to the land acquisition cases. When the committee further questioned, will it not be an arguous task to bring out notification from case to case basis? DoLR replied, the notification would not be issued from case to case basis, rather once promulgated for a specific act, that would be made applicable for all land acquisition process spelled out in that legislation, as long any further notification is issued to that effect (ibid, 2012). Interrogating further, the committee asked, when the ministry of defence can administer in the absence of any immunities from the intended legislation, why other ministries should be granted certain exemption? DoLR said that a few central

legislations have been exempted on account of their peculiar nature, but the provisions pertaining to determination of compensation, and R&R facilities can be applied to those legislations. Moreover, the DoLR had endorsed the request of defence ministry on exclusion of two statutes i.e. the works of Defence Act 1903, and cantonment Act 2006 from fourth schedule, therefore, the land acquisition for the task of defence can be obtained in accordance with LARR bill 2011. Apart from this, the committee also inquired, keeping 16 central legislations under fourth-schedule signify as, those statutes would be outside the jurisdiction of LARR bill 2011, which may dilute the very essence of this legislation. It is because, around 95 per cent of land acquisition done under those statutes were kept beyond the scope of this bill. Having saying this, the committee went on to seek the justification of the government with regard to the extension of provisions like R&R facilities and fair compensation. The DoLR replied that there is a thin divergence between en masse acquisition and row acquisition. The latter acquisition is made for construction of roads, railways and to facilitate power distribution; for which very tiny amount of land is required. Some ministries apprehended that if the R&R benefits would be enforced to them, then the delivery and development of infrastructures which have been illustrated in the third-schedule, may become broader in scope. However, their argument was The application of rehabilitation and resettlement facility for such meager amount of land would not satisfy the inherent goal of land acquisition. Thus, it was held that Row acquisition should not deserve R&R facilities (Ibid, 2012). Notwithstanding this, the government has the option under section 98 of LARR bill 2011 to extend the R&R benefits to those acts enshrined in the fourth schedule, if the situation demands. Subsequently, the committee also pointed out, in case, any states will quest for corresponding exemption from their statutes, DoLR responded that no states have appealed in this regard.

Thoroughly Considering the aforementioned issues, the committee had delivered a robust recommendation that there is no necessity for exempting any of the central legislation from the jurisdiction of LARR bill 2011, and directed to annul the section 98 and four schedule from this bill (Ibid, 2012). In their note, it had also enunciated that the insertion of SEZ act 2005 under the fourth schedule is not going in conformity with the argument

posed by DoLR. Albeit, this act permits for en masse acquisition, was placed in the fourth schedule. Despite of having such strict recommendations, the government could not have paid much heed to it, and ultimately the exemption clause got incorporated in the new act of 2013. Section 105 of RFCTLARR act 2013 pronounces as, no provisions of this act would be made applicable to the land acquisition related legislations enlisted in the four schedule; but the central government by issuing a notification, may extend the provisions pertaining to R&R benefits, and just compensation to those legislations (RFCTLARR Act, 2013).

Public Purpose

When the LARR bill was under consideration by the standing committee, various stakeholders submitted their claims pertaining to public purpose. The state of Bihar informed that LARR bill 2011 has spelled out the scope of public purpose, for which land can be acquired. But the matter of concern here is that scope of public purpose does not encompass land acquisition for setting up Anganwadi centres and storehouses for keeping food grains; hostels for downtrodden sections of the society; residence for elders; governmental apparatus comprising secretariat, collectorates; and other buildings to put up diversified governmental departments as well as workers. On the other hand, the government of NCT conveyed that the categorization of public purpose is highly ambiguous, and by and large, embraces all sorts of projects or objectives. It had also suggested that to incorporate extraordinary circumstances, governmental enterprises or companies within the ambit of public purpose. Moreover, the state of Madhya Pradesh reported that the phrase public purpose ought to consider the necessity of land for multiple projects of the state government and local bodies, and asserted for inclusion of public sector undertakings (Standing Committee on Rural Development, 2012). They are of the view that the nature and essence of public projects should be characterized in such a manner, that may not suffice any private or personal interest, but may accrue greater advantage for the public. In response to these abovementioned arguments, the DoLR said, the state of bihar would not encounter any difficulties, because, the LARR bill 2011 has already elucidated that the land can be acquired for such projects wherein, the more

