

REPORT

CHAPTER I

Background of the Rehabilitation and Resettlement Bill, 2007

1.1 The Rehabilitation and Resettlement Bill, 2007 (**Appendix-I**) was introduced in Lok Sabha on 6 December, 2007 and was referred to the Standing Committee on Rural Development on 7 December, 2007 by Hon'ble Speaker for examination and report to the Parliament as per rule 331E (1)(b) of the Rules of Procedure and Conduct of Business in Lok Sabha.

1.2 Land is one of the biggest resources of any country. The Government have to acquire land from the private individuals for setting up various infrastructure and other public purpose projects as well as developmental activities. Whereas the sovereign power of every State has the authority to appropriate land for the public purpose, every subject has the right to be heard before he is deprived of his property by the State. This is recognized as a legal right as per article 300A of the Constitution which provides as under:

“No person shall be deprived of his property save by authority of law.”

1.3 While recognizing the need for a holistic effort aimed at improving the all-round living standards of the affected people and families, the Statement of Objects and Reasons of the R&R Bill, 2007 states as under:—

“There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the planners to include in the displacement, rehabilitation and resettlement process framework, not only those who directly lose land and other assets but also all those who are affected by such acquisition of assets. The displacement

process often poses problems that make it difficult for the affected persons to continue their old livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact of displacement. There must also be a holistic effort aimed at improving the all-round living standards of the affected people and families.”

1.4 The National Policy on Rehabilitation and Resettlement for project affected families was formulated in 2003 which came into force *w.e.f.* February, 2004. The experience of implementation of this policy indicated that there are many issues addressed by the policy which need to be reviewed. As such the National Policy on Rehabilitation and Resettlement, 2007 was formulated to replace the National Policy on Rehabilitation and Resettlement for project affected families 2003 and was notified in the Official Gazette and came into force *w.e.f.* 31 October, 2007.

1.5 The Rehabilitation and Resettlement Bill, 2007 has been formulated on the lines of Rehabilitation and Resettlement Policy, 2007 for giving a statutory backing to the provisions of the policy as indicated in the Statement of Objects and Reasons:

“The Rehabilitation and Resettlement Bill, 2007 will be primarily applicable to the rehabilitation and resettlement of persons adversely affected by the acquisition of lands for projects. However, involuntary displacement of people may be caused by other factors also, and the provisions of the Bill may apply to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any reasons.

Many State Governments have their own rehabilitation and resettlement policies. Many Public Sector Undertakings or agencies also have their own policies in this regard. The Rehabilitation and Resettlement Bill, 2007 provides for the basic minimum requirements that all projects leading to involuntary displacement must address. The Bill contains a saving clause to enable the State Governments, Public Sector Undertakings or agencies, or other requiring bodies to continue to provide or put in place greater benefit levels than those prescribed under the Bill.”

1.6 The highlights of the R&R Bills as enumerated in the Statement of Objects and Reasons of the Bill are as under:—

- (i) The Rehabilitation and Resettlement Bill, 2007 will provide for the basic minimum to address the grievances of the

affected persons due to involuntary displacement for various projects.

- (ii) A social impact assessment of proposals leading to displacement of large populations through a participatory, informed and transparent process involving all stakeholders, including the affected persons will be necessary before these are acted upon.
- (iii) The rehabilitation process would augment income levels and enrich quality of life of displaced persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services.
- (iv) Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.

CHAPTER II

FORMULATION OF THE BILL BY THE GOVERNMENT AND ITS EXAMINATION BY THE COMMITTEE

2.1 The Rehabilitation and Resettlement Bill, 2007 was formulated by the Government to give a statutory backing to the National Rehabilitation and Resettlement Policy, 2007 which had replaced the erstwhile policy of 2003. Prior to the year 2003, there was no rehabilitation and resettlement policy formulated by the Government of India. States/UTs were following their own policies/rules/guidelines in respect of rehabilitation and resettlement.

2.2 In an effort to know about the feedback of the provisions of the earlier two policies the Department has stated that States/UTs have been requested to inform the status of implementation of the National Rehabilitation and Resettlement Policy, 2007 in their respective States/UTs. During the Regional Review Conferences held in different parts of the country by the Department, the implementation of Rehabilitation and Resettlement policy was also reviewed.

2.3 As regards the details of the consultations held with the various State Governments/Union Territory Administrations and other stakeholders before bringing the legislation to the Parliament, the Department has informed that the comments from the States and the concerned Ministries/Departments of the Central Government were sought on the draft Rehabilitation and Resettlement Policy and the Bill under reference flow from the new Rehabilitation and Resettlement Policy.

2.4 The Rehabilitation and Resettlement Bill, 2007 was referred to the Standing Committee on Rural Development (2007-2008) for examination and report. The Committee (2007-2008), accordingly obtained written information on various issues which might have a direct bearing on the Bill from the nodal Ministry i.e. Ministry of Rural Development (Department of Land Resources). The preliminary meeting of the Committee was held on 24 December, 2007 whereby the Committee were briefed about the various provisions of the Bill by the nodal Department. The Committee at the aforesaid sitting decided to invite the views of experts, organizations, individuals and other stakeholders through print and electronic media. Accordingly, approximately 190 related memoranda were received. 15 selected

experts/representatives of association and individuals (the list indicated at **Appendix-II**) which include top researchers, social workers, representatives of various organizations, legal persons, representatives from child organizations deposed before the Committee at their sittings held on 17 and 18 June, 2008. The aforesaid experts and other stakeholders raised serious reservations on some of the provisions made in the Bill and suggested some modifications. The most debated provisions of the proposed Bill included the rehabilitation/compensation packages to displaced persons envisaged under the Bill, and the issue of Social Impact Assessment Study.

2.5 Since the State Governments acquire land and decide on optimum rehabilitation and resettlement benefits to be provided to the displaced persons, the primary responsibility of the implementation of the provisions made under the Bill lies with the respective State Governments/Union Territory Administrations. All State Governments/Union Territory Administrations were requested to give their views on the aforesaid Bill, after seeking permission of Hon'ble Speaker as per direction 60 of the 'Directions by the Speaker, Lok Sabha'. Nine State Governments/UTs *viz.* Chandigarh, Puducherry, Jharkhand, Goa, Chhattisgarh, Dadra & Nagar Haveli and Daman & Diu, Arunachal Pradesh, Nagaland and Himachal Pradesh have furnished their views in this regard.

2.6 The various Union Ministries of the Government of India like Railways, Defence, Home Affairs, Information Technology and Communications (Department of Posts and Department of Telecommunications), Road Transport and Highways and Shipping, (Department of Road Transport and Highways) and Power acquire land for various infrastructure projects. Besides some of the Ministries like Tribal Affairs and Social Justice and Empowerment play a key role in protecting the interests of various vulnerable sections of society like tribals, women and children. The Ministries of Panchayati Raj and Tribal Affairs play a key role in implementation of Part IX of the Constitution and PESA and also to ensure that the various legislations brought by the Government are in tune with the true spirit of Part IX of the Constitution and PESA. In addition, the Ministry of Agriculture has the major role in issues related to food security which always get affected due to excessive acquisition of agricultural land. The issues related to acquisition of land for setting up of Special Economic Zones (SEZs) are under the jurisdiction of Ministry of Commerce (Department of Commerce). The Department of Industrial Promotion and Policy is the other Department, which have an important role with regard to various issues involved with the acquisition of land by companies.

The Ministry of Environment and Forests is the Ministry which plays a major role in ensuring the rights of the tribals as well as environment concerns related with the acquisition of land. Above all, the Ministry of Urban Development is the key Ministry to look after the various issues relating to acquisition of land from the urban perspective. The Committee held detailed deliberations with the aforesaid Ministries at their sittings held on 18 January, 2008, 2 and 3 July, 2008 and 18 July, 2008.

2.7 Besides various sets of written documents containing the responses on the various issues raised in large number of sets of list of points were submitted by the aforesaid Ministries, which helped the Committee in arriving at meaningful conclusions.

2.8 The term of the Committee (2007-08) expired on 4 August, 2008 and the Committee (2008-09) was constituted *w.e.f.* 5 August, 2008. The Committee (2008-09) at the first sitting held on 11 August, 2008 decided to continue the examination of the Bill from the stage the earlier Committee had left. Thereafter, the Committee took evidence of the representatives of the nodal administrative Department *i.e.* Department of Land Resources (Ministry of Rural Development) at their sitting held on 25 August, 2008. The nodal Department furnished replies to the issues raised in a number of sets of list of points and submitted the desired documents to the Committee. The representatives of the nodal Ministry were also present at the various sittings of the Committee where the Committee took evidence of the various concerned Ministries/Departments and assisted the Committee. The representatives of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) also assisted the Committee by clarifying the various legal matters.

2.9 Subsequently the Committee undertook clause-by-clause consideration of the Bill at the sittings held on 22 September 2008.

2.10 The Committee note that the Rehabilitation and Resettlement Bill 2007 is a historical and path-breaking piece of legislation brought forward by the Government of India. The Bill seeks to give statutory backing to the various provisions contained in the Rehabilitation and Resettlement Policy 2007. With the enactment of the Rehabilitation and Resettlement legislation, the persons affected due to land acquisition would get the legal right to various Rehabilitation and Resettlement benefits envisaged under the proposed Bill. Various landmark provisions made in the Bill include:—

- (i) R&R benefits have also been proposed to be provided to the affected persons who are dislocated from their place of residence by reasons other than the acquisition which may be natural calamities, war etc.;

- (ii) a saving Clause has been contained in the Bill to enable the State Governments, public undertakings or agencies, or other requiring bodies to continue to provide or put in place greater benefit levels than those prescribed under the Bill; and
- (iii) the legislation seeks to provide that the compensation award, full payment of compensation etc. shall precede actual displacement of affected families.

2.11 While giving due importance to the aforesaid legislation which concerns the general masses, the Committee deliberated at length each and every provision after detailed consultations with the State Governments/Union Territory Administrations, various Union Ministries, experts and other stakeholders through the written views as well as interaction in 16 sittings (the details of which are at Appendix-III) held for the purpose.

After exhaustive deliberations, the Committee arrived at conclusions, which have been given in the subsequent chapters of the Report.

2.12 The recommendations of the Committee have been given issue/clause-wise. The Committee urge that while bringing amendments as suggested by them, the Department should ensure that all the consequential amendments are appropriately made in the 'The Rehabilitation and Resettlement Bill, 2007 as well as the other related Bill *i.e.* The Land Acquisition (Amendment) Bill, 2007.

CHAPTER III

ISSUES COMMON IN 'THE LAND ACQUISITION (AMENDMENT) BILL, 2007' AND 'THE REHABILITATION AND RESETTLEMENT BILL, 2007'

3.1 The detailed examination of the aforesaid two Bills has revealed that there is duplication of various issues in the two legislations *viz* 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007'. Some of the issues raised in the Rehabilitation and Resettlement legislation which were also included in the LA legislation have already been dealt with in the report on 'The Land Acquisition (Amendment) Bill, 2007' and desired recommendations made in the report. Some of the common issues raised in both the Bills include the following:—

- (i) Limit of number of families for Social Impact Assessment Study.
- (ii) Part payment of compensation by shares/debentures etc.
- (iii) Declaring the area where tribals from Scheduled Areas are rehabilitated as the Scheduled Area.
- (iv) Overriding authority of Panchayats, Extension to Scheduled Areas (PESA).

3.2 It has further come out during the detailed examination that there are certain contradictions in the clauses contained in the two Bills *viz*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' where the issues are common. For example, there is contradiction in Clause 11(c) of 'The Land Acquisition (Amendment) Bill, 2007' and Clause 42 of the 'The Rehabilitation and Resettlement Bill, 2007' on the issue of offering shares and debentures to the affected persons. The reading of the 'The Rehabilitation and Resettlement Bill, 2007' indicates that the issue of shares upto 50 per cent but not less than 20 per cent of the rehabilitation grant amount is optional. However, as per 'The Land Acquisition (Amendment) Bill, 2007' allotment of shares and debentures is compulsory.

3.3 The Committee notes that 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement

Bill, 2007' are interlinked legislations and as such there are various common clauses in the aforesaid Bills. The conclusions arrived at after the detailed deliberations with regard to such common Clauses have been contained in the report on 'The Land Acquisition (Amendment) Bill, 2007'. The extracts of such observations/recommendations made by the Committee in the report on 'The Land Acquisition (Amendment) Bill, 2007' have been given at Appendix IV. The Committee strongly recommend that the desired modifications in the Rehabilitation and Resettlement legislation should be made as desired by the Committee in the recommendations contained at the aforesaid Appendix.

3.4 The Committee have further noted during the deliberations that there are certain contradictions in the common clauses as given in both the aforesaid Bills. The Committee strongly recommend that the common Clauses contained in both the Bills should be studied in detail and it should be ensured that wherever the issues have been duplicated, the language is the same so as to avoid contradictions and legal complications.

CHAPTER IV

CLAUSE-BY-CLAUSE ANALYSIS OF THE VARIOUS PROVISIONS MADE IN DIFFERENT CLAUSES OF THE BILL

A. To whom the provisions made under the aforesaid legislation will apply

4.1 As per the long title of the Bill, the provisions of the 'Rehabilitation and Resettlement Bill, 2007' seeks to provide for the rehabilitation and resettlement of persons affected by the acquisition of land for the projects of public purpose or involuntary displacement due to any other reason and for matters connected therewith or incidental thereto.

4.2 When the Department was asked what they meant by 'any other reason', they have stated that the expression refers to causes of involuntary displacement other than land acquisition, for example, natural calamities like floods, tsunamis, earthquake etc. and other causes like war, when leading to involuntary displacement of a permanent nature.

4.3 Further, in case of eviction of families from illegal occupation of Government land a case of involuntary displacement can be made. When asked whether such cases would be covered under the R&R legislation, the Department has clarified that the illegal occupation of Government land has not been defined in the proposed Bill. The provision regarding this needs to be clarified in the proposed Bill as eviction from such places can be made a case of involuntary displacement by unscrupulous elements. Further, the Secretary (Ministry of Urban Development) during the course of oral evidence has submitted as under:

"Some of the provisions of the Rehabilitation and Resettlement Bill, 2007 in the existing form can indirectly encourage encroachment and illegal occupation on public land which may not be the intent of the proposed Bill at all. For example, Section 35 of the Bill provides that affected families residing in an affected area continuously for a period of not less than 5 years, if involuntarily displaced, will be eligible for rehabilitation and resettlement. This will make encroachment removal difficult and to that extent rehabilitation and resettlement of encroachers

may be perpetual. The land available for genuine public purposes may in the process gets further reduced because of encroachment and requirement of rehabilitation and resettlement.”

4.4 The nodal Department *i.e.*, the Department of Land Resources has also submitted that the illegal occupation of Government land has not been defined in the proposed Bill. The provision regarding this needs to be incorporated in the proposed Bill.

4.5 The Government have listed natural calamities and causes like war etc. When asked how the Government expect the people to fulfil various conditions related to residence, occupation etc. for getting the R&R benefits, particularly in the cases of natural calamities and war when all the documentary proofs would have been destroyed, the Department has stated that in such extreme circumstances, the appropriate Government should take necessary measures according to the situation.

4.6 **The proposed ‘Rehabilitation and Resettlement Bill, 2007 intends to provide rehabilitation and resettlement benefits to the persons affected by the land acquisition as well as involuntary displacement of people due to any other reason as indicated in the long title of the Bill. The Committee feel that the term ‘involuntary displacement due to any other reason’ is quite vague and fraught with varied legal interpretations and complications. The Committee, therefore, strongly recommend that the nature of involuntary displacement that the Government intend to cover for the purpose of providing Rehabilitation and Resettlement benefits through this legislation should be clearly indicated in the legislation itself.**

4.7 As informed by the Department, the Government intend to cover natural calamities and war in this regard. Besides the aforesaid reasons, large-scale population is being uprooted from some areas due to insurgency like conditions. As such the Committee recommend that the involuntary displacement due to such reasons should also be included for providing rehabilitation and resettlement benefits through the proposed legislation.

