FHT Updates

Land Laws 2

2nd Internal Answers &Questions

1. Salient Features of the LARR Act, 2013

The 2013 Act completely overhauled the draconian colonial-era 1894 Act. Its salient features include:

- **Mandatory Consent Requirement:** Unlike the 1894 Act where the state could acquire at will, the 2013 Act mandates prior consent of 70% of affected families for Public-Private Partnership (PPP) projects, and 80% for private company projects.
- **Enhanced and Fair Compensation:** Compensation is heavily weighted in favor of the landowner. It is calculated at up to 4 times the market value for rural areas and 2 times for urban areas.
- **Rehabilitation & Resettlement (R&R) as a Statutory Right:** It is the first Indian law to legally link land acquisition with mandatory R&R. It provides entitlements not just to landowners, but to livelihood losers (e.g., tenant farmers, agricultural laborers, and artisans working on that land).
- **Social Impact Assessment (SIA):** Mandatory for all acquisitions. It ensures a democratic, bottom-up approach to assess if the project's public benefits genuinely outweigh the social displacement costs.
- **Food Security Safeguard (Section 10):** Strictly restricts the acquisition of multi-cropped irrigated agricultural land. It can only be acquired as a last resort to protect national food security.
- **Retrospective Operation (Section 24):** If land was acquired under the old 1894 Act but compensation has not been paid or physical possession hasn't been taken for 5 years or more, the old proceedings lapse, and the new 2013 rules apply.
- **Tax Exemptions:** No income tax or stamp duty shall be levied on any award or agreement made under this Act.

2. Procedure for Land Acquisition Under the 2013 Act

The procedure under the 2013 Act is highly structured to prevent arbitrary state action. A detailed, step-by-step breakdown is as follows:

1. **Social Impact Assessment (SIA) (Sections 4-6):** The government must consult the local Panchayat/Gram Sabha to conduct an SIA study. This must be completed within 6 months and includes public hearings to understand the impact on local livelihoods.
2. **Appraisal by Expert Group (Section 7):** An independent multi-disciplinary Expert Group reviews the SIA report. If they find the project does not serve a public purpose or the social costs are too high, they can recommend abandoning the acquisition.
3. **Preliminary Notification (Section 11):** If approved, the Government publishes a formal notification in the Official Gazette and local newspapers expressing its intent to acquire the specific land. All buying/selling of that land stops immediately.
4. **Hearing of Objections (Section 15):** Landowners have 60 days from the preliminary notification to file formal written objections regarding the area of land, the justification of the public purpose, or the SIA findings. The Collector must hear these and submit a report.
5. **Rehabilitation and Resettlement Scheme (Section 16):** The Administrator prepares an R&R scheme detailing how affected families will be compensated and resettled.
6. **Final Declaration (Section 19):** After considering all reports, the government publishes the final declaration of acquisition, essentially locking in the decision.

7. **The Final Award (Section 23 & 30):** The Collector calculates the exact financial figures and passes an "Award" stating the true area of the land, the compensation amount (including a 100% solatium/bonus), and the R&R entitlements.

8. **Taking Possession (Section 38):** Crucially, the government can only take physical possession of the land *after* the full compensation has been paid to the landowners and R&R provisions have been fulfilled.

3. Concept and Object of Ceiling on Land Holding (AP Land Reforms Act, 1973)

- **The Concept:** A "Land Ceiling" is a statutory maximum limit imposed by the State on the quantum of agricultural land that a person, family unit, or corporate body can legally hold. Under the 1973 Act, the limit is defined by a "Standard Holding." The size of a Standard Holding varies based on whether the land is "Wet" (irrigated and highly productive) or "Dry" (unirrigated). A standard family unit (up to 5 members) can hold exactly one Standard Holding. Any land held in excess of this limit is legally declared "surplus land" and automatically vests in the State Government.