profits would be accumulated for the people. However, DoLR has not subscribed the proposals of NCT on the insertion of "Extraordinary circumstances" in the realm of public purpose. Speaking about other suggestions, it clarified that the term company has been distinctly explained in the company legislation. That's why, there is no justification to embody it in the public purpose. Refering to the concerns of Madhya Pradesh, the DoLR said, the contemporary definition of public purpose is more suitable, and needs to be preserved as it is. To take the discussion forward, we may look into other suggestions. The state of Uttar Pradesh told, the 80 per cent of consent in case of PPP project is indeed impractical in nature. When the state is supposed to set up a public hospital, large bridges or air ports and so on for greater public usage via PPP route, it has to hand over lands to some private entities on a rent. For that reason, it would be an uphill task to ensure such a massive consent. In a response to this, DoLR clarified that the existing 80 per cent of consent is applied in order to foster a democratic participation in land acquisition process. As a result, land can be acquired in a transparent manner. Realizing the substantiality of infrastructure projects, Secretary of DoLR had assured that it should be enlisted within the scope of public purpose, but unfortunately we have not done it. During the course of examination of LARR bill 2011, various ministries also solicited to put in certain projects under the public purpose. Ministry of Environment and Forest requested for inclusion of national park, wild life sanctuaries, city/countryside green belts, gardens and so on ; Ministry of Power claimed for power projects; and ministry of Culture asked to subsume archaeological places within the sphere of public purpose (Ibid, 2012). In a reply to this, DoLR highlighted that all these projects are apparently coming under the scope of public purpose. Taking various claims into account, the standing committee categorically recommended that no acquisition can be done for PPP projects or any private companies (Ibid, 2012). But it is noteworthy to elucidate that this recommendation may not have subscribed by the government. Since, section 2(2) of RFCTLARR act 2013 spells out the land acquisition can be done for PPP projects, and private company which involves public purpose (RFCTLARR Act, 2013).

To understand the issue properly, committee went on to ask whether the provision of 80 per cent consent would be enforced upon the public services like school or road; or

in case of private entities. DoLR precisely explicated that whenever the government is acquiring land for any governmental projects, no consent is required at that moment. Rather, when it is obtained for PPP projects or private companies, 80 per cent of consent is mandatory (Standing committee on Rural Development, 2012). However, the prior consent of 80 per cent of affected families in case of private company, or 70 per cent for PPP projects have been laid down in the 2013 act (RFCTLARR Act, 2013).

Social Impact Assessment

The fundamental idea of conducting social impact assessment (SIA) is to evaluate, how many peoples are going to be affected by the ensuing project, and to assess the pros and cons of the project vis-à-vis the impacted peoples. Let's analyse how various stakeholders reported their requisitions before the committee and its response.

The state of Madhya Pradesh had proposed that the whole chapter on SIA should be confined into a single clause which would specify as, a SIA study shall be carried out on each land acquisition as per the rule. The notion of conducting an EIA, instituting an expert group for examination of the SIA report, frequent public hearing, and so on may cause the whole implementation of law into a clumsy and lackadaisical. It should be rested to the states to determine, how the SIA can be carried out. Steering SIA prior to the issue of notification under section 11 of the LARR bill 2011, would give a leaway to the peoples to resolve all kinds of troubles, and to overcharge privately the cost of the land. Whereas, the UT of Andaman and Nicobar islands reported that the SIA report should be subject to judicial review. There is a need to spell out the detailed quantum of land, and the SIA should be commenced accordingly, said Asam in their note. Hailling the essence of SIA, Bihar enunciated that its value can never be underestimated. This process is stood to assess the potential outcomes of the ensuing project vis-à-vis the affected persons. However, we are not questioning its the intent, but the process instead. It is imperative to pose, How or by whom, the process of SIA could be conducted? There could be an inappropriate manipulation at the initial stage. Who above all become the social scientist or other specialists to make an appraisal of the SIA report, they further added (Standing Committee on Rural Development, 2012). When the LARR bill 2011 was under

consideration, the state of Maharashtra contended that the SIA should not be made obligatory in case of government is obtaining land for its own use. And also, for authorizing public purpose, collector's certificate would be sufficient. But when the land is supposed to be acquired for private company, the SIA will be mandatory. It may be emphasized that wherever the social as well as environmental impact need to be assessed, both should be coupled together. The state of Maharashtra also advised that SIA must not be held mandatory in such projects which may demand for a minuscule amount of land, that is up to a hundred acres. Further said, the place where no houses will be evicted, there is no requirement of having any SIA. On the other hand, both the ministries viz. Ministry of road transport and Highways, and Ministry of Railways conveyed that land acquisition for the projects of national highway, and railway is linear in character which may cause minimal eviction. That's why, the former advocated for no SIA, and the latter solicited for its exemption in the concerned projects. Moreover, like Maharashtra, they had proposed that the SIA ought to be conducted on the acquirement of more than hundred acres of lands. In a reply to the aforementioned suggestions, DoLR stated in following ways. On the proposals of Madhya Pradesh, it had pronounced that the provisions of LARR bill 2011 pertaining to SIA should be retained as such, with a view to bring transparency in the process of land acquisition, and to cultivate a democratic participation of the affected persons. DoLR did not clarify the issue raised by UT of Andaman & Nicobar island that whether the SIA report should be subject to judicial review or not. Rather, it entailed as, various mechanism have been delivered in the bill to redress the complaints. Coming to the suggestion of Asam, DoLR enunciated that SIA has been set forth for all instances of land acquirement. If the proposed land which to be acquired, is not large in extent, the SIA could be done expeditiously. To dispel the misgivings of Bihar government about the implementation of SIA clause, DoLR said that the detailed rules would be framed on the basis of law in order to carry out the SIA process. It had rebuffed the proposals of Maharashtra relating to the authorization of public purpose by collector, and exercise of no SIA where no eviction of dwellings has happened. With regard to another suggestion on coupling of EIA and SIA, DoLR clarified that the bill has already furnished in this regard. Having saying this, it did not