4.8 The Secretary during the course of oral evidence has admitted that some of the provisions of the ‘The Rehabilitation and Resettlement Bill, 2007’ in the existing form can indirectly encourage encroachment and illegal occupation on public land which may not be the intent of the proposed Bill at all. The Secretary has also acknowledged that there is a need for amendment in the definition of ‘any other reason’ to prevent its misuse. The Committee appreciate

the fact that illegal encroachers on the land cannot be rewarded. At the same time, there is an urgent need to identify the Government land in clear terms. The area identified as Government land should be available in the public domain. Besides, it should be the accountability of the appropriate Government/concerned Department under whose jurisdiction the respective Government land falls, to protect the land by proper fencing and providing security to prevent such encroachments.

4.9 The Committee, therefore, recommend that the long title of the Bill should be modified to cover the suggestions made above. The Department should take up the issue of protecting Government land with the State Governments/UT Administrations and other Union Ministries/ Departments at appropriate level in the light of the concerns expressed above.

4.10 The Committee further note that during natural calamities like earthquakes and floods or war, all the documentary proofs usually get destroyed. It would be really difficult to provide rehabilitation and resettlement benefits as proposed to be provided by the R&R legislation to the genuine affected persons. The Committee feel that there is an urgent need to have centralized data of land records as well as data base of families in each village/city at taluka and district level. Such data would address the aforesaid problem to some extent and help the affected families in claiming compensations when the individual documents would have been lost. As such, the Department should take up appropriate action for making some provisions in the legislation after consultations with the Ministry of Law & Justice. In case, the provisions in this regard are felt not desirable to be included in the legislation, the desired guidelines/directions should be issued to the State Governments/UT Administrations.

B. Definition of 'affected family'

4.11. Clause 3(b)(iii) of the Bill states as under:—

“affected family” means:—

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(iii) any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business,

occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;'

4.12 Further as per Para 3.1(b)(iii) of the National Rehabilitation and Resettlement Policy, 2007, the aforesaid period of continuous residence in the affected area to make a family entitled for R&R benefits has been stated to be three years. The Secretary, during the course of oral evidence, has agreed that the period of continuous residence in the affected area should be made three years in the R&R legislation to make the provision in line with the R&R Policy being implemented. The experts in this regard have suggested to reduce this period even to one year.

4.13 Clause 3(b)(iii) of the proposed 'The Rehabilitation and Resettlement Bill, 2007' provides the condition of residence or engagement in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected areas preceding the date of declaration of the affected area for making a person eligible for rehabilitation and resettlement benefits, whereas the National Rehabilitation and Resettlement Policy which is the existing guiding document for providing rehabilitation and resettlement benefits provides the said period as three years. The Committee strongly recommend that the aforesaid period of five years should be reduced to three years to make the provisions proposed in the 'The Rehabilitation and Resettlement Bill, 2007' in line with the Rehabilitation and Resettlement Policy being implemented. The necessary amendment in this regard as acknowledged by the Secretary should be made in the Bill.

4.14 Clause 3 (j) of the Bill defines family as under:—

"family" includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes "nuclear family" consisting of a person, his or her spouse and minor children;

4.15 Various experts who appeared before the Committee/submitted memoranda were of the view that some of the provisions made under

the legislation had gender bias. In this regard, it has been stated that whereas minor sons have been included in the definition of family, minor daughters have not been considered. When asked the comments of the Department, it has stated that the words 'minor sons, unmarried daughters, minor brothers, unmarried sisters' may be replaced with the words 'minor children and dependent minor siblings'.

4.16 Further as per the definition of family, the relatives residing with a person and dependent on him for their livelihood are also included. When asked how it will be established that a relative residing with a person is actually dependent on him, the Department has stated that the procedural details may be spelt when framing the rules/guidelines for the implementation of the relevant provisions.

4.17 Again when the attention of the Department was drawn to the fact that the definition is too vague and in the absence of any set procedure for proving a person residing with the affected person and dependent on him for his livelihood, it may invite legal complications and court cases, the Department reviewed its position and stated that the words 'and other relatives' may be dropped.

4.18 The Committee find that whereas minor sons have been included in the definition of family, minor daughters have been excluded for reasons best known to the Government. The Committee strongly recommend that minor daughters should also be included in the definition of family to address the gender concerns.

4.19 Further, the aforesaid definition of family also includes relatives residing with the affected person and dependant on him/her. The Committee feel that the word 'relative' is very vague. Further, it is very difficult to establish that a relative was residing with the affected family/person and was dependant on him for the purpose of giving rehabilitation and resettlement benefits. In view of this, the Committee recommend that the words 'other relatives residing with him or her and dependant on him or her for their livelihood' should be dropped from the definition. While recommending for this, the Committee also desire that widowed/divorced/abandoned/separated sisters/sister-in-law, daughter/daughter-in-law and the physically handicapped family members need to be covered by the definition of family. As such, the definition of family should be modified in view of the suggested amendments above.

C. Definition of 'agricultural labourer'

4.20 Clause 3 (b) (iii) defines agricultural and non-agricultural labourer as under:—

"Any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason"

4.21 Further Clause 3 (d) defines agricultural labourer as under:—

"agricultural labourer" means a person primarily resident in the affected area for a period of not less than five years immediately before the declaration of the affected area, who does not hold any land in the affected area but who earns his livelihood mainly by manual labour on agricultural land therein immediately before such declaration and who has been deprived of his livelihood."

4.22 Then Clause 3 (n) defines non-agricultural labourer as under:—

"non-agricultural labourer" means a person who is not an agricultural labourer but is primarily residing in the affected area for a period of not less than five years immediately before the declaration of the affected area and who does not hold any land under the affected area but who earns his livelihood mainly by manual labour or as a rural artisan immediately before such declaration and who has been deprived of earning his livelihood mainly by manual labour or as such artisan in the affected area."

4.23 There are the following contradictions in the definition of agricultural and non-agricultural labourer as given in Clause 3 (b) (iii) and the definitions of agricultural labourer and non-agricultural labourer given separately under Clause 3 (d) and Clause 3 (n) of the legislation:—

- (i) Whereas under Clause 3 (b) (iii) any agricultural or non-agricultural labourer who has been residing or engaged in

any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, has been stated to be the condition for eligibility of the various benefits given under the legislation in the other two clauses, the words immediately before the declaration of the affected area has been used instead of preceding the date of declaration of the affected area.;

- (ii) Whereas Clause 3 (b) (iii) entitles agricultural or non-agricultural labourer who has been residing or engaged in any trade, business, occupation or vocation to make him entitled for the R&R benefits the other two aforesaid clauses, which define agricultural or non-agricultural labourer, the person has to be primarily resident in the affected area. However, if he has been working in that area for the prescribed period and not resident in that area, he is not eligible for R&R benefits.

4.24 One of the experts has suggested to change the word resident by working. When the attention of the Department was drawn towards this, it has stated that the word resident as provided in the proposed Bill is more appropriate than the word working because this will help in preventing misuse of the provisions of R&R Bill.

4.25 It could be seen from the aforesaid analysis that the Department itself is not clear about the entitlement of the agricultural or non-agricultural labourer who has been working for a prescribed period to be entitled for the various R&R benefits whereas Clause 3 (b) (iii) specifically provides that such agricultural or non-agricultural labourer who has been residing or engaged in any trade, business, occupation or vocation continuously for the given period becomes eligible for the rehabilitation and resettlement benefits. The Committee feel that much confusion has been created in defining the agricultural and non-agricultural labourers under Clause 3 (b) (iii) as part of the affected family and clauses 3 (e) and 3 (n) which separately define agricultural and non-agricultural labourers. The Committee strongly recommend that the language of the aforesaid clauses should be re-examined thoroughly and brought in consonance so as to avoid any confusion and misinterpretation.

4.26 The Committee further feel that the use of the word 'engaged in any trade, business, occupation or vocation' is rather a broader term and includes working agricultural or non-agricultural labourers. However, the Committee would like the Department to

consult the Ministry of Law & Justice and ensure that the agricultural or non-agricultural labourer who are residing or working in that area are ensured rehabilitation and resettlement benefits under the proposed legislation.

4.27 The Committee further find that whereas under Clause 3(b)(iii) any agricultural or non-agricultural labourer who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, has been stated to be the condition for eligibility of the various benefits given under the legislation in the other two clauses, the words immediately before the declaration of the affected area has been used instead of preceding the date of declaration of the affected area. The Committee feel that the words 'preceding the date of declaration of the affected area' may be changed by the words 'immediately before the declaration of the affected area' so as to avoid any confusion or misinterpretation.

4.28 The Committee desire that suitable amendments as suggested above may be made accordingly. Besides, the aforesaid recommendations should be read along with recommendation at Para No. 4.13 whereby the Committee have recommended to change the provision of the five year continuous residence to three years.

D. Whether rehabilitation benefits provided under R&R legislation are applicable when the number of involuntarily displaced families is less than 400 or more *en masse* in plain areas or 200 or more families *en masse* in tribal or hilly areas etc.

4.29 There is utter confusion on the issue of entitlement of R&R benefits in case the number of families who have been involuntarily displaced is less than 400 *en masse* in plain areas or 200 or more families *en masse* in tribal or hilly areas etc. Some clauses of the Bill make them entitled for R&R benefits whereas the other clauses of the Bill indicate that such benefits may be applicable only when the prescribed number of families is 400 or more in plain areas or 200 or more in hilly or tribal areas. Various provisions of the Bill are reproduced below:—

4.30 Clause 3 (c) defines 'affected area' as under:—

'(c) "affected area" means area of village or locality notified by the appropriate Government under sub-section (1) of section 20;

4.31 Sub-Clause (1) of Section 20 states as under:—

‘Where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area.’

4.32 Clause 34 provides as under:—

‘The rehabilitation and resettlement benefits shall be extended to the affected families who are eligible as affected families on the date of publication of the declaration under subsection (1) of section 20, and any division of assets in the family after the said date shall not be taken into account.’

4.33 Further, Clause 9 (1) states as under:—

‘(1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of large number of persons due to acquisition of land for any project or due to any other reason, and where there is likely to be displacement of—

- (a) four hundred or more families *en masse* in plain areas; or
- (b) two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, then the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of District Collector to be the Administrator for Rehabilitation and Resettlement:

Provided that if the appropriate Government in respect of such project is the Central Government, the appointment shall be made in consultation with the Central Government:

Provided further that in case of projects involving displacement of less than four hundred families *en masse* in plain areas, or less than two hundred families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the State Government may, by notification, appoint in respect of that project, an officer not below the rank of Deputy Collector or Sub-Divisional Officer to be the Administrator for Rehabilitation and Resettlement.’

4.34 Clause 3(c) defines the affected area as area of village or locality notified by the appropriate Government under sub-section (1) of Clause 20. Sub-Clause (1) of Clause 20 read with Clause 34 of the Bill provides that declaration by notification in the official gazette of villages or lands as affected area would be made where there is likely to be involuntary displacement of 400 or more families *en masse* in plain areas or 200 or more families *en masse* in tribal or hilly areas etc. Clause 34 of the Bill again provides that R&R benefits would be applicable in those cases where declaration under Section 20(1) of the Bill has been made. Thus, Clause 3(c) read with clauses 21 and 34 indicates that R&R benefits would be applicable to only those families who are above the stipulated number of families *i.e.* more than 400 in plain and more than 200 in hilly and tribal areas, in which case SIA study would be undertaken, whereas Clause 9 (1) of the Bill provides for appointment of Administrator for R&R. The aforesaid Clause provides for appointment of an officer not below the rank of District Collector to be the Administrator for R&R where the number of families likely to be displaced is the stipulated 400/200. Where the displacement is less than 400/200 an officer not below the rank of Deputy Collector or sub-divisional Officer has been stated to be appointed as the Administrator. Thus for the purpose of appointment of Administrator, every affected family has been covered.

4.35 The aforesaid contradiction with regard to the applicability of R&R benefits where the number of affected families are less than the stipulated number of 400 and 200 families have been brought in the knowledge of the Committee by various experts through their memoranda as well as during the course of their deposition before the Committee.

4.36 The Committee find that Clause 3 (c) read with Clauses 20(1) and 34 indicates that rehabilitation and resettlement benefits would be applicable only when the number of displaced families is more than 400 in plains and more than 200 in hilly, tribal areas etc. whereas Clause 9 (1) of the Bill provides for the appointment of Administrator in both cases *viz*, (i) where the number of displaced families is more than the stipulated number of 400 and 200 and (ii) where the number is less than the aforesaid threshold of 400 and 200. Further, the long title and definition of family as per Clause 3 (b) of the Bill provides no limit of numbers for the purpose of rehabilitation and resettlement benefits. The Committee strongly recommend that suitable modifications should be made in Clauses 20 (1) and 34 so that it is absolutely clear that rehabilitation and resettlement benefits would be applicable to each and every affected family irrespective of the total number of families affected.

4.37 Further, the Committee note that where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area. The Committee feel that besides Desert Development Programme Blocks (DDP), Drought Prone Area Programme Blocks (DPAP) should also be included in the legislation for the aforesaid purpose. Desired amendments in the aforesaid Clauses should accordingly be made.

E. Social Impact Assessment and Environment Impact Assessment Studies

4.38 As stated in the earlier part of the Report various common provisions have been made in the two Bills *viz.*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007'. With regard to Social Impact Assessment Study, various such issues *viz.*, the number of displaced families where the Social Impact Assessment Study would be required, the agency which will undertake the Social Impact Assessment Study or time period within which the study would be completed, the issue of undertaking Social Impact Assessment Study in cases where 70 per cent land has been acquired by the acquiring body and 30 per cent by the appropriate Government have been commented upon in the various observations/recommendations made in the Report on 'The Land Acquisition (Amendment) Bill, 2007', the details of which have been given in the statement at Appendix IV. The Committee would like that the suggested modifications in this regard may be made in the R&R Bill wherever required.

4.39 The analysis of the remaining issues has been done below:—

Undertaking Social Impact Assessment Study and Environment Impact Assessment Study simultaneously

4.40 The relevant provisions in this regard are reproduced below:—

“Clause 6. (1) Wherever it is required, as per the provisions of any law, rules and guidelines issued thereunder, to undertake environmental impact assessment, the social impact assessment study shall be carried out simultaneously with the Environmental Impact Assessment study.

(2) The public hearing undertaken in the project-affected area for the environmental impact assessment shall also cover issues relating to social impact assessment.

(3) A copy of the social impact assessment report shall be made available to the Impact Assessment Agency authorised in respect of environmental impact assessment by the Central Government in the Ministry of Environment and Forests, and a copy of the environmental impact assessment report shall be shared with the expert group notified under section 5.”

4.41 The Ministry of Urban Development has suggested that Social Impact Assessment Study and Environment Impact Assessment Study should be attached equal importance and conducted simultaneously as urban areas are more densely populated than the rural areas.

4.42 The Committee tend to endorse the views expressed by the Ministry of Urban Development that Social Impact Assessment Study and Environment Impact Assessment Study should be attached equal importance. As such the Committee would like to recommend that Environment Impact Assessment Study should be undertaken in every case where Social Impact Assessment Study is being done. In view of this, necessary modifications should be made at appropriate places in the proposed ‘The Rehabilitation and Resettlement Bill, 2007’.

F. Child Rights

4.43 The Chairperson, National Commission for Protection of Child Rights, during the course of oral evidence has suggested that many issues from the child rights perspective have to be dealt with when the people would be displaced from one place to another and suitable provisions incorporated in the legislation. In case of displacement, the nutritional, health care, medical care and survival rights of children need to be protected. Further, it has been submitted that in case of rehabilitation there is a lot of problem in integrating schooling of the affected children. When asked how the interest of the children would be protected, particularly when the displacement is on a larger scale and whether the provisions made in the legislation take care of the rights of the children in this regard, particularly providing schools, parks, health care centres, anganwadis etc. in the area where the affected families would be rehabilitated, the Department has replied that the concept of Social Impact Assessment (SIA) as provided in Chapter II of the proposed R&R Bill takes care of public utilities, health care facilities, school, educational or training facilities etc.