- **The Objects and Philosophy:**

    - **Eradicating Zamindari:** To dismantle the monopolistic control of massive estates by a few wealthy landlords and intermediaries.

    - **Distributive Justice:** To acquire the "surplus" land and redistribute it equitably among landless agricultural laborers, marginalized communities (SC/STs), and marginal farmers.

    - **Economic Efficiency:** To prevent absentee landlordism and ensure that land is actually cultivated by those who own it, thereby boosting agricultural productivity and preventing the exploitation of tenant farmers.

4. Effect of Inclusion of Laws in the 9th Schedule

- **Background & Origin:** Following independence, the government enacted massive Land Reform and Zamindari Abolition Acts. Landlords immediately challenged these acts in court, claiming they violated their Fundamental Right to Property (then Article 31) and Right to Equality (Article 14). To protect these essential reforms, Parliament passed the 1st Constitutional Amendment (1951), creating Article 31B and the 9th Schedule.

- **The Traditional Effect (Blanket Immunity):** The legal effect of placing a statute inside the 9th Schedule was the creation of an impenetrable "constitutional shield." Any law placed therein was granted absolute immunity from judicial review. It explicitly stated that no law in the 9th Schedule could be declared void on the ground that it violates *any* of the Fundamental Rights in Part III of the Constitution.

- **The Shift:** For decades, this allowed the government to enact progressive (and sometimes arbitrary) land and economic policies without interference from the High Courts or the Supreme Court. However, this absolute immunity was later revoked by the judiciary to prevent legislative abuse (as established in the *I.R. Coelho* case).

5. Role of DPSP in Land Reforms

The Directive Principles of State Policy (DPSP), found in Part IV of the Constitution, are the socio-economic blueprints for the nation. They act as the primary constitutional justification and driving force behind all land reform legislation.

- **Article 39(b):** Directs the State to direct its policy towards securing that the "ownership and control of the material resources of the community are so distributed as best to subserve the common good." Land is the most vital material resource in an agrarian economy like India.
- **Article 39(c):** Directs the State to ensure that "the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment."
- **The Overriding Effect (Article 31C):** To ensure these directives could actually be implemented, the 25th Amendment introduced Article 31C. It stated that any law made to give effect to the principles in Article 39(b) and (c) (like Land Ceiling Acts or Tenancy Reforms) cannot be challenged in court merely because it violates the Fundamental Rights to Equality (Art 14) or Freedom (Art 19). Therefore, DPSP provided the legal armor necessary to strip wealthy landlords of excess land for the greater public good.

6. What is the LARR Authority?

- **Definition & Establishment:** The Land Acquisition, Rehabilitation and Resettlement (LARR) Authority is a specialized, single-purpose quasi-judicial tribunal established under Section 51 of the 2013 Act.
- **Composition:** It is presided over by a single member, who must be a highly qualified judicial officer (either a qualified District Judge or a High Court Judge), ensuring high judicial competence.
- **Primary Functions:** It is designed to provide a dedicated, speedy forum to adjudicate disputes arising out of the land acquisition process. This includes resolving disputes over the measurement of the land, the amount of compensation awarded by the Collector, the apportionment of compensation among multiple claimants, and the rights to R&R.
- **Bar on Civil Courts (Section 63):** To prevent endless litigation that stalls public projects, the Act explicitly bars standard Civil Courts from entertaining any suit or dispute relating to land acquisition under this Act. The LARR Authority has exclusive original jurisdiction, and appeals against its decisions go directly to the High Court.