make any reference on the application of SIA vis-à-vis the acquisition of minuscule amount of lands. Since, the national highway act has been kept under the four-schedule of the LARR bill 2011, the LARR provisions would not be applied to that act. Hence, there is nothing to be worried for the Ministry of Road Transport and Highways. Subsequently, declining the request of Ministry of Railways, DoLR stated that although the land acquisition for railway projects is linear in character, such projects should not get exempted from the process of SIA. Referring to the suggestion on securing the consent of Gram Sabha or Autonomous District Council, and to assay the serious repercussion of zone of influence where the land would be acquired, DoLR expressed that the LARR bill has been accommodative for PESA. Apart from this, the delegates of All India Kishan Sabha requested the committee to subsume one member of local self-government, or legislative assembly or parliament within the group of experts to assess the SIA report. However, this suggestion was not found favour with DoLR. It had assured the proposal of Maharashtra on the hand over of SIA report by expert committee within two months, after the publication of notification under clause 9 of LARR bill 2011 may be taken into account. But it is a matter of distress that one of essential suggestion was overlooked by DoLR itself. That is, Ministry of Urban Development informed that the SIA ought to be commenced after the issue of preliminary notification. If the group of experts may perceive that the SIA report is not embracing public purpose, and the proposed area for land acquisition is too large in size, it can exercise its veto. And, this veto should come into limelight. Anyway, it must be accentuated that the SIA report should not be carry forwarded by the government after vetoed by the group of experts.

Taking all the claims and counter claims into account, committee had recommended in following ways. The committee were of the view that SIA would assure on acquisition of least amount of land, as necessitated for a project. They had recommended for insertion of “Zone of Influence” within the purview of SIA, when the land will be notified for acquisition in the fifth-scheduled area, with a view to figure out any transformation in the living standard of the peoples, social and environmental changes owing to the installation of industries in adjoining areas (Ibid, 2012). The committee inquired that whether the consent of Gram Sabha or corresponding bodies is indispensable at the time of

conducting SIA; and if they do not deliver their approval, how the proceeding would be carried out. This thing has not been properly pointed out. Consequently, it had advocated for an amendment to the section 4 of LARR bill 2011 in order to ensure the wrap up of the SIA with the approval of Gram Sabha or corresponding bodies. With respect to clause 7, which talks about the composition of expert groups, the committee further recommended that besides the provided members, one or more members from the respective local or urban bodies should be chosen in affected areas. So as to ensure the natural justice, it had advised that no land acquisition can be done on account of urgency, unless, there is a notification in this regard, complaints are allowed on it, and those complaints have been addressed (Ibid, 2012). Despite of having certain quintessence, it is mournful to elucidate that the major recommendations of the standing committee pertaining to SIA were not endorsed by the government. One of the key recommendations regarding to the inclusion of one or more members from respective bodies viz. Gram Sabha, Panchayat, Municipality or Municipal corporation has been incorporated under section 7 of RFCTLARR act 2013 (RFCTLARR Act, 2013). But all other major recommendations like embodiment of zone of influence and conclusion of SIA with the approval of Gram Sabha did not get the nod of the government. Anyhow, the suggestions of the committee with reference to invocation of urgency clause to acquire land, which should otherwise be followed by a notification, and complaints should be allowed on this, and those complaints must be resolved etc. were not paid more cognizance of the government.

Determination of Compensation

One of the dire tasks before Ministry of Rural Development was to adjudicate the market price as well as the quantum of compensation payable to the land owners, and the persons whose lives are relying upon that land. Proposing the LARR bil 2011, it had embedded certain provisions to calculate the costs of both. We may here look into the suggestion of various groups on this issue, response of DoLR, and recommendations of the committee.

Raising their concern on multiplying factor, which has been stipulated as 2 for rural area following the computation of market price, the state of Madhya Pradesh questioned that