4.44 In this regard Clause 4(2) of the Bill is reproduced below:

“While undertaking a social impact assessment under sub-section (1), the appropriate Government shall, *inter alia*, take into consideration the impact that the project will have on public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds.”

4.45 It could be seen from above that Clause 4(2) of the Bill provides certain common facilities/infrastructure that the appropriate Government shall take into consideration while undertaking a Social Impact Assessment Study. In this regard, the Committee would recommend that anganwadis, children parks and school hostels should be included in the list of items given in the aforesaid Clause. The Committee further note that the process of displacement/rehabilitation results in the break in the education of child. In this context, the Committee feel that discontinuation of the education of children of the affected families can be avoided if the period of rehabilitation is planned in such a way that it falls within the long vacations like summer/winter vacations. As such, there is an urgent need to make the appropriate provisions whereby it can be ensured that there is no break in the education of a child and there is continuation of his/her education at the rehabilitated places.

Including school children as a category in the proposed Survey and Census of affected families

4.46 Clause 21(2) of the Bill provides for the survey and census of affected families. As per Clause 21(1) of the Bill, the Administrator for rehabilitation and resettlement shall undertake a baseline survey and census for identification of the persons and families likely to be affected. Further, Clause 21(2) of the Bill provides that the aforesaid survey shall contain village-wise information of the affected families. Further, a number of details *viz* members of the family who are permanently residing, engaged in any trade, agricultural or non-agricultural labourers, families belonging to SC/ST etc. have particularly been indicated.

4.47 The Committee recommend to add school-going children as a category in respect of which information shall be contained in the baseline survey and census for the identification of persons and families likely to be affected. As such, Clause 21(2) of the Bill should be suitably amended.

G. Including Secretaries concerned with the welfare of Women and Child as well as representatives of the Local Self Government in the composition of the multi-disciplinary expert group

4.48 Clause 5(1) of the Bill provides that the Social Impact Assessment Report shall be submitted to the appropriate Government for its examination by an independent multi-disciplinary expert group, as may be notified by the appropriate Government.

4.49 Further, Clause 5(2) of the Bill provides the composition of the expert group. The composition shall be as under: -

“The expert group shall consist of the following persons, namely—

- (a) two non-official social scientist and rehabilitation experts, to be nominated by the appropriate Government;
- (b) the Secretary of the departments of the appropriate Government concerned with the welfare of the Scheduled Castes and the Scheduled Tribes or his nominee, *ex officio*; and
- (c) a representative of the requiring body, to be nominated by the appropriate Government.”

4.50 The Committee recommend that the Secretary of the Department of the appropriate Government concerned with the welfare of Women and Child should also be added alongwith the Scheduled Castes and Scheduled Tribes in Clause 5(b) of the legislation, so that the interests of women and children are protected in a more effective way.

4.51 The composition of the expert group also includes a representative of the requiring body to be nominated by the Appropriate Government. To give justice to the persons whose land is being acquired, a representative of the local self-Government should also be considered to be a member of the expert group. Suitable amendments in this regard should be made in the respective Clauses of the Bill.

H. Authorities for Rehabilitation & Resettlement

4.52 Chapter III provides for various authorities for rehabilitation and resettlement. Clause 9 (1) of the Bill provides for the appointment of Administrator for rehabilitation and resettlement. Where the displacement is of 400 or more families in plain and 200 or more families in tribal or hilly areas, the officer not below the rank of District Collector shall be appointed to be the Administrator for Rehabilitation and Resettlement by the State Government. Where the displacement is less than the stipulated number of families, the officer not below the rank of Deputy Collector or Sub-Divisional Officer will be appointed Administrator for R&R. Further, as per the Clause 10 of the Bill, the Administrator for rehabilitation and resettlement shall take all measures for the rehabilitation and resettlement of the affected families and the formulation, execution and monitoring of the rehabilitation and resettlement plan shall vest in the Administrator for rehabilitation and resettlement. Clause 12 of the Bill provides for Committee of the Rehabilitation and Resettlement at project level where the number of displacement of family is 400 in case of plain areas and 200 in case of hilly /tribal areas to monitor and review the progress of implementation of schemes or plans of Rehabilitation and Resettlement of the affected families and to carry out post implementation social audits. The aforesaid Committee would again be chaired by the Administrator for Rehabilitation and Resettlement who will be the Collector or Deputy Collector, as the case may be.

4.53 Further, there will be Rehabilitation and Resettlement Committee at district level to monitor and review the progress of Rehabilitation and Resettlement of the affected families in the district excluding those covered by the Rehabilitation and Resettlement Committee at the project level as per Clause 12 of the Bill. The aforesaid Committee would be chaired by the District Collector/ Deputy Commissioner. When asked how the authority/person who is accountable for implementation of all the provision with regard to Rehabilitation and Resettlement can monitor and review the performance of work in this regard, the Department has responded as under:

“The Rehabilitation and Resettlement Committee, which will monitor and review the progress of implementation of the scheme or plan for Rehabilitation and Resettlement of the affected families, will also have representatives of the affected families including women, scheduled castes and scheduled tribes residing in the affected area, voluntary organization working in the area,

nationalized bank, Land Acquisition Officer, Chairpersons of the Panchayats or municipalities located in the affected area, the local M.P./M.L.A., and a representative of the requiring body.

However, the Commissioner for Rehabilitation and Resettlement could be as the chairperson of this Committee while the Administrator for Rehabilitation and Resettlement could be its member convener. The Standing Committee may take a view on this.”

4.54 Further, Rehabilitation and Resettlement Committee at project level to be constituted as per Clause 12 (1) of the Bill shall monitor and review the progress of implementation of scheme or plan of Rehabilitation and Resettlement of the affected families and to carry out post implementation social audits where the displacement is more than 400 in plain and 200 in tribal and hilly areas, the Rehabilitation and Resettlement Committee at district level to be set up to take care of the cases not covered by the Rehabilitation and Resettlement Committee at project level has not been given the responsibility of post implementation of social audits.

4.55 The proposed Rehabilitation and Resettlement Bill, 2007 provides for the constitution of various authorities for Rehabilitation and Resettlement. As explained above, the Administrator for Rehabilitation and Resettlement would be of Collector/Deputy Collector level. Besides, the Committee to monitor and review the progress of implementation of schemes or plans of rehabilitation and resettlement is also proposed to be chaired by the Administrator *i.e.*, Collector/Deputy Collector. Again District level Rehabilitation and resettlement Committee would also be chaired by Collector/Deputy Collector. The aforesaid provisions clearly indicate that the Collector/Deputy Collector would be the most powerful person and all responsibility of implementation and supervision of Rehabilitation and Resettlement Plans/Schemes would be vested in one authority *i.e.* Collector/Deputy Collector which the Committee find not judicious. The Committee, therefore, recommend that the Commissioner of Rehabilitation and Resettlement should be appointed as the Chairperson of the Rehabilitation and Resettlement Committee at project level as well as Rehabilitation and Resettlement Committee at district level while the Administrator for Rehabilitation and Resettlement *i.e.* District Collector/Deputy Collector could be its Member Convener, as agreed to by the Department.

4.56 The Committee would also like to recommend that the Rehabilitation and Resettlement Committee at District level which

may take care of cases not covered by the project level Rehabilitation and Resettlement Committee should also be entrusted with the responsibilities of post implementation social audit on the lines of the responsibility given to project level Rehabilitation and Resettlement Committee. The Committee further would like to recommend that post implementation social audit by the Rehabilitation and Resettlement Project as well as District Level Committee should be done in consultation with the concerned Gram Sabha.

I. Qualification of Ombudsman and Administrator to be appointed for Inter-State projects

4.57 Clause 14(1) of the R&R Bill provides for the appointment of an Ombudsman for time bound disposal of the grievances arising out of the matters covered under the Act. The Ombudsman shall have the powers to consider and dispose of all petitions relating to Rehabilitation and Resettlement against the decision of the Administrator or the Rehabilitation and Resettlement Committee and issue such directions to the requiring body as he may deem proper for the redressal of such grievances.

4.58 No qualification for ombudsman has been provided in the legislation. When asked about this, the Department has stated that the appointment of ombudsman shall be decided by the Appropriate Government. The details will be prescribed in the rules to be made. Further, when asked about the position with regard to the qualification to ombudsman and the administrative Officer in other legislation where such agencies are to be appointed, the Department has side tracked the issue and chosen not to respond.

4.59 Further, for the inter-State projects, Clause 15 of the Bill prescribes that the Administrator will be appointed by the Central Government. However, no qualification/level of officer who could be appointed the Administrator has been specified, whereas in case of the Administrator for the State Government, the level of officer (*i.e.* an officer not below the rank of District Collector) who can be appointed has been clearly specified in Clause 9 of the Bill. When asked the comments of the Department, it has responded that the details will be prescribed in the rules to be made. Further, the Standing Committee may like to take a view in this regard.

4.60 The Committee find that R&R Bill provides for the appointment of an Ombudsman for time-bound disposal of the grievances arising out of the matters covered under the legislation.

Besides, a provision has been made for the appointment of an Administrator by the Central Government for inter-State projects. No qualification for Ombudsmen as well as Administrator has been provided in the legislation. The Department in this regard has stated that the details would be prescribed in the rules to be made. The Committee would like that the rules should expeditiously be framed after the enactment of the legislation and may specifically mention about the qualification of the Ombudsmen as well as Administrator. Besides, the Committee also recommend that provisions should be made in the legislation for the appointment of Ombudsman at project/district level. The necessary amendment in the legislation may accordingly be made.

J. Appeals in proceedings before Court

4.61 Clause 54 of the Rehabilitation and Resettlement Bill provides as under:

“No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

4.62 The Committee note that Section 54 of the Land Acquisition Act, 1894 provides for appeals before High court and Supreme Court. The provisions in this regard are reproduced below:

“Appeals in proceedings before Court—Subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.”

No such provision to appeal in the High Court/Supreme Court has been made in the Rehabilitation and Resettlement legislation.

The Committee recommend for making similar provision in Rehabilitation and Resettlement legislation for appeal in the High Court/ Supreme Court against the orders made by the Ombudsman.

K. Multiplicity of Committees

4.63 At the national level, many Committees have been proposed, the details of which are given below:—

- (i) **Clause 15 (1)**—For inter-State groups, the Administrator for rehabilitation and resettlement will be appointed by the Union Government;
- (ii) **Clause 16 (1)**—Central Government shall constitute the National Monitoring Committee to review and monitor the implementation of rehabilitation and resettlement;
- (iii) **Clause 18 (1)**—There will be Oversight Committee in the Ministry or the Department of the appropriate Government;
- (iv) **Clause 19 (1)**—There will be National Rehabilitation Commission to supervise and exercise general oversight over rehabilitation and resettlement.

4.64 When asked about the comments of the Department about the multiplicity of authorities at the central level for monitoring, it has stated as under:

“Although it seems that too many bodies have been created for the purpose, particularly so because they are most covered in the same chapter of the Bill, these bodies neither have contradictory scope nor truly overlapping jurisdictions and functions. For example, the administrator for Rehabilitation and Resettlement will be working in the field, not in the Ministry. Similarly, the Rehabilitation and Resettlement Committees will be working in the field only. The national Monitoring Committee will be a Secretary level Committee in the Government of India, located in the Department of Land Resources (Ministry of Rural Development) to monitor the implementation of the Act. Oversight Committees will be based in the Ministry/Departments of the Central/State Governments having major projects for internal monitoring purposes. The National Rehabilitation Commission will be an independent body with its defined role in the Rehabilitation and Resettlement process. However, the Standing Committee may take a view on this.”

4.65 Further, while reviewing the position, the Secretary during the course of oral evidence submitted as under:

“In Clause 18 (1), it has been provided that for every major project, there shall be an oversight Committee for Rehabilitation and Resettlement in the Ministry or Department concerned. Some Departments have expressed difficulty in forming several Oversight Committees. Hence, we may provide for one Oversight Committee for all Land Acquisition and Rehabilitation and Resettlement projects for each Department of the Appropriate Government.”

4.66 The Committee after deliberations decided to approve the provision of the three sets of Committees *i.e.*, (i) National Monitoring Committee, (ii) Oversight Committee, (iii) National Rehabilitation Commission. Further the Committee note that a provision has been made for the constitution of an Oversight Committee for Rehabilitation and Resettlement in each of the Ministry or Department concerned. The Committee also note that different Departments have expressed difficulty in forming several Oversight Committees. In view of this, the Committee recommend that instead of Oversight Committee in each Department, provision should be made for the constitution of one Oversight Committee for rehabilitation and resettlement projects at the Central level. The desired modifications in the Bill should accordingly be made.

L. Involvement of Panchayati Raj Institutions and Municipalities

4.67 The Ministry of Panchayati Raj has made the following suggestions with regard to the involvement of Panchayati Raj Institutions in Scheduled Areas.

- (i) No social impact survey will be conducted unless the modalities, content and the agency conducting the survey have been approved by the Gram Sabha;
- (ii) There should be representative of the Panchayat associated with the survey;
- (iii) The results of the survey should be placed before the Gram Sabha and approved by it before implementation.

4.68 Further the Ministry of Urban Development has commented as under with regard to involvement of urban local bodies:—

“In cities the role of the Municipal Commissioner/CEO of Municipality ought to be central to devising the R&R package as all the steps involved may not be in the domain of the Collector.”

4.69 In this regard, the provisions made in R&R Bill are reproduced below:—

“The draft rehabilitation and resettlement scheme or plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by the appropriate Government which shall also be discussed in the concerned gram sabhas and in public hearings in urban and rural areas where gram sabhas do not exist: Provided that the consultation with the Gram Sabha or the Panchayats at the appropriate level in Scheduled Areas under the V Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996: Provided further that, in cases of involuntary displacement of two hundred or more Scheduled Tribes families from the Scheduled Areas, the concerned Tribes Advisory Councils shall also be consulted.”

4.70 It could be seen from the above that whereas it has been prescribed that the draft rehabilitation and resettlement scheme or plan shall be discussed in the Gram Sabha and in public hearings in urban and rural areas where Gram Sabhas do not exist. Consultation with the Gram Sabha or the Panchayats at the appropriate level in scheduled areas in accordance with PESA also has been prescribed. However, nothing has been mentioned as to what will happen if the public do not approve the aforesaid rehabilitation and resettlement scheme or plan. After deliberations the Committee decided that suitable provisions in the proposed legislation should be made whereby the rehabilitation plan and the modalities, content and the agency-conducting SIA studies are approved by the Gram Sabha in rural areas and the equivalent local body in the urban areas.

M. Fate of Social Impact Assessment Study when people refuse to cooperate

4.71 On the issue of the fate of the acquisition/Social Impact Assessment study where the people refused to cooperate the Department has clarified as under:—

“Clause 4(1) of the proposed Rehabilitation and Resettlement Bill states the manner in which Social Impact Assessment Study will be carried out. Clause 7(1) of the Rehabilitation and Resettlement Bill provides for the manner in which Social Impact Assessment Study clearance shall be granted. So, the rules to be framed under the above clauses will prescribe the

detailed procedure to be followed in case of refusal of people to cooperate.