7. What is Social Impact Assessment (SIA)?

- **Definition:** SIA is a mandatory, legally binding preliminary investigation and study conducted under Section 4 of the LARR Act, 2013, before the government can even issue a preliminary notification to acquire land.
- **The Process:** The government must partner with independent experts and strictly consult with the local Panchayat, Municipality, or Municipal Corporation. It must include a public hearing in the affected area to record the grievances of the locals.
- **Core Objectives & Scope of the Study:** * **Verification of Purpose:** To rigorously verify if the proposed project genuinely serves a "public purpose."
    - **Impact Estimation:** To accurately estimate the number of families affected. Crucially, this includes "livelihood losers" (people who don't own the land but work on it, like farmhands or forest gatherers) who will be displaced.
    - **Minimum Necessity:** To formally ensure that the extent of land proposed for acquisition is the absolute bare minimum required for the project.
    - **Cost-Benefit Analysis:** To weigh the overall social costs (displacement, loss of livelihood, environmental impact) against the projected public benefits of the project.

8. What Did the Supreme Court Rule in the I.R. Coelho Case (2007)?

- **The Core Issue:** The Supreme Court in *I.R. Coelho v. State of Tamil Nadu* had to decide whether laws placed in the 9th Schedule enjoyed absolute, untouchable immunity from judicial review, even if they destroyed the fundamental rights of citizens.

- **The Landmark Ruling:** A 9-judge constitutional bench delivered a monumental verdict striking down the concept of "blanket immunity." The Court ruled that Judicial Review is a part of the "Basic Structure" of the Constitution and cannot be taken away by placing a law in the 9th Schedule.

- **The Catch-off Date (April 24, 1973):** The Court drew a strict line in the sand based on the date of the historic *Kesavananda Bharati* judgment.

    - Any law placed in the 9th Schedule **before** April 24, 1973, remains protected and immune.

    - Any law placed in the 9th Schedule **after** April 24, 1973, is fully open to judicial review.

- **The "Rights Test":** The Court held that if a post-1973 law in the 9th Schedule violates fundamental rights (specifically Articles 14, 19, and 21) in a way that damages the **"Basic Structure"** of the Constitution, the Supreme Court has the absolute power to strike that law down.

MCQs

1. The process of taking land by the govt for public purpose is called **Land Acquisition** (or **Eminent Domain**).

2. The first step in land acquisition is the issue of **Preliminary Notification** (or **Social Impact Assessment (SIA) Notification** under the 2013 Act).

3. Compensation must be **Fair** & transparent under the 2013 Act.

4. Rehabilitation and **Resettlement** part of the 2013 Act.

5. Ceiling laws aim to limit **Agricultural** (or **Land**) holdings.

6. The objective of ceiling laws is to prevent the concentration of **Wealth** (or **Land**) in a few hands.

7. Assigned lands cannot be **Transferred** (or **Sold / Alienated**).

8. Illegal occupation of land is called **Land Grabbing**.

9. *Sada Bainama* refers to an **Unregistered Sale Deed** (or a transaction made on a simple plain paper without formal registration, very common in Telangana/AP land laws).

10. Revenue courts mainly deal with **Land Revenue** (or **Mutation / Record of Rights**) matters.

11. **Article 39(b)** of the DPSP directs the State to ensure that the ownership and control of material resources are distributed to best subserve the common good.

12. Article 39(c) of the Directive Principles of State Policy aims at the prevention of concentration of **Wealth**.

13. Under the 2013 Act, an additional 100% compensation given over the market value is called **Solatium**.

14. True or False: Land transactions are legally permitted after the publication of the Section 11 preliminary notification. **False** (Buying and selling is strictly prohibited once the notification is issued).

15. True or False: Major irrigated (wet) lands have a higher ceiling limit than dry unirrigated lands under the 1973 Act. **False** (Wet lands are highly productive, therefore the maximum ceiling limit allowed to be held by a person is much *lower* than that for dry land).

16. True or False: Laws placed under the 9th Schedule before April 24, 1973, are immune to Basic Structure judicial review. **True** (As per the I.R. Coelho judgment).

17. True or False: Public sector projects undertaken directly by the government require 50% consent from landowners. **False** (Direct government projects do not require such consent; the 70% and 80% consent requirements apply to PPP and private company projects, respectively).