to serve which purpose, the cost of the land is getting multiplied by a factor of 2 in countryside region. If again, a hundred per cent of solatium may be surplused, then the total amount of the land will be four times in rural belt. As a consequence, this will augment the price for acquiring land for governmental projects. Hence, it had proposed that the central government will have to deliver an outlay for obtaining land for welfare projects in upcoming days. On the other hand, the state of Chhattisgarh informed that the LARR bill 2011 is intended to offer four times of the rate of compensation in rural areas, and two times in urban regions. This would eclipse the divergence between rural and urban areas, where certain parts are adjacent to the urban belts. Voicing their agony, they refered that we must not make an alteration in the real market price by whimsically hiking the compensation rate for land acquisition in rural area. Wondering the legitimacy of the payment, UT of Andaman and Nicobar went on to speak, whether the outlawed land holders shall be offered compensation also. In their note, Ministry of Coal proposed for a deduction in the amount of solatium i.e. from 100 per cent to 60 per cent. Differing with the multiplying factor, and per centage of solatium, Department of Atomic Energy uttered that the multiplying factor which is used for rural area should be 1.5 instead of 2, and the solatium needs to be specified as 50 per cent. In their argument, Ministry of Housing and Urban Poverty Alleviation clarified, the rural and urban area should be dispassionately contemplated in order to assess the market cost of the land. To remove the ambiguity, Ministry of Finance explained that the item stamp duty has been enshrined in the 7 schedule of Indian constitution, as a result of which the states of Rajasthan, Maharashtra and etc. have promulgated their own laws, whereas, some other states have approved the Indian Stamp Act 1899 with certain amendments (Standing Committee on Rural Development, 2012). Such enactments commonly ascribes about the market price. To clarify here, these legislation have not spelled out the minimum price, which can be taken to evaluate the stamp duty. Rather, for ascertaining stamp duty, market cost of the land has been individually defined by the appropriate state governments in a periodic manner. Sharing their views, the delegates of CREDAI said that government has absolutely missed the anticipation of middle class individuals who do require affordable housing. While Augmenting the compensation amount, will keep the ultimate burdens

upon the customers. Further, they also asked about the legitimacy of furnishing one hundred per cent of solatium on the market price. Consequently, the delegates of AIKS proposed for the establishment of a land price commission at national or state or district level to evaluate the price of the land (Ibid, 2012). This view might not have taken by DoLR.

Let's observe the response of the DoLR on the aforementioned issues. Responding Madhya Pradesh on the rationality behind multiplying factor, it pronounced that the multiplying factor 2 has been proposed in the bill to offer high compensation to the farmers of rural area. Coming to the question raised by Andaman and Nicobar Island, it said, an elaborate procedure has been delivered to undertake an inquiry for figuring out the genuine persons who would be affected by the land acquisition. So that the outlawed land holders can not receive compensation. The rudimental objective of LARR bill 2011 is to extend fair compensation with a view to bypass the spontaneous nature of bargaining. However, DoLR was silent on the issue raised by the state of Chhattisgarh. It was not convinced with the arguments of Ministry of Coal and Department of Atomic Energy on deduction of amount of solatium and multiplying factor respectively. Moreover, it was not also persuaded by the suggestion of Ministry of Housing and Urban Development upon the squarely treatment of rural and urban region vis-à-vis the calculation of market cost of the land. Subsequently, it had endorsed the proposal of Ministry of Finance relating to the alteration in minimum land price.

Following this, the standing committee had delivered certain recommendations. It recommended for setting up a multi-membered land price commission for fixing the value of the land (Ibid, 2012). Apart from this, the committee had also advocated, the compensation of a land which is determined in accordance with the section 26 and 1st schedule of LARR bill 2011, must not be taken as a base price for further acquisition in the vicinity areas. It is worthwhile to elucidate that out of these two recommendations, the former was perhaps not accepted by the government. But the latter one was incorporated in Explanation 3 of section 26(1) of the RFCTLARR act 2013 (RFCTLARR Act, 2013).

Urgency Clause

LARR bill 2011 under section 38, had attributed certain special powers to the central government for dealing with exceptional situations. It is said, land can be obtained on the grounds of urgency for the purpose of national security or defence of India, or any crisis breaking out of the natural calamities (LARR Bill, 2011). While that bill was under consideration by the standing committee, various states claimed that this clause should also be applied to certain infrastructure projects recognized by state or central government, which are exigent in nature. Nevertheless, the committee did not pay a heed to their suggestions, but articulated that the anticipated provisions are minimal, and these things should be kept as such (Standing Committee on Rural Development, 2012). In fact, this recommendation was gracefully subsumed under section 40 of the RFCTLARR act 2013 (RFCTLARR Act, 2013).

Provisions for Erring Officials

While the sections from 78 to 84 of LARR bill 2011 were scrutinized by the committee, various states and central ministries expressed their agony with regard to punitive provisions against governmental officers. Committee therefore, urged DoLR to go into this case time and again in conformity with Department of Personnel and Training (DoPT) for thwarting dereliction of duty, deliberate corruption, non-performance made by the officers (Standing Committee on Rural Development, 2012). Along with this, it had voiced for introducing any other significant laws, or the terms under IPC, after the phrase "Punish Accordingly" set forth in section 80(1) of LARR bill 2011 (Ibid, 2012). In reality, the former one was duly accepted by the government, and widely explained in the chapter XII of the RFCTLARR act 2013. To assure the governmental officials, it has stated that no officer shall be penalized, if the concerned officer can demonstrate, the offence was held without his wisdom, or he endeavored with greater sincerity to forestall the violence (RFCTLARR Act, 2013). And, the latter was reportedly mentioned nowhere in the act.