The intent of noting non cooperation in Social Impact Assessment Study Report is to bring this to the notice of the appropriate Government and it can take appropriate action in the matter. The refusal to cooperate in the Social Impact Assessment Study will not affect the acquisition of land as per LA Act 1894. But, here, attention is drawn to Clause 29 of the proposed Rehabilitation and Resettlement Bill, which provides that full payment of compensation and adequate progress in Rehabilitation and Resettlement shall precede the actual displacement of the affected families. For determination of adequate Rehabilitation and Resettlement, besides Social Impact Assessment Study, baseline survey according to Clause 21 of Rehabilitation and Resettlement Bill is also essential. This cannot be done without the cooperation of the affected families. If the compensation cannot be paid to the people, they cannot be displaced according to Clause 29 of the Rehabilitation and Resettlement Bill. This may have a bearing on section 16 of LA Act, 1894.”

4.72 The Committee find that the Government intends to prescribe the detailed procedure to be followed in case of refusal of people to cooperate on the issue of Social Impact Assessment Study. The Committee also find that the refusal to cooperate in the Social Impact Assessment Study will not affect the acquisition of land as per the Land Acquisition Act, 1894. While agreeing to the intention of the Government in this regard the Committee would like that consultations with the local bodies should not be a mere formality. Some sort of provisions should be made in the proposed legislation whereby the quality of consultations can be ensured. The desired modification in the legislation should accordingly be made.

N. Rehabilitation and Resettlement benefits for the affected family

4.73 This chapter deals with Rehabilitation and Resettlement packages to be provided to the affected persons. The analysis of various Rehabilitation and Resettlement packages has been done in the succeeding part of the report.

Housing benefits

4.74 As per Clause 35 (1) of the Bill, any affected family owning house and whose house has been acquired or lost shall be allotted land for house without paying any money to the extent of 250 square

metres of land in rural area or 150 square metres of land or 100 sq. mtr. carpet area in urban area, subject to the actual area acquired or lost.

4.75 The aforesaid provision indicates that the maximum land that can be provided to an affected family is 250 square metres of land in rural area and 150 square metres of land or 100 sq. mtr carpet area in urban area.

4.76 Clause 32 of the Bill provides as under :—

“If land is acquired in cases of urgency, under the Land Acquisition Act, as amended from time to time, or any other Act of the Union or a State for the time being in force, each affected family shall be provided with transit and temporary accommodation, pending rehabilitation and resettlement scheme or plan, in addition to the payment of monthly subsistence allowance and other rehabilitation and resettlement benefits due to them under this Act.”

4.77 Various experts who appeared before the Committee/ submitted memoranda before the Committee were of the view that the land provided should commensurate to the actual area acquired. In this regard, the Department in the written replies has submitted that it may not always be possible to give a house or house site of the same area as that of the one lost or acquired.

4.78 The Department has further clarified that the person whose house property is acquired will receive due compensation for the house and the land on which the house is situated, as per the provisions of the LA Act, 1894. In addition, this person will also get, free of cost, the housing benefit proposed under Clause 35 of the R&R Bill.

4.79 The person whose house property is lost due to other causes of involuntary displacement, will get the R&R benefit as proposed under Clause 35 of the R&R Bill as an *ex-gratia* benefit, free of cost.

4.80 Since the housing benefit proposed under the Clause 35 of the R&R Bill is to be provided free of cost – in addition to the due compensation for the property acquired, or as *ex-gratia* for the property lost due to other causes of involuntary displacement – it was felt prudent to put certain limits on the extent of such R&R benefit, hence the 250/150 sq.mt. limit proposed for rural/urban areas as a legally guaranteed R&R benefit, while as per Clause 59 of the Bill the requiring body will be free to give higher benefits.

4.81 The Ministry of Urban Development while stating that both the Bills *viz.*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' have a distinct rural bias has stated that in cities displacement due to land acquisition may also be a non-residential structure/activities. Both the Bills do not take into account this aspect.

4.82 When asked how the commercial structures *viz.*, small/big shops or any other commercial activity being undertaken on that land by hawkers etc. would be compensated by the legislation, the Department has informed that all these categories would be eligible for compensation as per Clause 3(b)(iii) of the R&R Bill.

4.83 The aforesaid Clause defines affected family and in the definition although commercial establishment to some extent are covered. While prescribing the R&R package, nothing has been said about the allotment of sites for commercial activities. The land is proposed to be provided only for house as per Clause 35(1) of the Bill.

4.84 When asked how a category defined in the definition Clause can become eligible for compensation without prescribing any package in the main legislation, the Department in a vague manner has stated that the definition of affected family as proposed in Clause 3(b) of the proposed R&R Bill is exhaustive and covers commercial structures also.

4.85 The Ministry of Urban Development has submitted that Clause 35(1) is relevant mainly to rural areas, where affected persons are being provided with only residential structures, (and as stated elsewhere), urban areas have non-residential displacements also. However, allotment of flat of the size of LIG/MIG/HIG may be justified in Delhi and other big cities. Therefore, for urban areas, it may be left to the discretion of the appropriate Government to allot plots/flats of the appropriate size.

4.86 Further, experts are of the view that in urban areas special care must be taken for the distance between the location of housing and place of work and as such, the rehabilitation site should not be more than 3 kms away from the site from they have been displaced. In urban areas, rehabilitation invariably leads to ghettoisation of communities, with poor being shifted on the periphery of the city. NRR should ensure that this practice is halted.

4.87 When asked whether the cost of construction of the house would be borne by the affected person himself, the Department has

stated that Clause 35(2) of the proposed R&R Bill provides for constructed houses to the BPL category affected families. However, for the non-BPL category, Clause 35(1) proposes only land for house construction, and the Committee may consider provision for giving the discretion to the appropriate Government for offering loans or house construction assistance also to this category of affected families.

4.88 The Committee find that a provision has been made in the Rehabilitation and Resettlement legislation whereby the maximum land that can be provided to an affected family is 250 sq. metres of land in rural areas or 150 sq. mtrs/100 sq. metres carpet area in urban areas. The Committee note that the issue of land and its management falls under the State List and as such it may be better to leave the issue of deciding the maximum area of land to be provided to the affected family to the appropriate Government. In view of this, the Committee would like that suitable amendments in the existing provision may be made.

4.89 The Committee feel that in case of involuntary displacement due to natural calamities/war or any other such reason where the dwelling places of the affected persons would have been destroyed, there might be an urgent need to rehabilitate the affected persons immediately. In view of this, the Committee would like to recommend to the Government to make a provision of transit and temporary accommodation pending the rehabilitation and resettlement scheme or plan on the same lines as provided under urgency acquisition under Clause 32 of the Bill.

4.90 The Committee note that the Rehabilitation and Resettlement Bill, 2007 seeks to provide R&R benefits to two categories of involuntary displaced persons (a) affected persons whose land has been acquired as per Land Acquisition Act, 1894 and (b) affected persons whose land has been lost due to war, natural calamity etc. The Committee feel that in the case of land acquisition, the affected person loses land due to the acquisition by the appropriate Government for public good whereas in the 'b' category, the situation is beyond the control of human beings. Further in this category, there may be cases where the affected person may have been displaced temporarily as in the case of natural calamities like flood and war. Such a person would return to his place after the situation is normal. The proposed Bill provides for the common rehabilitation and resettlement package for category 'a' and 'b'. The Committee feel that such cases where a person loses his house/land temporarily need to be dealt in a different way. In view of this, the Committee

recommend that in the category 'b' cases, land should not be allotted in case of temporary dislocation. Suitable clarification in the legislation should accordingly be made in the legislation.

4.91 Further the Committee note that no provision has been made for allotment of commercial structure to the affected person whose shop or any other commercial activity being undertaken on land is acquired or lost. The Committee agree with the views of the Ministry of Urban Development in this regard and would like that suitable provision in the legislation should be made to allot commercial land/structure. The size of the commercial land in this regard should be left to the appropriate Government. Further in case of temporary dislocation of the commercial structure no land should be allocated. Suitable provision should be made in the legislation.

4.92 The Committee further find that sometimes the rehabilitation site is far away from the affected area. The Committee would like that State Governments should be advised to allot the rehabilitation site at the nearest possible place.

Benefits for BPL Families

4.93 Clause 35(2) states that each below poverty line affected family which is without homestead land and which has been residing in the affected area continuously for a period of not less than five years preceding the date of declaration of the affected area and which has been involuntarily displaced from such area, shall be provided with a house having at least fifty square metre carpet area in rural areas or, as the case may be, twenty-five square metre carpet area in urban areas, in the resettlement area.

4.94 Provided that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.

4.95 When asked about the legal problems involved in providing some R&R benefits to a category of persons *i.e.* BPL persons particularly when the criteria of determining a person as BPL is itself contradictory and being debated, the representative of the Legislative Department of the Ministry of Law and Justice clarified as under:—

“As per the law laid down by the Supreme Court while interpreting Right to Equality enshrined in Article 14 of the Constitution, the Supreme Court has evolved a doctrine of

reasonable classification. The reasonable classification means that for different categories of people, there can be different set of rules. Now, what classification will be reasonable and what will not be reasonable, the test has also been laid down. In calling a classification reasonable, the Supreme Court has evolved that you must see the object of the law; and the reasonable classification which you have adopted by the law should have a nexus with the object of the law. Now, here looking at the problem we have, a person who is very rich may not need Rehabilitation but a person who is very poor may have to be rehabilitated because you are uprooting his livelihood, his house and everything. So, BPL can be, in my opinion, treated as a class and I think the Supreme Court will justify it.

4.96 The Committee note that the proposed legislation provides for allotment of a house having at least 50 sq. metres carpet area in rural areas or 25 sq. metres carpet area in urban areas in the resettlement area to BPL family, which is without homestead land. The Committee consider that criteria of BPL person is contradictory and is being debated recently in the country. In view of this, the Committee would like that R&R benefit of a house of the specified area should be provided to a family without homestead land irrespective of BPL or APL status. In view of this, suitable modifications should be made in Clause 35 (2) of the Bill.

4.97 The Committee would further like to recommend that the specified period of five years of continuous residence for making an affected family without homestead eligible for a house of a prescribed area should be reduced to three years in line with the recommendation made at Para 4.13. Besides, the words 'preceding the date of declaration of the affected area' should be changed to 'immediately before the declaration of the affected area' in line with the recommendation made at Para 4.27.

4.98 Proviso to Clause 35 (2) of the Bill provides as under:—

“Provided that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.”

4.99 When asked what will happen when there is no Government of India programme, the Department has clarified that in such case, the appropriate Government shall have to specify a suitable amount.

4.100 The Committee find that provision has been made in Clause 35 (2) of the Bill whereby the affected family which opts not to accept the house offered shall get a one-time financial assistance for house construction. The amount in this regard has been linked with Government of India scheme. In this regard, it has been provided that the amount allocated shall not be less than what is given under any programme of house construction by the Government of India. The Committee feel that there may be cases when there will not be any Government of India scheme. In such cases it should be left to the appropriate Government to decide about the amount. Suitable modifications in Clause 35 (2) of the Bill may accordingly be made.

Acquisition of agricultural land

4.101 For cases where agricultural land is being acquired, Clause 36 (1) of the Bill provides that agricultural land or cultivable wasteland to the extent of actual land lost by the affected family, subject to a ceiling of one hectare of irrigated land or two hectares of unirrigated land or cultivable wasteland, if Government land is available in the resettlement area would be provided to the affected person.

4.102 Further, the Ministry of Urban Development has stated that in the context of urban areas, it is not possible to provide for alternate land to the affected persons. However, it is possible to provide them with multi-storied tenements/flats. However, allotment of flat of the size of LIG/MIG/HIG may be justified in Delhi and other big cities. Therefore, for urban areas it may be left to the discretion of the appropriate Government to allot plots/flats of the appropriate size. The Governments of Puducherry and Dadra and Nagar Haveli have expressed that in view of the paucity of land, it may always not be possible to provide land for land as compensation. They have suggested that additional cash benefits may be provided to the affected families so that they are able to purchase land elsewhere.

4.103 When asked for the comments of the Department on the aforesaid reservations expressed by the Ministry of UD and the aforesaid State Governments, the Department has stated that Clause 36(1) of the proposed Bill provides land for agricultural land only if land is available.

4.104 Since farmers are dependent on agricultural land for their livelihood, not providing them with land in lieu of land would not only dispossess them from their lands but also rob them of their livelihood. Most of the experts are of the view that land acquisition

should not result in loss of livelihood and there should be some safeguards to ensure that the largely illiterate population is not adversely affected.

4.105 Various experts who deposed before the Committee/submitted memoranda have expressed strong reservations on the use of the word 'if Government land is available'. In this regard the Standing Committee in the 27th Report had recommended as under:—

“The Committee find that there are various issues in this regard which need to be addressed strongly in the legislations, the foremost of which is the policy of giving land for land. The Committee note that land besides being the source of livelihood for a person is also a symbol of social status in the society where a person lives. Besides, with the land, various emotional issues are also attached. In this scenario, it is of utmost importance to address all these concerns and compensate the persons whose land is acquired not only with land but with the land of the same quality. “

4.106 When asked about the justification of restricting the area of land for housing/agricultural land without considering the actual land acquired by the Government/acquiring body, the Department has stated that it may not always be possible to give a house or house site of the same area as that of the one lost or acquired. The Department has also stated that the Committee may take a view on this aspect.

4.107 The Committee feel that restricting the area of agricultural land to a ceiling of one hectare of irrigated land or two hectares of unirrigated land or cultivable wasteland irrespective of the size of the land acquired is not appropriate. After detailed deliberations, the Committee decided that it should be left to the appropriate Government to decide about the size of the agricultural land/cultivable wasteland.

4.108 Further, the Committee may also like to recommend that a plot of agricultural land/cultivable wasteland as decided by the appropriate Government should be allotted only in cases where the affected person/family has permanently lost his land due to natural calamities, war etc. In cases where the dislocation is of temporary nature, no such land should be allocated. Suitable clarification in this regard should be made in the legislation. However, the provision of allotment of such land should invariably be applicable in case of involuntary displacement due to the land acquisition.

Rehabilitation in case of families affected by irrigation or hydel projects.

4.109 Clause 36 (2) of the Bill provides as under:—

“In the case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of the project:

Provided that such lands may be consolidated and plots of suitable sizes allotted to the affected families, who could be settled there in groups;

Provided further that, in case an affected family cannot be given land in the command area of the project or the family opts not to take land there, such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere.”

4.110 When asked what the Department mean by the words “such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere” as given in the above Clause, the Department has stated that the Clause 36(2) of the proposed Bill provides for land-for-land in the command area of the project. If such land can't be made available, or the affected family opts not to take land there, then such a family may be given adequate monetary compensation so that they will be able to buy the land in another area, and such compensation amount may be calculated on the basis of the provisions proposed under the LA (Amendment) Bill, and not on replacement cost basis for the lands lost.

4.111 From the reply of the Department, it seems that the Department itself is not clear about the impact of the replacement cost basis and reviewed its position and suggested that such compensation amount may be calculated on the basis of the provisions proposed under ‘The Land Acquisition (Amendment) Bill, 2007’ and not on replacement cost basis for the land lost. The Committee accordingly recommend to the Government to calculate the compensation amount on the basis of suggestions given by the Committee in the LA legislation with regard to the market rate of land, the details of which have been given in the statement at Appendix IV.

4.112 Further, the aforesaid Clause provides that in case, the affected family cannot be given land in the command area of the

project; such a family may be given monetary compensation. The Committee would like to recommend that land should be given in the nearby area of the project. However, if the family opts not to take land there, such family can be compensated on the basis of market value of land as stated above.

Financial Assistance provided under the Rehabilitation and Resettlement Bill

4.113 The following Clauses prescribe financial assistance for displaced families:—

(a) Financial Assistance for Land Development

Clause 36 (3): “In case of allotment of agricultural land in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of ten thousand rupees.”

Clause 36 (4) : “In case of allotment of wasteland in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of fifteen thousand rupees per hectare of land allotted.”

(b) Financial assistance for construction of Cattle-shed

Clause 38: “Each displaced affected family having cattle shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of fifteen thousand rupees for construction of cattle shed.”

(c) Financial assistance for transportation of family, building materials, belongings and cattle

Clause 39: “Each affected family which is displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of ten thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.”