Expiration of Land Acquisition Act 1894

Section 24 of the LARR bill 2011 has enunciated that the proposed land for acquirement pronounced under land acquisition legislation 1894, would be considered to have repealed, in case, the award has not been delivered, or the acquisition has not been held prior to the enforcement of new act (LARR Bill, 2011). To clarify, the colonial legislation on land acquisition shall be lapsed altogether except on these two grounds. Reacting to this development, some of the delegates of industries and Ministries of Railway, and Urban Development had communicated to the committee that the process for obtaining land which has already been commenced under the land acquisition act 1894, ought not to be relapsed, because, it would have to pay heavy cost, and may hold off the ongoing infrastructure projects. Following this, the committee had requested the government for reconsidering this matter, and to introduce required provisions for ensuring adequate compensation and r&r facilities to the affected persons (Standing Committee Report on Rural Development, 2012). Concurrently, it has to be stressed that the execution of infrastructure projects should not be negatively impacted. However, this suggestion was well accepted by the government, and kept under section 24 of RFCTLARR act 2013 (RFCTLARR Act, 2013).

Return of Unused Land

Section 95 of LARR bill 2011 has unambiguously stated that when any land remains unutilized for a period of 10 years from the day of its acquisition, it shall be reverted to the land bank of the concerned government (LARR Bill, 2011). This section could not muster the confidence of various states and central ministries. So as to ease their apprehension, DoLR assured them of, land bank will be replaced by land owners. That designates, if any land found to be unutilized, that would be restored to the land owners, land bank instead. Slidely differing with it, the committee noted that albeit the term land bank shall be substituted by land owners, there is still certain necessity for retaining it in order to deal with the circumstances wherein, the land owners are not interested to take back their lands (standing Committee on Rural Development, 2012). Along with this, the committee recommended that the term ten-years has to be substituted with five-years,

after which the unused land shall be returned. These two recommendations were properly incorporated in the section 101 of RFCTLARR act 2013 (RFCTLARR Act, 2013).

Finally, we have to acknowledge that the recommendations of the committee on this particular bill were more or less subscribed by the government and incorporated in the RFCTLARR act 2013 as well. This can be read with a time, when we are witnessing, several bills have been referred to the departmentally related standing committees or selected committees for greater scrutiny, but after their consideration, their reports are not fairly introduced before the house. Most of the committees' reports are not laid on the table for initiating for elaborate discussion. Scholars like *Pratap Bhanu Mehta* and *Devesh Kapur* in one of their papers have pointed out that the major predicament is, if the reports are inconformity with the interest of the government, the majority do not stake a claim of having introducing them before the house; however, if those reports are in accordance with the position of the government, they are deemed supererogatory (Kapur and Mehta, 2006). To clarify here, during the span of two previous Lok Sabha, 60 per cent and 71 per cent of the whole bills were referred to the related committees respectively, whereas, by October 2017, around 27 per cent of bills put forth presently in the house have also been sent for the same (Madhavan, 2017). During the period of 15th Lok Sabha, the government had endorsed 54 per cent of the recommendations, and did not provide its response on 12 per cent of cases made by the committees, while DRSC was pleased on its replies in 13 per cent cases; and the government declined 21 per cent of the responses (Ibid, 2017). This is therefore, driving us to think up that there will be no justification for referring the bills to the committees for detailed perusal, if those reports after the consideration of the committees are not laid on the table for debate and discussion. Enforcing such ill-considered thing may no longer suffice any substantive purposes. The intrinsic reasons for the governmental apathy towards not admitting the reports of the committees may be, the recommendations of the committee are not binding upon the government, rather recommendatory in nature.

Notwithstanding this, the committee system has endeavored to furnish well inputs in the areas of framing legislations, and ensuring the accountability of the parliament. It

can bring a major success to the parliament, if it will be strengthened further. It has to be provided independent and adequate research staffs for discharging its function, so that the committee will not rely upon the general staffs of the parliament. For the sake of transparency, and to uphold the autonomy of the members of the committees in terms of deliberation, a middle ground should be devised. Instead of seeking discloser of committees' meeting before the public, or publication of entire transcripts; various suggestions and evidences submitted by different stakeholders as well as public representatives should be published with a view to accomplish more trust of the peoples on its work (Ibid, 2017). However, the recommendations of Standing Committee on Rural Development on LARR Bill 2011 were accepted by the government, and on the latter, integrated in the new act. Thanks to those recommendations, the LARR bill 2011 had taken a fair shape.

Conclusion

Even before independence, India has been working with the parliamentary democracy. This democracy has been sustained thanks to its consolidated foundation laid by political leaders. Undoubtedly, its perpetuation has also been contributed by the successive leaders. It has made a concerted effort to represent the interest of multifarious sections of the society, cutting across the caste, class, race or religion lines and so on. The foundational objective of having a parliamentary democratic system was to ensure a responsible government. Consequently, the framers of India's constitution had adopted its parliamentary model on the basis of British archetype; albeit, the presidential system of USA.