(d) Financial assistance for construction of working shed or shop

Clause 40: "Each affected person who is a rural artisan, small trader or self-employed person and who has been displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of twenty-five thousand rupees for construction of working shed or shop."

4.114 The Committee find that the aforesaid Clauses of the Bill provide for one time financial assistance by way of financial assistance for land development, for construction of cattle-shed, transportation cost for shifting of families, building materials, belongings & cattle and for construction of working shed or shop. Certain minimum amount in this regard has been provided in the aforesaid Clauses. The Committee feel that it would be better to leave the specified amount to the appropriate Government. The desired amendments in this regard should be made in the legislation.

Employment and Skill Development

4.115 Clause 41 provides as under:—

"In case of a project involving land acquisition on behalf of a requiring body—

- (i) the requiring body shall give preference to the affected families in providing employment in the project, at least one person per family, subject to the availability of vacancies and suitability of the affected person for the employment;
- (ii) wherever necessary, the requiring body shall arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;
- (iii) the requiring body shall give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site;
- (iv) the requiring body shall give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase;
- (v) the requiring body shall offer the affected persons the necessary training facilities for development of entrepreneurship, technical and professional skills for self-employment;

- (vi) the requiring body shall offer scholarships and other skill development opportunities to eligible persons from the affected families, as per such criteria as may be fixed by the appropriate Government."

4.116 Various experts who deposed before the Committee or submitted memoranda have expressed strong reservations over the use of words 'preference', 'subject to availability of vacancies and suitability of the affected person for the employment' etc. When the attention of the Department was drawn towards this, it has commented as below:—

"For the smooth functioning and viability of the project coming on the acquired land, the use of words 'preference' and 'subject to the availability of vacancies and suitability of the affected person for the employment' in the Clause 41 are appropriate. The Standing Committee on R&R at project and district level, Ombudsman and National Resettlement Commission will take care of any irregularity committed by the requiring body."

4.117 The Committee after detailed deliberations tend to agree with the views expressed by the Department whereby it has been stated that the use of words 'preference', 'subject to the availability of vacancies' etc. as appearing in the aforesaid Clause 41(1) is appropriate. The Committee also take note of the view expressed by the nodal Department that the Standing Committee on R&R at project and district level, Ombudsman and National Resettlement Commission will take care of any irregularity committed by the requiring body. The Committee feel that the position as acknowledged by the Department whereby the Standing Committee on Rehabilitation and Resettlement at Project and District level, Ombudsman and the National Resettlement Commission would take note of any irregularity committed by the requiring body should appropriately be inserted in the legislation itself so as to make the provisions unambiguous.

Rehabilitation Grant

4.118 Clause 42 of the Bill provides as under:—

"In case of a project involving land acquisition on behalf of a requiring body, the affected families which have not been provided agricultural land or employment shall be entitled to a rehabilitation grant equivalent to seven hundred and fifty days minimum agricultural wages."

4.119 Further, when asked whether this Clause applies to urban areas as well, the Department has clarified that the figure of 750 days agricultural wages, *i.e.* wages for approximately two years, was thought the minimum required for sustaining an affected family till the family could look for alternative means of livelihood. In the National Rehabilitation and Resettlement Policy, 2007, Para 7.14 mentions, after the above provisions, the phrase “or such other higher amount as may be prescribed by the appropriate Government” and the Committee may like to consider adding this phrase to Clause 42 of the R&R Bill.

4.120 The Committee find that the Rehabilitation Grant and subsistence allowance as proposed to be provided under Clauses 42 and 45 of the Bill have been linked with minimum agricultural wages. The National Rural Employment Guarantee Act (NREGA) is now being implemented in every district of the country. The Committee feel that it would be better to link the aforesaid allowances to the rate of wages being provided under NREGA. In view of this suitable amendments should be made in the legislation.

Special provisions for rehabilitation and resettlement of members of the Scheduled Castes and Scheduled Tribes.

4.121 Clause 49 (3) of the Bill provides as under:—

“The concerned Grams Sabhas or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule or, as the case may be, Councils in the Sixth Schedule Areas shall be consulted in all cases of land acquisition in such areas, including acquisition under the urgency clause, before issue of a notification under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force as per the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and other relevant laws.”

4.122 Various experts who appeared before the Committee/ submitted memoranda were of the view that the concerned Gram Sabhas or the Panchayats at the appropriate level in the scheduled areas under the Fifth Schedule or as the case may be councilors in the Sixth scheduled area should be consulted not only under the urgency clause but for all the cases where the rehabilitation and resettlement is being provided either in the case of land acquisition or the involuntary displacement due to some other reasons like war, natural calamities etc.

4.123 The Committee agree with the views expressed by the experts and would like to recommend to the Government to make suitable amendments in the aforesaid Clause whereby it should be provided that the concerned Gram Sabhas or the Panchayats at the appropriate level in the scheduled areas under the Fifth Schedule or, as the case may be, Councils in the Sixth scheduled areas should be consulted not only under the urgency clause but for all the cases where the rehabilitation and resettlement is being provided either in the case of land acquisition or involuntary displacement due to some other reasons like war, natural calamities etc.

4.124 Clause 29 of the Bill states as under :—

“In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families.”

4.125 Further Clause 49 (5) of the Bill provides as under :—

“In case of land being acquired from members of the Scheduled Tribes, at least one third of the compensation amount due shall be paid to the affected families at the outset as first installment and the rest at the time of taking over the possession of the land.”

4.126 The Committee find that whereas as per Clause 29 of the Bill compensation of award, full payment of compensation and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families, Clause 49 (5) provides that at least one third of the compensation amount shall be paid to the affected families at the outset as first instalment and the rest at the time of taking over the possession of the land. The Committee would like to recommend to the Government to substitute the words ‘at the time’ by ‘shall precede’ in the Clause 49(5) of the Bill in line with the provisions made in Clause 29.

O. Indexation of rehabilitation grant and other monetary benefits

4.127 Clause 51 of the Bill provides that rehabilitation grant and other benefits expressed in monetary terms in this Act shall be indexed to the Consumer Price Index with reference to the date to be notified, and the same shall also be revised by the appropriate Government from time to time. There are various indices of Consumer Price Index.

When asked which of the Consumer Price Index will be referred in the said cases, the Department has informed that the details will be worked out while framing the rules under the legislation.

4.128 In the aforesaid clause, it has been mentioned that the rehabilitation grant and other benefits would be revised by the Government from time to time.

4.129 The Committee appreciate that the rehabilitation grant and other benefits expressed in monetary terms as per the various provisions made in the legislation have been indexed to the Consumer Price Index. It has also been provided that the benefits given in monetary terms would be revised by the appropriate Government from time to time. The Committee feel that the aforesaid benefits should be revised after two years. The specific provisions in this regard should be made in the legislation.

P. Punishment for false information and bar of jurisdiction of Civil courts

4.130 Clause 52, 54 and 56 of the Bill provides as under:—

“52. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both.

“54. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

“56. No Suit, prosecution or other legal proceedings shall lie against the appropriate Government, local body or authority or any officer of the appropriate Government or local body or authority acting under this Act for anything which is in good faith done or purported to be done under this Act or the rules, scheme or plan made thereunder.

4.131 When asked whether the Ministry of Law and Justice was consulted for making such provision, the Department has informed that the Bill was drafted by the Law Ministry with input from the Department/Ministry, when asked what will happen if a public interest litigation is filed by someone, the Department has informed as under:—

“As proposed in the Bill, no civil court shall have jurisdiction to entertain any suit or proceedings in respect of matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by on under this Act. However, these neither apply to the jurisdiction of High Courts and above, nor to the PILs.”

4.132 Various experts who deposed before the Committee/submitted memoranda were of the view that whereas provisions have been made for penalising persons for giving false information to the affected person, no penalties have been provided for the implementing authorities if they don't comply with the various provisions made in the Bill. Further even the Civil Courts have been debarred to entertain any suit or proceedings in respect of any matter which the administrator for rehabilitation and resettlement the Commissioner for rehabilitation and resettlement or the Ombudsmen is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

4.133 When asked about fixing the accountability of the officers, the Department has responded as under:—

“At the time of framing the rules governing the functioning of ombudsman under Clause 14 and the National Rehabilitation Commission under rule 19, provisions can be made for punitive recourse to ensure compliance of the provisions of the R&R Bill. The Committee may like to consider incorporating this provision in the Act itself.”

4.134 Clause 52 of the Bill provides for punishment in the form of imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both to the affected person for providing any false or

misleading information, in connection with providing any document to fulfil the requirement or direction under the Act. The Committee deliberated the aforesaid provisions at length and felt that the penalties prescribed are very harsh. The Committee would like to recommend that the concerned person for the aforesaid offence should be penalized as per the provisions made in the Indian Penal Code. Accordingly, suitable amendments should be made in the legislation.

CHAPTER V

BRINGING ONE LEGISLATION INSTEAD OF TWO LEGISLATIONS RELATING TO LAND ACQUISITION AND REHABILITATION AND RESETTLEMENT

5.1 The Standing Committee in the report on Demands for Grants (2007-2008) had recommended to bring only one legislation which may cover the issues related to acquisition and rehabilitation together. In the action taken replies, the Department had stated that the Law Ministry and Attorney General had strongly advised to have two legislations. The Committee had desired to furnish the details of the interactions held with the Ministry of Law and Attorney General so as to understand the matter and comment further. In the action taken replies, the Department did not address to the aforesaid matter and the issue was reiterated in the Thirty-first Action Taken Report of the Committee. Some of the experts who appeared before the Committee were of the strong opinion that there should be only one legislation for the purpose of land acquisition and rehabilitation. Besides, the Ministry of Power is also of the view that there should be a single legislation. The reasons for bringing the single legislation in this regard have been stated to be overlapping provisions like social impact assessment study, issue of shares and debentures by the requiring body etc. in the two Bills. Not only that, the Rehabilitation Policy also addresses the issues related to rehabilitation and the various matters have been reiterated in the policy also. The Ministry in the replies has commented that the new policy of 2007 goes beyond project-affected families displaced due to land acquisition and covers all cases of involuntary displacement irrespective of causes, which may include natural calamities etc. Thus the scope of the Rehabilitation and Resettlement Bill which is based on the Rehabilitation and Resettlement Policy of 2007 is much larger than the land acquisition cases.

5.2 The Ministry in the replies had admitted that the provisions for social impact assessment and Chapters II, IV, V and VI of the Rehabilitation and Resettlement Bill have been duplicated in the Land Acquisition Bill. The detailed reading of the two legislations indicates that the provisions have not been duplicated word by word. There are certain contradictions in the provisions made in the Bills where it has been stated that the duplication has been made. For example, in Rehabilitation and Resettlement Bill, Clause 8 of the Bill exempts the

projects involving emergency acquisition of minimum area of land by the Central Government from social impact assessment. However, such provision has not been made in the Land Acquisition Legislation, which may be the main legislation for the purpose of acquisition of land under emergency clause.

5.3 Further, the following provisions of the land acquisition and Rehabilitation legislations are reproduced here:—

“11C. (1) When land is acquired for the purpose of item (iii) of clause (f) of section 3 and the person for whom the land is acquired is a company authorised to issue shares and debentures, such company shall, with the previous approval of the appropriate Government, offer its shares or debentures to the extent of fifty per cent. but in any case not less than twenty per cent. of the compensation amount to be paid to the person whose land has been acquired.”

“42 xxxx Provided that if the requiring body is a company authorized to issue shares and debentures, then, it shall give an option to the affected families of taking up to fifty per cent, but in any case not less than twenty per cent, of their rehabilitation grant amount in the form of shares or debentures, in such manner as may be prescribed.

5.4 It would be seen from the above that in case of R&R Bill, it seems that the issue of shares up to fifty per cent but not less than twenty per cent of the rehabilitation grant amount is optional. However, in case of LA Bill, it seems that the issue of shares and debentures is compulsory.

5.5 In the LA legislation, in place of Civil Court, it has been proposed to establish Land Acquisition Compensation Dispute Settlement Authority whereas under the Rehabilitation and Resettlement Bill a provision has been made to appoint ombudsman to consider and dispose of all petitions relating to R&R against the position of Administrator. Whereas provisions made under LA and R&R are inter-related, the constitution of different authorities for implementation of the provisions as given in two Bills may create utter confusion.

5.6 The Committee while examining the Demands for Grants 2007-2008 had been apprised of the intention of the Government for bringing two legislations, one for Land Acquisition and the other for Rehabilitation and Resettlement. The Committee after exhaustive deliberations had strongly recommended in their Twenty-Seventh

Report (Fourteenth Lok Sabha) to bring only one legislation which may cover the issues related to acquisition and rehabilitation together. The aforesaid issue has widely been debated during the course of examination of the two Bills by the Committee. Divergent views in this regard have been expressed by experts as well as different Union Ministries consulted by the Committee.

5.7 During the course of deliberations, one strong point which substantiates the need for bringing two separate legislations, one for Land Acquisition and the other for Rehabilitation and Resettlement has been made by the nodal Department. The Department has contended that the scope of the Rehabilitation and Resettlement Bill, 2007 is much larger than the land acquisition cases. The aforesaid legislation goes beyond project affected families displaced due to land acquisition and covers all cases of involuntary displacement irrespective of causes, which may include natural calamities etc.

5.8 In view of the aforesaid clarification given by the nodal Department, the Committee approve the existing position whereby two Bills *viz.*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' have been brought before Parliament.

CHAPTER VI

MISCELLANEOUS

A. Providing solatium to the person who voluntarily offers his land to Government for acquisition

6.1 Under LAA Legislation as well as R&R Legislation, there is no provision to give any benefit or solatium to the person who voluntarily offers his land to Government for acquisition for public purpose. In this regard, the erstwhile Standing Committee on Urban and Rural Development in their Eighth Report had recommended as under:—

“In this connection, the Committee fail to understand that the provision for giving solatium is not applicable in those cases where a person voluntarily offers his land to the Government for acquisition. Since more and more land is required by the Government in order to meet the tasks of socio-economic development, the Committee would like to recommend that the provision under Section 23 (2) should also be applicable in case of consent award as an incentive to the concerned person.”

6.2 The Committee note that there is an urgent need to provide some sort of incentive to the person who voluntarily offers his land to the Government for acquisition for public purpose projects. In view of this, the Committee while endorsing the views expressed by the erstwhile Standing Committee on Urban and Rural Development would like to strongly recommend that some benefits/solatium should be provided to the person who voluntarily offers his land to the Government for acquisition for public purpose projects. Suitable provisions in the legislation should accordingly be made.

B. Awareness Campaign

6.3 The ultimate beneficiaries of the various provisions made in the legislation are the general masses. A major portion of the population of the country comprises of the poorest of the poor who are not even literate.

6.4 On the issue of ‘awareness campaign’, the Department has stated as under:—

“taking up awareness campaigns about the rights and benefits proposed to be conferred upon the people by the two Bills is

under active consideration of the Ministry. The preparatory work is underway, and the advertisements, etc. would be released soon, so as to generate public awareness about the provisions of the new R&R Policy and associated legislative measures.

Also, the District Collector could be given the responsibility of making the people aware of the rights and benefits conferred under the two proposed legislations, on an ongoing basis. The Committee could take a view on this.”

6.5 The Committee would like to recommend to the Government to take all the steps for wide publicity of various provisions made in the Bill, particularly through print and electronic media. Further, District Collector should be given the responsibility of making the people aware of the rights and benefits conferred under the two proposed legislations, on an ongoing basis and suitable provisions in the rules may be made in this regard.

C. Expedient enactment of the Rehabilitation and Resettlement Legislation

6.6 The Committee would like to strongly recommend to the Government that the said legislation should be enacted expeditiously so that the relief measures envisaged under the legislation are expeditiously implemented which may provide benefits to the affected persons/families whose land is acquired for ‘public purpose’. The Committee have arrived at various conclusions made in the Report after exhaustive deliberations with various Union Ministries, State Governments and other stakeholders. The Committee strongly recommend that due consideration should be given to the various recommendations/observations of the Committee and amendments as suggested brought before the Parliament when the legislation is taken up for consideration by the Parliament.