To strengthen the parliamentary democracy, the constitution has offered three key institutions viz. parliament, executive and judiciary. They have been provided to discharge their own functions independently, and not to meddle with the affairs of other institutions. It is worthwhile to note that these three institutions are by the passage of time, getting intruded with one another. Sometimes, these interventions are found to be questionable. However, this dissertation has primary dealt with the institution of parliament. Parliament is the central pillar of democracy, and also vested with the power to carry out an elaborate set of functions. It is considered to be the India's supreme legislative body, empowered to enact legislations for the country, ensure the representation of its citizens, exercise its supervision over the executive as well as approve the budgetary demands and financial proposals of the government.

The major research objective of this research was to understand the accountability of the Indian parliament. After discussion on various issues in three chapters it can be said that the accountability of Indian parliament has been transformed in the last seven decades in various ways. The central question of this research was, How the accountability of Indian Parliament has experienced a change? Prior to proceed directly into the central question, I had also raised another question. Such as, What is the concept of accountability in general and parliamentary accountability in particular? The concept of accountability refers the ability of one actor to hold another actor answerable

or responsible for its omission and commission. It is a relational concept wherein, one actor who renders the function, and another one who does experience an impact out of that action. It is the sagacity of the latter to put the powerholder liable for its action; unless, the former may be deviated from its duty. Similarly, the term parliamentary accountability designates that it is the duty and responsibility of the parliament to hold the executive/government answerable for its action. To execute such task, it has been forearmed with Question hour, Zero hour, Adjournment motion, No-confidence motion, Half-an-hour discussion and so on. It has also been provided with Public account committee, Estimate committee, Committee on public undertakings, and Departmentally related standing committees with a view to make a supervision over the government. Moreover, article 75 of the constitution articulates that the council of ministers under the stewardship of prime minister shall be accountable before the LokSabha.

Accountability is a subjective term that cannot be statistically assessed. Rather, it can be evaluated by taking certain figures, and arguments. To understand the transformation of accountability of Indian parliament, we may have to perceive the followings.

In fact, the democratic upsurge of 1990s has augmented the scope of representation by representing peoples from heterogeneous sections of the society. But the penetration of more political parties into the precinct of the parliament has turned this noble institution into a theatrical chamber of societal cleavages. Now-a-days, the government and opposition are confronting each other as warring adversaries rather than political stakeholders to think for the betterment of the people. The task of the opposition is to hold the government accountable before the parliament.Contrary to this the opposition has been trying more to impair the credibility of the government. Stalling the business of the house, making huge disruption, rushing to the well of the house, showing placards, and repeated adjournment have been the order of the day. After the passage of anti-defection legislation, the members are showing more allegiance to their respective political parties, and it has also been the case that if they did act in the house against the dictation of their parties, their membership would be disqualified. Due to this law, the independent voice of MPs are getting stifled. Albeit, the parliament is the nodal-centre of

the representation of its people, it is also the confluence of political parties. Because, all the members except independent and nominated ones, who representing the wills of the citizens, are the members of any political parties. Unless, there is a strong conviction across the parties, the business of the parliament and its accountability can hardly be ensured. It is worthwhile to elucidate that the commitment and fortitude of parties for this purpose are lacking over the times.

In the age of post liberalization,India like many other countries has restructured its regulatory institutions. It has accorded more powers to executive through extra parliamentary ways instead of functioning through the parliament. The delegation of more powers to such agencies can affect principles of governance like accountability and transparency negatively. It is known that power of promulgating ordinance is vested on the executive. The president can exercise this power at a moment, when both the houses of the parliament are not in session, and the situation demands him to take certain urgent action. It has been provided to deal with some extraordinary circumstances. But the abuse of such power can squeeze the authority of the parliament, and tilt the balance of power in favour of the executive.

The promulgation of frequent ordinances, along with the introduction of certain ordinances repeatedly would dilute the debates and discussion in the parliament. It would paralyze the supervisory role of the parliament. In D.C. Wadhwa v. State of Bihar, the Supreme Court has stated that the usurpation of legislative power via promulgation and repromulgation of ordinance would tantamount to subversion of democratic process. It has further articulated that the executive can not bypass the legislature by exercising such emergency power. Notwithstanding this judgment before us, we are witnessing the appropriation of legislative power through ordinance route. The slow down in the passage of legislation, and dearth of support for ruling party in RajyaSabha may have been a cause for bringing ordinance to overcome the legislative impasse. In 15thLokSabha, the Indian Medical Council (Amendment) Ordinance 2013, and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly constituencies Ordinance were reintroduced for several times. Moreover, in

16thLokSabha, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014 was also reintroduced thrice amid huge opposition from academia, farmers' groups, and across the political parties and so on. This kind of modus operandi has diluted the credibility of the parliament, and dented the accountability of such dignified institution.

The accountability of Indian parliament has been transformed in following decades in comparison to 1950s. This has transfigured due to certain internal as well as external factors. The parliament has been kept failing in its responsibility to hold the executive accountable before it. Having saying this, I am not referring, its ability to discharge its own functions has absolutely gone down. Rather, its overall functions pertaining to debate and discussion over proposed bills, budgetary demands or financial proposals and their passage; and keeping surveillance over the executive have been decelerated. Albeit, the parliament has maintained a good standard in terms of debate and deliberation on specific issues, and holding the latter accountable therein. Take the instance of RFCTLARR Act 2013, which has been taken here as a case-study.