NEW DELHI;
15 October, 2008

24 Asvina, 1930 (Saka)

KALYAN SINGH,
Chairman,
Standing Committee on
Rural Development.

AS INTRODUCED IN LOK SABHA

Bill No. 98 of 2007

THE REHABILITATION AND RESETTLEMENT BILL, 2007

A

BILL

to provide for the rehabilitation and resettlement of persons affected by the acquisition of land for projects of public purpose or involuntary displacement due to any other reason, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rehabilitation and Resettlement Act, 2007. Short title, extent and commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.

2. The provisions of this Act shall apply to the rehabilitation and resettlement of persons affected by acquisition of land under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force; or involuntary displacement of people due to any other reason. Act to apply cases of land acquisition or other involuntary displacement of people.

Definitions. 3. In this Act, unless the context otherwise requires,—

(a) “Administrator for Rehabilitation and Resettlement” means an officer appointed for the purpose of rehabilitation and resettlement of affected persons under sub-section (1) of section 9.

(b) “affected family” means—

(i) a family whose primary place of residence or other property or source of livelihood is adversely affected by the acquisition of land for a project or involuntary displacement due to any other reason;

(ii) any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land (including plot in the abadi or other property) in the affected area or otherwise, has been involuntarily displaced from such land or other property;

(iii) any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;

(c) “affected area” means area of village or locality notified by the appropriate Government under sub-section (1) of section 20;

(d) “agricultural labourer” means a person primarily resident in the affected area for a period of not less than five years immediately before the declaration of the affected area, who does not hold any land in the affected area but who earns his livelihood mainly by manual labour on agricultural land therein immediately before such declaration and who has been deprived of his livelihood;

(e) “agricultural land” means lands being used for the purpose of—

(i) agriculture or horticulture;

(ii) dairy farming, poultry farming, pisciculture, sericulture, breeding of livestock or nursery growing medicinal herbs;

(iii) raising of crops, grass or garden produce; and

(iv) land used by an agriculturist for the grazing of cattle, but does not include land used for cutting of wood only;

(f) “appropriate Government” means—

(i) in relation to acquisition of land for the purposes of the Union, the Central Government;

(ii) in relation to a project which is executed by a Central Government agency or undertaking or by any other agency on the orders or directions of the Central Government, the Central Government;

(iii) in relation to acquisition of land for purposes other than (i) and (ii) above, the State Government; and

(iv) in relation to rehabilitation of persons displaced due to any other reason, the State Government;

(g) "below poverty line or BPL Family" means below poverty line families as defined by the Planning Commission of India, from time to time, and those included in a BPL list for the time-being in force;

(h) "Commissioner for Rehabilitation and Resettlement" means the Commissioner for Rehabilitation and Resettlement appointed by the State Government under sub-section (1) of section II;

(i) "DDP block" means a block identified under the Desert Development Programme of the Government of India;

(j) "family" includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes "nuclear family" consisting of a person, his or her spouse and minor children;

(k) "holding" means the total land held by a person as an occupant or tenant or as both;

(l) "land acquisition" or "acquisition of land" means acquisition of land under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force;

1 of 1894.

(m) "marginal farmer" means a cultivator with an unirrigated land holding up to one hectare or irrigated land holding up to half hectare;

(n) "non-agricultural labourer" means a person who is not an agricultural labourer but is primarily residing in the affected area for a period of not less than five years immediately before the declaration of the affected area and who does not hold any land under the affected area but who earns his livelihood mainly by manual labour or as a rural artisan immediately before such declaration and who has been deprived of earning his livelihood mainly by manual labour or as such artisan in the affected area;

(o) "notification" means a notification published in the Gazette of India, or as the case may be, the Gazette of a State;

(p) "occupier" means a member of a Scheduled Tribes community in possession of forest land prior to the 13th day of December, 2005;

(q) "Ombudsman" means the person appointed under section 14 for redressal of grievances;

(r) "prescribed" means prescribed by rules made under this Act;

(s) "project" means a project involving involuntary displacement of people, irrespective of the number of persons affected;

(t) "requiring body" means a company, a body corporate, an institution, or any other organisation for whom land is to be acquired by the appropriate Government, and includes the appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land in public interest to a company, body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;

(u) "resettlement area" means an area so declared under section 25 by the appropriate Government;

(v) "small farmer" means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.

CHAPTER II

SOCIAL IMPACT ASSESSMENT OF PROJECTS

Social
impact
assessment
study in
certain
cases.

4. (1) Whenever, it is desired to undertake a new project or expansion of an existing project, which involves involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall ensure that a social impact assessment study is carried out in the proposed affected areas in the manner as may be prescribed.

(2) While undertaking a social impact assessment under sub-section (1), the appropriate Government shall, *inter alia*, take into consideration the impact that the project will have on public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds.

(3) The appropriate Government may specify that the ameliorative measures, which

will need to be undertaken for addressing the said impact for a specific component, may not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be by the State Government.

5. (1) The social impact assessment report shall be submitted to the appropriate Government for its examination by an independent multi-disciplinary expert group, as may be notified by the appropriate Government.

Independent multi-disciplinary expert group to examine the social impact assessment report.

(2) The expert group shall consist of the following persons, namely—

(a) two non-official social scientists and rehabilitation experts, to be nominated by the appropriate Government;

(b) the Secretary of the departments of the appropriate Government concerned with the welfare of the Scheduled Castes and the Scheduled Tribes or his nominee, *ex officio*; and

(c) a representative of the requiring body, to be nominated by the appropriate Government.

6. (1) Wherever it is required, as per the provisions of any law, rules and guidelines issued thereunder, to undertake environmental impact assessment, the social impact assessment study shall be carried out simultaneously with the Environmental Impact Assessment study.

Concurrent social impact assessment study in cases requiring environmental impact assessment study.

(2) The public hearing undertaken in the project affected area for the environmental impact assessment shall also cover issues relating to social impact assessment.

(3) A copy of the social impact assessment report shall be made available to the Impact Assessment Agency authorised in respect of

environmental impact assessment by the Central Government in the Ministry of Environment and Forests, and a copy of the environmental impact assessment report shall be shared with the expert group notified under section 5.

Social
impact
assessment
clearance.

7. (1) The social impact assessment clearance shall be granted in such manner and within such time as may be prescribed.

(2) The conditions laid down in the social impact assessment clearance shall be followed by all concerned, including the Administrator for Rehabilitation and Resettlement while preparing and implementing the rehabilitation and resettlement plan.

(3) The concealment of any factual data or submission of false or misleading data or reports, may lead to the social impact assessment clearance being rejected and clearance, if any granted on the basis of data which subsequently found to be false, may be revoked.

Exemption
from
social
impact
assessment.

8. The projects involving emergency acquisition of minimum area of land by the Central Government in for the purpose of defence or national security shall be exempted from the provisions of this Chapter, subject to such institutional safeguards as may be prescribed for protecting the interests of the affected families.

CHAPTER III

AUTHORITIES FOR REHABILITATION AND RESETTLEMENT

Administrator
for
Rehabilitation
and
Resettlement.

9. (1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of large number of persons due to acquisition of land for any project or due to any other reason, and where there is likely to be displacement of—

(a) four hundred or more families *en masse* in plain areas; or

(b) two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, then the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of District Collector to be the Administrator for Rehabilitation and Resettlement:

Provided that if the appropriate Government in respect of such project is the Central Government, the appointment shall be made in consultation with the Central Government:

Provided further that in case of projects involving displacement of less than four hundred families *en masse* in plain areas, or less than two hundred families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the State Government may, by notification, appoint in respect of that project, an officer not below the rank of Deputy Collector or Sub-Divisional Officer to be the Administrator for Rehabilitation and Resettlement.

(2) The Administrator for Rehabilitation and Resettlement shall be assisted by such officers and employees as the State Government may decide.

10. (1) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the Administrator for Rehabilitation and Resettlement shall take all measures for the rehabilitation and resettlement of the affected families.

Powers and functions of Administrator.

(2) The formulation, execution and monitoring of the rehabilitation and resettlement plan shall vest in the Administrator for Rehabilitation and Resettlement.

(3) Subject to any general or special order of the appropriate Government, the Administrator for Rehabilitation and Resettlement shall perform the following functions, namely:—

(i) minimise displacement of persons and to identify non-displacing or least displacing alternatives in consultation with the requiring body;

(ii) hold consultation with the affected persons while formulating a rehabilitation and resettlement scheme or plan;

(iii) ensure that the interests of the adversely affected persons of the Scheduled Tribes and weaker sections are protected while formulating the rehabilitation and resettlement scheme or plan;

(iv) prepare a scheme or plan of rehabilitation and resettlement as required under Chapter V;

(v) prepare a budget including estimated expenditure of various components of acquisition of land, rehabilitation and resettlement activities or programmes in consultation with representatives of the affected families and the requiring body;

(vi) arrange land for rehabilitation and resettlement of the affected families;

(vii) allot land and ensure providing of benefits to the affected families; and

(viii) perform such other functions as the appropriate Government may, from time to time, by order in writing, assign.

(4) The Administrator for Rehabilitation and Resettlement may, by order in writing, delegate such of the functions conferred on him by or under this Act to any officer not below the rank of Tehsildar or equivalent as he may consider appropriate for smooth implementation of the rehabilitation and resettlement scheme or plan.

(5) All officers and staff appointed by the State Government under this Chapter to assist the Administrator for Rehabilitation and Resettlement shall be subordinate to him.

11. (1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.

Commissioner for Rehabilitation and Resettlement.

(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

12. (1) For each project which involves involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall constitute a Committee under the Chairpersonship of the Administrator for Rehabilitation and Resettlement, to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of scheme or plan of rehabilitation and resettlement of the affected families, and to carry out post-implementation social audits.

Rehabilitation and Resettlement Committee at project level.

(2) The Rehabilitation and Resettlement Committee constituted under sub-section (1)

shall include, apart from officers of the appropriate Government, the following members, namely:—

(i) a representative of women residing in the affected area;

(ii) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;

(iii) a representative of a voluntary organisation working in the area;

(iv) a representative of a nationalised bank;

(v) the Land Acquisition Officer of the project;

(vi) the Chairpersons of the *panchayats* or municipalities located in the affected area, or their nominees;

(vii) the Member of Parliament and Member of the Legislative Assembly of the concerned area; and

(viii) a representative of the requiring body.

(3) The procedure regulating the business of the Rehabilitation and Resettlement Committee, its meetings and other matters connected thereto shall be such as may be prescribed.

Rehabilita-
tion and
Resettle-
ment
Committee
at district
level.

13. (1) The State Government shall in every district constitute a standing Rehabilitation and Resettlement Committee under the chairpersonship of the District Collector or, as the case may be, Deputy Commissioner of the district, to monitor and review the progress of rehabilitation and resettlement of the affected families in the district excluding those covered by the Rehabilitation and Resettlement Committee at the project level as specified in section 12.

(2) The composition, powers, functions and other matters relating to the functioning of the Rehabilitation and Resettlement Committee at the district level shall be such as may be prescribed by the State Government.

14. (1) The appropriate Government shall appoint, in such manner as may be prescribed, an ombudsman for time-bound disposal of the grievances arising out of the matters covered under this Act.

Ombudsman

(2) Any affected person, if aggrieved, for not being offered the benefits admissible, may move a petition for redressal of his grievances to the ombudsman.

(3) The form and manner in which and the time within which petitions under subsection (2) may be made to the ombudsman and be disposed of in such manner as may be prescribed.

(4) The ombudsman shall have the power to consider and dispose of all petitions relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the requiring body, the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the districts, as he may deem proper for the redressal of such grievances.

15. (1) In case a project covers an area in more than one State or Union territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union territories, appoint the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, a common Rehabilitation and Resettlement Committee, and the Ombudsman for the purposes of this Act.

Inter-State projects.

(2) The method of implementation of the schemes or plans for rehabilitation and resettlement shall be discussed by the State Governments and the Union territory Administrations, and a common scheme or plan agreed to by them shall be notified by the Administrator for Rehabilitation and Resettlement in the States or Union territories in accordance with the procedure laid down in this Act.

(3) If any difficulty arises in the implementation of the schemes or plans, the matter shall be referred to the Central Government for its decision.

National
Monitoring
Committee.

16. (1) The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.

(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.

Disclosure
of
Information.

17. The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

Oversight
Committee.

18. (1) For every major project covered under this Act, there shall be an Oversight Committee for Rehabilitation and Resettlement in the Ministry or the Department of the appropriate Government.

(2) The composition, functions and procedures of the Committee referred to in subsection (1) shall be such as may be prescribed.

19. (1) A National Rehabilitation Commission shall be set up by the Central Government with the power to supervise and exercise general oversight over rehabilitation and resettlement of the affected families covered under this Act.

National
Rehabilitation
Commission.

(2) The terms and conditions of appointment of the Chairperson and Members and the composition, powers and the procedure for transaction of business of the National Rehabilitation Commission shall be such as may be prescribed.

CHAPTER IV

SCHEMES OR PLANS FOR REHABILITATION AND RESETTLEMENT

20. (1) Where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families *en masse* in plain areas, or two hundred or more families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area.

Declaration
of affected
areas.

(2) Every declaration made under subsection (1) shall be published in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in villages or areas which are likely to be affected, and also by affixing a copy of the notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the affected area as well as the resettlement area, or by any other

method as may be prescribed in this regard by the appropriate Government.

Survey and census of affected families.

21. (1) Upon publication of a declaration under sub-section (1) of Section 20, the Administrator for Rehabilitation and Resettlement shall undertake a baseline survey and census for identification of the persons and families likely to be affected.

(2) Every survey under sub-section (1) shall contain the following village-wise information of the affected families, namely:—

(i) members of the family who are permanently residing, engaged in any trade, business, occupation or vocation in the affected areas;

(ii) families who are likely to lose, or have lost, their house, agricultural land, employment or are alienated wholly or substantially from the main source of their trade, business, occupation or vocation;

(iii) agricultural labourers and non-agricultural labourers;

(iv) families belonging to the Scheduled Caste or Scheduled Tribe categories;

(v) vulnerable persons such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family;

(vi) families that are landless (not having homestead land, agricultural land, or either homestead or agricultural land) and below poverty line, but residing continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area; and

(vii) the Scheduled Tribes families who are or were in possession of forest lands in the affected area prior to the 13th day of December, 2005.

(3) Every survey undertaken under sub-section (1) shall be completed within a period of ninety days from the date of declaration made under sub-section (1) of Section 20.

(4) On completion of the survey under sub-section (3) , or on expiry or a period of ninety days, whichever is earlier, the Administrator for Rehabilitation and Resettlement shall, by notification, publish a draft containing details of the findings of the survey conducted under sub-section (1), in such manner as may be prescribed, and invite objections and suggestions from all persons likely to be affected thereby.

(5) On the expiry of a period of thirty days from the date of publication of the draft containing details of survey and after considering the objections and suggestions received under sub-section (4), the Administrator for Rehabilitation and Resettlement shall submit his recommendations thereon along with the details of the survey to the appropriate Government.

(6) Within a period of forty-five days from the date of receipt of the details of the survey and recommendations of the Administrator for Rehabilitation and Resettlement, the appropriate Government shall publish the final details of survey in the Official Gazette.

22. (1) The Administrator for Rehabilitation and Resettlement shall draw up a list of lands that may be available for rehabilitation and resettlement of the affected families.

Assessment of land available for rehabilitation and resettlement.

(2) The list of lands drawn up under sub-section (1) shall consist of—

(a) land available or acquired for the project and earmarked for the purpose;

(b) Government wastelands and any other Government land available for allotment to the affected families;

(c) lands that may be available for purchase or acquisition for the purposes of rehabilitation and resettlement scheme or plan; or

(d) a combination of one or more of the above.

Draft schemes or plans for rehabilitation and resettlement.

23. (1) After completion of baseline survey and census of the affected families under section 21, and assessment of the requirement of land for resettlement under section 22, the Administrator for Rehabilitation and Resettlement shall prepare a draft scheme or plan for the rehabilitation and resettlement of the affected families after consultation with the representatives of the affected families including women and the representative of the requiring body.

(2) The draft rehabilitation and resettlement scheme or plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by the appropriate Government which shall also be discussed in the concerned gram sabhas and in public hearings in urban and rural areas where gram sabhas do not exist:

Provided that the consultation with the Gram Sabha or the Panchayats at the appropriate level in Scheduled Areas under the Fifth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996:

48 of 1996

Provided further that, in cases of involuntary displacement of two hundred or more Scheduled Tribes families from the

Scheduled Areas, the concerned Tribes Advisory Councils shall also be consulted.

(3) The draft rehabilitation and resettlement scheme or plan shall contain the following particulars, namely:—

(a) the extent of land to be acquired for the project or lost otherwise and the names of the affected villages;

(b) a village-wise list of the affected persons, family-wise, the extent and nature of land and immovable property owned or held in their possession in the affected area, and the extent and nature of such land and immovable property which they are likely to lose or have lost, indicating the survey numbers thereof;

(c) a list of agricultural labourers in such area and the names of such persons whose livelihood depends on agricultural activities;

(d) a list of persons who have lost or are likely to lose their employment or livelihood or who have been or likely to be alienated wholly or substantially from their main sources of trade, business, occupation or vocation consequent to the acquisition of land for the project or involuntary displacement due to any other cause;

(e) a list of non-agricultural labourers, including artisans in such area;

(f) a list of affected landless families, including those without homestead land and below poverty line families;

(g) a list of vulnerable affected persons, as specified in clause (v) of sub-section (2) of section 21;

(h) a list of occupiers, if any;

(i) a list of public utilities and government buildings which are affected or likely to be affected;

(j) details of public and community properties, assets and infrastructure;

(k) a list of benefits and packages which are to be provided to the affected families;

(l) details of the extent of land available in the resettlement area for resettling and for allotment of land to the affected families;

(m) details of the amenities and infrastructural facilities which are to be provided for resettlement;

(n) the time schedule for shifting and resettling the displaced families in the resettlement area; and

(o) such other particulars as the Administrator for Rehabilitation and Resettlement may consider necessary.

(4) While preparing a draft scheme or plan in case of a project involving land acquisition on behalf of a requiring body, the Administrator for Rehabilitation and Resettlement shall ensure that the entire estimated cost of rehabilitation and resettlement scheme or plan is included in the cost of the project for which the land is being acquired on behalf of the requiring body; and the entire expenditure of rehabilitation and resettlement benefits including the expenditure incurred on rehabilitation and resettlement of the affected families are borne by the requiring body.

(5) The Administrator for Rehabilitation and Resettlement shall communicate to the requiring body for incorporation in the project cost, the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families.

24. (1) The Administrator for Rehabilitation and Resettlement shall submit the draft scheme or plan for rehabilitation and resettlement to the appropriate Government for its approval.

Final publication of schemes and plans.

(2) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the appropriate Government to obtain the consent of the requiring body, to ensure that the necessary approvals as required under this Act have been obtained, and to make sure that the requiring body has agreed to bear the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families as communicated by the Administrator for Rehabilitation and Resettlement, before approving it.

(3) The approved scheme or plan for rehabilitation and resettlement shall be published in the Official Gazette by the appropriate Government.

(4) On the final publication of notification of the rehabilitation and resettlement scheme or plan, it shall come into force.

CHAPTER V

REHABILITATION AND RESETTLEMENT OF AFFECTED FAMILIES

25. The appropriate Government may, by notification, declare any area or areas as a resettlement area or areas for the purposes of rehabilitation and resettlement of the affected families.

Declaration of resettlement areas.

26. (1) The affected families may, wherever possible, be settled in a group or groups.

Affected families to be settled in group.

(2) In case the entire population of the village or area to be shifted belongs to a particular community, such population or the families may, wherever possible, be resettled *en masse* in the resettlement area.

(3) In the case of resettlement of the Scheduled Castes affected families, such families may, wherever possible, be resettled in the areas close to the villages.

Purchase of exchange of land for rehabilitation and resettlement.

27. The Administrator for Rehabilitation and Resettlement may, on behalf of the appropriate Government, and subject to such rules as may be prescribed, enter into an agreement with any person for the purchase or exchange of any land required for the purposes of the rehabilitation and resettlement scheme or plan.

Funds for rehabilitation and resettlement.

28. (1) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the requiring body to provide requisite funds to the administrator for Rehabilitation and Resettlement for proper implementation of the rehabilitation and resettlement scheme or plan for the affected families.

(2) In case of a project involving land acquisition on behalf of a requiring body, as soon as the rehabilitation and resettlement scheme or plan is finalised, the requiring body shall deposit one-third cost of the rehabilitation and resettlement scheme or plan with the Administrator for Rehabilitation and Resettlement.

(3) The Administrator for Rehabilitation and Resettlement shall keep proper books of accounts and maintain records of the funds placed at his disposal, in such manner as may be prescribed, and submit periodical returns to the appropriate Government in this behalf.

Compensation and rehabilitation and resettlement ahead of displacement.

29. In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families.

30. (1) In case of involuntary displacement of four hundred families or more *en masse* in plain areas, or two hundred families or more *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, comprehensive infrastructural facilities and amenities notified by the appropriate Government shall be provided in the resettlement area.

Infrastructural facilities and amenities in resettlement areas.

(2) If relocation takes place in an existing settlement area, the same infrastructure shall also be extended to the host community.

(3) In case of involuntary displacement of less than four hundred families *en masse* in plain areas, or less than two hundred families *en masse* in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, all affected families shall be provided basic infrastructural facilities and amenities at the resettlement area as per the norms specified by the appropriate Government.

31. The appropriate Government shall ensure that the resettlement area forms part of a panchayat or a municipality.

Local self-government institutions in resettlement areas.

1 of 1894.

32. If land is acquired in cases of urgency, under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force, each affected family shall be provided with transit and temporary accommodation, pending rehabilitation and resettlement scheme or plan, in addition to the payment of monthly subsistence allowance and other rehabilitation and resettlement benefits due to them under this Act.

Special provisions for rehabilitation and resettlement in case of urgency.

Periphery development.

33. In case of a project involving land acquisition on behalf of a requiring body—

(i) the requiring body shall contribute to the socio-economic development of such geographic area on the periphery of the project site as may be defined by the appropriate;

(ii) the requiring body shall earmark a percentage of its net profit or, in case no profit is declared by the requiring body in a particular year, for that year, such minimum alternative amount as may be determined by the appropriate Government after consultation with the requiring body, to be spent for the purpose and within the area referred to in sub-section (1); and

(3) the requiring body shall coordinate with the Commissioner for Rehabilitation and Resettlement while carrying out the developmental activity under this section.

CHAPTER VI

REHABILITATION AND RESETTLEMENT BENEFITS FOR THE AFFECTED FAMILIES

Rehabilitation and resettlement benefits available to eligible affected families.

34. The rehabilitation and resettlement benefits shall be extended to the affected families who are eligible as affected families on the date of publication of the declaration under sub-section (1) of section 20, and any division of assets in the family after the said date shall not be taken into account.

Housing benefits.

35. (1) Any affected family owning house and whose house has been acquired or lost, shall be allotted land for house, without requiring him to pay the price for such land, to the extent of two hundred and fifty square metre of land in rural areas or, as the case may be, one hundred and fifty square metre of land in urban areas to each family within the affected family, subject to the actual area acquired or lost:

Provided that, in urban areas, a house of up to one hundred square metre carpet area may be provided in lieu thereof.

(2) Each below poverty line affected family which is without homestead land and which has been residing in the affected area continuously for a period of not less than five years preceding the date of declaration of the affected area and which has been involuntarily displaced from such area, shall be provided with a house having at least fifty square metre carpet area in rural areas or, as the case may be, twenty-five square metre carpet area in urban areas, in the resettlement area:

Provided that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.

Explanation.—The houses in urban areas may, if necessary, be provided in multi-storied building complexes.

36. (1) Each affected family owning agricultural land in the affected area and whose entire land has been acquired or lost, or who has, as a land consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, agricultural land or cultivable wasteland to the extent of actual land loss by the affected family subject to a ceiling of one hectare of irrigated land or two hectares of unirrigated land or cultivable wasteland, if Government land is available in the resettlement area.

Allotment
of
agricultural
land.

(2) In the case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of the project:

Provided that such lands may be consolidated and plots of suitable sizes allotted

to the affected families, who could be settled there in groups:

Provided further that, in case an affected family cannot be given land in the command area of the project or the family opts not to take land there, such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere.

(3) In case of allotment of agricultural land in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of ten thousand rupees.

(4) In case of allotment of wasteland in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of fifteen thousand rupees per hectare of land allotted.

Registration etc. of land of other property allotted.

37. (1) In case of a project involving land acquisition on behalf of a requiring body, the stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.

(2) The land or house allotted to the affected families shall be free from all encumbrances.

(3) The land or house allotted may be in the joint names of wife and husband of the affected family.

Financial assistance for cattle shed.

38. Each displaced affected family having cattle shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of fifteen thousand rupees for construction of cattle shed.

39. Each affected family which is displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of ten thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.

Transportation cost.

40. Each affected person who is a rural artisan, small trader or self-employed person and who has been displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of twenty-five thousand rupees for construction of working shed or shop.

Financial assistance for working shed or shop.

41. In case of a project involving land acquisition on behalf of a requiring body—

Employment and skill development.

(i) the requiring body shall give preference to the affected families in providing employment in the project, at least one person per family, subject to the availability of vacancies and suitability of the affected person for the employment;

(ii) wherever necessary, the requiring body shall arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;

(iii) the requiring body shall give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site;

(iv) the requiring body shall give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase;

(v) the requiring body shall offer the affected persons the necessary training facilities for development of

entrepreneurship, technical and professional skills for self-employment;

(vi) the requiring body shall offer scholarships and other skill development opportunities to eligible persons from the affected families, as per such criteria as may be fixed by the appropriate Government.

Rehabilitation grant and option for allotment of shares.

42. In case of a project involving land acquisition on behalf of a requiring body, the affected families which have not been provided agricultural land or employment shall be entitled to a rehabilitation grant equivalent to seven hundred and fifty days minimum agricultural wages:

Provided that if the requiring body is a company authorised to issue shares and debentures, then, it shall give an option to the affected families of taking up to fifty per cent., but in any case not less than twenty per cent., of their rehabilitation grant amount in the form of shares or debentures, in such manner as may be prescribed.

Land development projects.

43. In cases involving land acquisition for land development projects, in lieu of land-for-land or employment, the affected families shall be given developed land or built-up space within the development project, in proportion to the land acquired, but subject to limits as may be prescribed.

Fishing rights.

44. In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.

Subsistence allowance.

45. In case of a project involving land acquisition on behalf of a requiring body, each affected family which is involuntarily displaced shall get a monthly subsistence allowance equivalent to twenty-five days minimum agricultural wages per month for a period of one year from the date of displacement.

46. The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons as specified in clause (v) of sub-section (2) of section 21, of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month.

Monthly pension to vulnerable affected persons.

47. In case of linear acquisitions, in projects relating to railway lines, highways, transmission lines, laying of pipelines and such other projects wherein only a narrow stretch of land is acquired for the purpose of the project or is utilised for right of way, each person whose name is included in the records of rights with regard to the affected family shall be offered by the requiring body an *ex-gratia* grant of such amount as may be prescribed by the appropriate Government subject to a minimum of twenty thousand rupees, in addition to the compensation and any other benefits due under the Act or programme or scheme under which the land, house or other property is acquired:

Linear projects.

Provided that, if as a result of such land acquisition, the land-holder becomes landless or is reduced to the status of a small or marginal farmer, other rehabilitation and resettlement benefits available under this Act shall also be extended to such affected family.

48. The affected families shall have the option to take a lump-sum amount, in lieu of one or more of the benefits specified in sections 35 to 47 (both inclusive), as may be determined by the appropriate Government in consultation with the requiring body.

Option for a lump-sum payment in lieu of benefits.

49. (1) In case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of two hundred or more Scheduled Tribes families, a Tribal Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.

Special provisions for rehabilitation and resettlement of members of the Scheduled Tribes and the Scheduled Castes.

(2) The Tribal Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities who are denied access to forests.

1 of 1894 (3) The concerned Gram Sabhas or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule or, as the case may be, Councils in the Sixth Schedule Areas shall be consulted in all cases of land acquisition in such areas, including acquisition under the urgency clause, before issue of a notification under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force as per the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and other relevant laws.

(4) Each affected family of Scheduled Tribe followed by Scheduled Caste categories shall be given preference in allotment of land-for-land, if Government land is available in the resettlement area.

(5) In case of land being acquired from members of the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first installment and the rest at the time of taking over the possession of the land.

(6) In case of a project involving land acquisition on behalf of a requiring body, each Scheduled Tribes affected family shall get an additional one-time financial assistance equivalent to five hundred days minimum agricultural wages for loss of customary rights or usages of forest produce.

(7) The Scheduled Tribes affected families shall be resettled preferably in the same Schedule Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.

(8) The resettlement areas predominantly inhabited by the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government, free of cost for community and social gatherings.

(9) In case of a project involving land acquisition on behalf of a requiring body, the Scheduled Tribes affected families resettled out of the district will get twenty-five per cent. higher rehabilitation and resettlement benefits in monetary terms in respect of the benefits specified in sub-sections (3) and (4) of section 36, sections 38, 39, and 40.

(10) Any alienation of tribal lands in disregard of the laws and regulations for the time being in force shall be treated as null and void; and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal landowners.

(11) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

(12) All benefits available to the affected families in the affected areas, shall continue in the resettlement area.

50. The affected Scheduled Tribes families, who were in possession of forest lands in the affected area prior to the 13th day of December, 2005, shall be eligible for the benefits of rehabilitation and resettlement under this Act.

Benefits to occupiers.

CHAPTER VII

MISCELLANEOUS

- Indexation of rehabilitation grant and other monetary benefits.
51. The rehabilitation grant and other benefits expressed in monetary terms in this Act shall be indexed to the Consumer Price Index with reference to the date to be notified, and the same shall also be revised by the appropriate Government from time to time.
- Punishment for false information.
52. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both.
- Duty to assist Administrator for Rehabilitation and Resettlement.
53. The officers of the Central Government, State Governments or Union territory Administrations and the officers or staff of the local bodies or other statutory authorities shall assist the Administrator for Rehabilitation and Resettlement or any other officer duly authorised under this Act, as and when required, for carrying out the purposes of this Act.
- Bar of jurisdiction of civil courts.
54. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
- Officers to be public servants.
55. The Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement and the

45 of 1860 Ombudsman, appointed under this Act shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

56. No Suit, prosecution or other legal proceedings shall lie against the appropriate Government, local body or authority or any officer of the appropriate Government or local body or authority acting under this Act for anything which is in good faith done or purported to be done under this Act or the rules, scheme or plan made thereunder.

Indemnity for acts done in good faith.

40 of 1996 57. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except the Provision of the Panchayats [(Extension to the Scheduled Areas) Act, 1996] or in any instrument having effect by virtue of any law other than this Act.

Overriding effects of act over all land related laws.