This law was enacted during the period of 15thLokSabha, when there was tumultuous disruption, question hour faced a severe heat, lesser number of bills passed during its full five year term, less amount of time was devoted for discussing the legislation; and even in the year of 2013, the financial bills and demand for grants worth of 16.6 Lakh crore was approved by the parliament without having any deliberation. Moreover, the overall productivity of 15thLokSabha was just 61 per cent, which is ever worst in its history. Prior to this bill became a law, it was extensively debated, and properly scrutinized. For this purpose, Land Acquisition, Rehabilitation and Resettlement bill was introduced in LokSabha on 7 September 2011. Subsequently, that bill was referred to the Standing Committee on Rural Development on 13 September 2011 for greater scrutiny. After thorough consideration, the committee submitted its report in May 2012.

However, the recommendations of the committee were more or less accepted by the government, and incorporated in the bill. On 29 August 2013, that bill was again

tabled in the LokSabha. Following an elaborate discussion over that legislation, the LokSabha delivered its assent. After receiving the consent of lower house, it was brought up before the RajyaSabha on 4 September 2013. This house also widely deliberated on the issue, and approved it with certain amendments. That amended bill was further returned to LokSabha. Consequently, on 5 September 2013, that momentous legislation accorded the signature of both the houses of the parliament. If we read the enactment of this law in conjunction with the tenure of 15thLokSabha, it can be assumed that certain specific issues in stead of all matters have acquired spacious attention.

Given the worst performance of previous LokSabha, it can be contended that some issues were also amply talked over, and deeply perused by the parliament. Thus, that positive part may not be spelled out in the language of decline and downfall. Since, those terms may connote a downward trend of something. It can rather be envisaged in the language of transformation. Although the parliament is obligated to consciously address all the issues with due consideration; but that has been confined to specific matters. The task of such glorious institution is to make the government answerable in all circumstances; unfortunately, that has been restricted to particular cases. Now-a-days, MPs are behaving as the models of their political parties, being public representatives. They are acting inside the house at the behest of their party leaders, failing of which would attract the disqualification of their membership. That's why, the intensity of discussion is getting manipulated. Furthermore, this factor tends to change the ability of the parliament in ensuring its functions of accountability.

Firstly, the parliament which considered as the apex law making body, has been marred with huge interruption in the legislative proceedings, erosion in the standard of debate and discussion, substandard participation of MPs, poorly utilization of question hour, less number of sittings, less time being devoted for discussing the budgetary demands and financial proposals and so on. Disruption which was rare in 1950s and 60s, has currently turned into a legitimate tactic. This is a win-win situation for none. The question hour one of the potential devices, which is used to seek information on various aspects of governmental affairs;whereby, the latter can be come under public scanner.

This hour has experienced a severe jolt, in which 61 per cent of valuable times got squandered due to ruckus in the house.

Scholars have pointed out that the first three LokSabha hadsit down on an average of 600 days and 3700 hours per full five-year term. While the 15thLokSabha from 2009 to 2013 was capable to seat just 335 days and 1329 hours. It needs to be pointed out here, heavy disruption tends to slow down the passage of bills. During the period of 1stLokSabha, 72 bills was passed on a yearly average; whereas the amount of legislations, 15thLokSabha has approved is around 36 per year. In fact, the productivity of LokSabha is on a downward trend. The productivity of third and fourth LokSabhawere 107 per cent and 108 per cent respectively. In comparison to this, the productive time of previous LokSabha was just 61 per cent, which is ever lowest in its history. However, the time dedicated for debating legislations is a matter of greater concern. In case, a bill is extensively discussed, that can purge the loopholes, and improve its quality. In last LokSabha, 23 per cent of its entire timeswas expended on deliberating legislations. On the other hand, 49 per cent of the allocated times was spent for this purpose in 1stLokSabha. Coming to the sittings of the parliament, it may be argued that this story is also very distressing. In the first decade of our parliament, the annual average of number of sittings was around 107.35, that got reduced to 76.15 in 1992-2001. Apart from this, the discussion of budget is not highly commendable. In 1950s, around 123 hours was spent for deliberating budget. But that number slumped into 39 hours in previous decade.

Secondly, in post 1990s, the arrival of more political parties into the edifice of the parliament, has unquestionably represented multifarious sections of the society. But lack of coordination amongst them has intensified the stalling of business of the house. As a result, this noble institution gotparalyzed as the forum of voice and accountability; and degenerated its performance and productivity. Scholar like BalveerArora has contended that the decline and disorder that Indian parliament naturally demonstrates are the ramification of its progressive democratization. On the other hand, we have experienced the era of coalition politics till 2014 commenced in 1990s. It may be unambiguously stated that bargaining and compromise are the the key for sustaining a

coalition. Owing to this factor, the executive accountability to the legislature gets manipulated by the coalition partners, as Amarjit S. Narang has pointed out.

Finally, the onset of liberalization has dwindled the oversight function of the parliament. DeveshKapur and PratapBhanu Mehta have explicated that aftermath of adoption of liberalization, India like several countries has restructured its regulatory agencies by deligating them more powers. Thereby, the transparency and accountability of these institutions have broadened. But the parliamentary surveillance over such bodies has remainedin stagnant. Besides this, more economic related decisions are currently being administered by international treaties. Sadly, the Indian parliament unlike the parliaments of United Kingdom (UK), Australia and New Zealand does not possess the treaty oversight power. Hence, the economic related international treaties are somehow out of the purview of the parliament.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act 2013, which was approved by the parliament in the year of 2013 has been analyzed here in order to understand accountability of the Indian parliament.This law has democratized the process of land acquisition by delivering a greater say to the affected parties. Their prior consent is prerequisite for acquiring land. And, that consent can never be obtained through force or intimidation, rather by persuasion. Its predecessor legislation had bestowed unbridled authority on state machinery to acquire land at its will, even committing serious mistakes to the land owners. Far from their consent, that statute did neither offer them reasonable compensation, nor rehabilitated them properly. What constitute the scope of urgency was unclear; and this draconian power entrusted upon the district collector to take over the land on the grounds of unforeseen situation. However, those loopholes were wiped out in the 2013 act. Unlike the colonial legislation on land acquisition of 1894, this new law has embraced both the land owners as well as the persons whose life is associated with that land. For the first time, the provision on social impact assessment (SIA) was incorporated in the act, with a view to appraise how many people are going to be impacted by the project where the land would be acquired. Furthermore, it would examine the lives of

affected persons vis-à-vis the outcome of the project. For this purpose, a bill namely-LARR Bill 2011 was introduced in LokSabha. Subsequently, that bill was referred to the standing committee on rural development for getting a thorough scrutiny. While that bill was under consideration, various stakeholders had put forth their views before the committee.

After deliberating all the claims and counter claims, the committee went on to deliver its report. Some of its recommendations were accepted by the government, and incorporated in the RFCTLARR Act 2013 as well. The committee thought that there is no necessary to exempt any central statutes from the purview of LARR Bill 2011; therefore, it recommended for the annulment of section 98 and four-schedule of that bill. But the government did not pay much heed towards this, and contended that the clauses of RFCTLARR Act 2013 with respect to R&R facilities, and just compensation will be extended to those exempted statutes within one year of its enforcement. Other recommendations like substitution of multi-cropped irrigated land with any land under agricultural cultivation in rainfed regions; no land can be acquired for PPP projects or any private companies; inclusion of zone of influence within the ambit of SIA in order to figure out the transformation in the living standard of the people and social and environmental changes in the fifth scheduled area, as a result of land acquisition for any projects; establishment of multi-membered land price commission for fixing the value of the land; narrowing down the scope of public purpose and so on could not find favour with the government.

On the other hand, several recommendations also endorsed by the government which may be descried below.No land should be obtained in the scheduled area as far as feasible, and can be permited in the exceptional circumstances where the project claims greater public necessity. Special attention needs to be provided in respect of preserving their culture, offering fair compensation and r&r benefits. Mere consultation with local institution can not pave the way for participation of people in the process of land acquisition, so that, it needs to be fortified. The scope of urgency clause should be kept as it is. The compensation which is determined in accordance with section 26 and first

schedule of LARR Bill 2011 must not be taken as a base price for further acquisition in the neighboring area. The term ten year should be reduced to five year, within which the unused land can be returned.

Following the submission of committee's report, the bill was reintroduced in the LokSabha. After the consent of LokSabha, that was sent out to RajyaSabha for getting the same. After having an extensive deliberation, both the houses deliver their signature to this momentus legislation. But BJP no sooner coming to power, it has endeavored to amend the texture of RFCTLARR Act 2013 via ordinance. Finally, an ordinance was promulgated in this regard, and that ordinance in the form of a bill put before the LokSabha. Since, the lower house does have the overwhelming majority, that bill got approved; but the paucity of majority for ruling party in the upper house, coupled with united strength of the opposition were abled to restrict the bill from the passage. Exercising this function, the parliament has ensured its task of accountability. Because, the passage of that bill would have created serious repercussion in the society. The parliament at the end, has not only restrained the abusive power of the executive, but also salvaged the 2013 act. It may be contended as, the RFCTLARR Act 2013 may not be the best one, rather that statute is comparatively better than its predecessor.

Finally, it may be precisely concluded that the accountability of Indian parliament has experienced a drastic change. This change has not been held in a positive direction. Its productivity and performance are getting slow down. The ability to hold the executive responsible is in a state of decline. Its decency and decorum have been marred with tumultuous disruption. The forum of deliberation has turned into a hub of confrontation. Especially, in post 1990s, the reputation of this premier institution has been corroded. However, it can be contended that the accountability of this foremost institution has gradually been diluted, whose recovery is an urgent task.

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