58. (1) The appropriate Government may, after previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which social impact assessment study is to be carried out under sub-section (1) or section (4);

(b) the manner of granting social impact assessment clearance under sub-section (1) or section 7;

(c) emergency acquisition of land for the purpose of defence or national security, and its institutional safeguards under section 8;

(d) rules of procedure regulating the business of the Rehabilitation and Resettlement Committee under sub-section (3) of section 12; and composition, powers and functions relating to the Rehabilitation and Resettlement Committee under sub-section (2) of section 13;

(e) the manner of appointment of ombudsman, form and manner in which complaints may be made and disposed by the ombudsman under sub-section (1) and (3) of section 14; and

(f) procedures to be followed by the National Monitoring Committee under sub-section (3) of section 16; and composition powers and procedure of transaction of business of the National Rehabilitation Commission under sub-section (2) of section 19;

(g) the method of notifying affected areas under sub-section (2) of section 20;

(h) the manner in which the Administrator for Rehabilitation and Resettlement shall publish a draft details of findings of the survey conducted under sub-section (4) of section 21; and the manner of giving publicity to draft rehabilitation and resettlement scheme or plan under sub-section (2) of section 23;

(i) the method of entering into an agreement with any person under rehabilitation and resettlement scheme or plan under section 27;

(j) the manner of keeping books of accounts and records of the funds for rehabilitation and resettlement by the Administrator under sub-section (3) of section 28;

(k) specify assistance to affected family under sub-section (3) and (4) of section 36;

(l) rules for giving financial assistance to construct cattle shed under section 38; transportation cost for shifting of the family under section 39; construction of working shed for shop under section 40 and the manner in which rehabilitation grant shall be provided under section 42;

(m) the manner of providing fishing rights of the reservoirs to the affected families under section 44;

(n) the amount of pension payable to vulnerable persons under section 46; and the determination of *ex-gratia* amount under section 47, the necessary forms for the purposes specified in section 49; and

(o) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by the rules.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or

where such State legislature consists of one House, before that House.

Savings. 59. Notwithstanding anything contained in this Act, a scheme or plan for rehabilitation or resettlement of affected persons or families formulated by the requiring body, may provide for benefits higher than the extent and the amount of benefit laid down under this Act.

Power to remove difficulties. 60. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resource base and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, in particular of the weaker sections of the society including members of the Scheduled Castes, the Scheduled Tribes, marginal farmers and their families.

2. There is an imperative need to recognise rehabilitation and resettlement issues as intrinsic to the development process formulated with the active participation of affected persons and families. Additional benefits beyond monetary compensation have to be provided to families affected adversely by involuntary displacement. The plight of those who do not have rights over the land on which they are critically dependent for their subsistence is even worse. This calls for a broader concerted effort on the part of the planners to include in the displacement, rehabilitation and resettlement process framework, not only those who directly lose land and other assets but also all those who are affected by such acquisition of assets. The displacement process often poses problems that make it difficult for the affected persons to continue their old livelihood activities after resettlement. This requires a careful assessment of the economic disadvantages and the social impact of displacement. There must also be a holistic effort aimed at improving the all-round living standards of the affected people and families.

3. A National Policy on Resettlement and Rehabilitation for Project Affected Families was formulated in 2004, which came into force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. There should be a clear perception, through a careful quantification of the costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families—economic, environmental, social and cultural—must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where involuntary displacement takes place.

4. The aim is to minimise large-scale displacement, as far as possible. However, where large numbers of families are affected, it must be mandatory to do social impact assessments and provide all required infrastructural facilities and amenities in the resettlement area. More particularly, where the Scheduled Tribes people are being displaced in sizeable numbers, a well thought out Tribal Development Plan must be put in place. Furthermore, such a policy must specify clear timeframes within which the implementation of the rehabilitation package as well as utilisation of the land shall be accomplished. Also, it should lay down an effective monitoring and grievance redressal mechanism.

5. The National Rehabilitation and Resettlement Policy, 2007 has been formulated on these lines to replace the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from the 31st October, 2007. Since the inception of the Land Acquisition Act, 1894 for the first time a legislation namely, the Rehabilitation and Resettlement Bill, 2007 has been developed on the lines of the provisions of the new policy, so as to give a statutory backing to them and provide for Social Impact Assessment, making of scheme and plans well defined Rehabilitation and Resettlement benefits for the affected families.

6. Many State Governments have their own rehabilitation and resettlement policies. Many Public Sector Undertakings or agencies also have their own policies in this regard. The Rehabilitation and Resettlement Bill, 2007 provides for the basic minimum requirements that all projects leading to involuntary displacement must address. The Bill contains a saving clause to enable the State Governments, Public Sector Undertakings or agencies, or other requiring bodies to continue to provide or put in place greater benefit levels than those prescribed under the Bill.

The Rehabilitation and Resettlement Bill, 2007 will be primarily applicable to the rehabilitation and resettlement of persons adversely affected by the acquisition of lands for projects. However, involuntary displacement of people may be caused by other factors also, and the provisions of the Bill may apply to the rehabilitation and resettlement of persons involuntarily displaced permanently due to any reasons.

8. In brief, the Rehabilitation and Resettlement Bill, 2007 will provide for the basic minimum that all projects leading to involuntary displacement must address the grievances of the affected persons. A social impact assessment of proposals leading to displacement of large

populations through a participatory, informed and transparent process involving all stake-holders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services. Adequate safeguards have been proposed for protecting rights of vulnerable sections of the displaced persons.

9. The Bill seeks to achieve the above objectives.

NEW DELHI;
Dated the 30th November, 2007.

RAGHUVANSH PRASAD SINGH.

NOTES ON CLAUSES

Clause 4.—seeks to provide for social impact assessment study in certain cases in the proposed affected areas taking into consideration the impact that the project will have on public and community properties etc., and specify the ameliorative measures.

Clause 5.—seeks to provide submission of the SIA Report by an independent multidisciplinary expert group for examination by the appropriate Government; it also seeks to provide for constitution of the expert group.

Clause 6.—seeks to provide for concurrent SIA Studies with Environmental Impact Assessment Study.

Clause 7.—seeks to provide for the manner of SIA clearance and conditions laid down in SIA clearance to be followed by all concerned, etc.

Clause 8.—seeks to exempt, from the provisions of Chapter-II, projects involving emergency acquisition in for the purpose of defence or national security.

Clause 9.—seeks to provide for appointment of Administrator for Rehabilitation and Resettlement by the State Government.

Clause 10.—seeks to provide for the functions of administrator in relation to rehabilitation and resettlement, formulation and execution and monitoring of rehabilitation and resettlement plan, etc.

Clause 11.—seeks to provide for appointment of a Commissioner for Rehabilitation and Resettlement for supervising the formulation of rehabilitation and resettlement schemes/plans and implementation thereof.

Clause 12.—seeks to provide for constitution of Rehabilitation and Resettlement Committee for each project involving involuntary displacement of certain No. of families in plain/tribal or hilly areas, etc.

Clause 13.—seeks to provide for constitution of a Standing Rehabilitation and Resettlement Committee under the Chairmanship of District Collector/Dy. Commissioner.

Clause 14.—provides for appointment by the appropriate Government of an ombudsman for time bound disposal of grievances, etc.

Clause 15.—seeks to provide for appointment by the Central Government of Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement, a Common Rehabilitation and Resettlement Committee, and the ombudsman, in a case where the project covers an area in more than one State or Union Territory; method of implementation of the schemes/plans to be discussed by the State Governments and Union Territory Administrations and a common scheme/plan to be agreed upon; and in case of any difficulty, the matter to be referred to the Central Government for decision.

Clause 16.—seeks to provide for constitution by the Central Government of a National Monitoring Committee for reviewing and monitoring the implementation of schemes or plans under the Bill.

Clause 17.—seeks to provide that the States and Union Territories shall provide relevant information on matters covered under the Bill to the National Monitoring Committee on a regular basis and also as and when required.

Clause 18.—provides for an Oversight Committee for Rehabilitation and Resettlement in the Ministry or Department of the appropriate Government, with the compositions, functions and procedures to be prescribed.

Clause 19.—seeks to provide for setting up of National Rehabilitation Commission by the Central Government to exercise external oversight over rehabilitation and resettlement of affected persons; the composition, powers and procedure of transaction of business to be prescribed.

Clause 20.—seeks to provide for declaration of the area of village or lands as affected areas in cases where involuntary displacement of more than certain number of families in plain areas or tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or sixth Schedule to the Constitution are to be acquired for any project; such declaration to be published in newspapers, etc.

Clause 21.—seeks to provide for undertaking, after declaration under clause 20, a baseline survey and census for identification of families, etc. by the Administrator for Rehabilitation and Resettlement;

provides for village-wise information of affected families in the survey; completion of the survey within 90 days from the date of declaration, publication of draft of the details of findings/survey by the Administrator for Rehabilitation and Resettlement in the prescribed manner, inviting objections and suggestions; the Administrator for Rehabilitation and Resettlement to submit his recommendations along with details of survey after considering the objections, etc. to the appropriate Government; and the appropriate Government to publish the final details of the survey within 45 days of the receipt of the details of survey and recommendations.

Clause 22—seeks to provide that the Administrator for Rehabilitation and Resettlement to draw up the list that may be available for rehabilitation and resettlement etc., the list to include land available or acquired, Government wastelands, lands that may be available for purchase or acquisition, etc.

Clause 23—seeks to provide that the Administrator for Rehabilitation and Resettlement shall prepare, after completion of survey or census and assessment of requirement of land, draft scheme of plan for rehabilitation of affected families, draft to be given wide publicity, to be discussed in the concerned Gram Sabhas and public hearings, etc.; the draft rehabilitation and resettlement scheme/plan to contain the extent of land to be acquired, village-wise list of affected persons etc., list of agricultural labourers, list of persons who have lost or are likely to lose employment, list of non-agricultural labourers, list of affected landless families, list of vulnerable affected persons, list of occupiers, list of public utilities and Government buildings, details of public community properties, details of extent of land available in the resettlement area, amenities and infrastructure facilities, time schedule for shifting and resettling etc.; the Administrator to ensure inclusion of the estimated cost of rehabilitation and resettlement; and the communication to the requiring body for incorporation in the project cost the entire cost of rehabilitation and resettlement benefits, etc.

Clause 24.—seeks to provide for submission by the Administrator for Rehabilitation and Resettlement to the appropriate Government; the approved scheme or plan for rehabilitation and resettlement to be published in the Official Gazette by the appropriate Government and the plan or scheme to come into force on final publication.

Clause 25—seeks to provide for declaration by the appropriate Government of any area as resettlement area for rehabilitation and resettlement.

Clause 26—seeks to provide for settlement of affected families; wherever possible, in a group or groups.

Clause 27—seeks to authorize the Administrator for Rehabilitation and Resettlement to enter into agreement on behalf of appropriate Government, with any person for purchase or exchange of land required for rehabilitation and resettlement scheme/plan subject to the prescribed rules.

Clause 28—seeks to make it the responsibility of the requiring body to provide requisite funds to the Administrator for Rehabilitation and Resettlement for implementation of the scheme/plan for affected families; the requiring body to deposit 1/3rd cost of the scheme or plan with the Administrator for Rehabilitation and Resettlement on finalization of the scheme or plan.

Clause 29— seeks to provide that the compensation award, full payment of compensation etc. shall precede actual displacement of affected families where land acquisition is on behalf of a requiring body.

Clause 30—seeks to provide that in case of involuntary displacement of certain number of families in plain areas/tribal or hilly areas, DDP blocks etc., comprehensive infrastructure facilities shall be provided in the resettlement area.

Clause 31—seeks to provide that the resettlement area forms part of a panchayat or municipality.

Clause 32—seeks to provide that where land is acquired because of urgency under the Land Acquisition Act, 1894 the affected families to be provided with transit and temporary accommodation pending rehabilitation and resettlement scheme or plan in addition to monthly subsistence allowance, etc.

Clause 33—seeks to provide for peripheral development by the requiring body like socio-economic development, earmarking percentage of net profit to be spent for the purpose, and coordination with the Commissioner for Rehabilitation and Resettlement while carrying out development activities.

Clause 34—seeks to provide for extension of rehabilitation and resettlement benefits to the affected families.

Clause 35—seeks to provide for housing benefits to an affected family, owning house and whose house has been acquired, in the form of land or house.

Clause 36—seeks to provide for allotment of agricultural land to an affected family whose agricultural land has been acquired or who has been reduced to the status of marginal farmer; each person whose name is included in the records of rights with regard to the affected family to be given a one time financial assistance subject to a minimum of 10,000 rupees; and in case of allotment of wastelands, each such person to be given one time financial assistance subject to a minimum of 15,000 rupees, etc.

Clause 37.—seeks to provide that the stamp duty etc. for registration of land or hosue to be borne by the acquiring body; such land to be free from all encumbrances land to be in the names of wife and husband of the affected family.

Clauses 38, 39 and 40—seek to provide that displaced affected families having cattle to get one time financial assistance; one time transportation cost for shifting of family etc.; and the affected person where he is rural artisan, small trader or self employed, to get one time financial assistance prescribed by the appropriate Government subject to a minimum of 20,000 rupees for construction of working shed or shop.

Clause 41.—seeks to provide that the acquiring body shall give preference to the affected families in providing employment in the project; where necessary, to arrange for training of affected persons, to give preference to affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops etc., give preference to willing landless labourers while engaging labourers in the project; and offer scholarships and other skill development opportunities.

Clause 42.— seeks to provide for rehabilitation grant to the affected families or where the acuring body is a company authorized to issue shares etc., such families to be given shares or debentures, as may be prescribed.

Clauses 43 and 44.—seek to provide that in the case of acquisition for land development projects, in lieu of land-for-land or employment, the affected families to be given land or built up space; in case of irrigation of hydel projects the affected families may be allowed fishing rights in the reservoirs in the prescribed manner.

Clause 45.—seeks to provide that where the project involves land acquisition on behalf of acquiring body, the involuntary displaced affected family shall get a monthly subsistence allowance equivalent to 25 days minimum agricultural wages per month for one year.

Clause 46.—seeks to provide for payment of pension for life by the project authorities to the affected persons covered under clause (v) of sub-clause 2 of clause 21 to be prescribed by the appropriate Government subject to a minimum of 500 rupees per month.

Clause 47.—seeks to provide that in the case of linear acquisitions, that is, project relating to railway lines, highways laying of pipelines, etc. each person included in the records of rights with regard to the affected family to be offered by requiring body ex-gratia grant as may be prescribed in addition to the compensation and benefits under the Bill or programme or scheme; where that land holder becomes landless or reduced to be “small” or “marginal” farmer, other rehabilitation and resettlement benefits under the Bill shall also be extended to such affected family.

Clause 48.—seeks to provide for affected families to have the option to take lump-sum amount in lieu of benefits specified in clauses-35 to 47 to be determined by the appropriate Government in consultation with the requiring body.

Clause 49.—seeks to make special provisions for rehabilitation and resettlement of members of the Scheduled Tribes and Scheduled Castes, such as, tribal development plan to be prepared, laying down of procedure for settling land rights; such affected families to be given preference in allotment of land for land; at least one-third of compensation amount to be paid to the affected families at the outset etc.; where such affected families are re-settled out of district, to get 25% higher rehabilitation and resettlement benefits specified in subclauses (3) and (4) of clause 36, clauses 38, 39 and 40; and such affected families if enjoying reservation benefits in the affected areas shall get such benefits at the resettlement area, etc.

Clause 50.—seeks to provide for the affected Scheduled Tribe families, who were in possession of forest land prior to 13th December, 2005 to be eligible for benefits of rehabilitation and resettlement under the Bill.

Clause 51.—provides for indexation of rehabilitation grant and other monetary benefits.

Clause 52.—provides for punishment for false information.

Clause 53.—seeks to cast a duty on the officers of the Central Government, State Governments, etc., to assist the Administrator for Rehabilitation and Resettlement for carrying out the purposes of the Bill.

Clause 54.—seeks to bar the jurisdiction of civil courts to entertain suits or proceedings in matters which the Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement or the Ombudsman is empowered to determine, etc.

Clause 55.—seeks to provide that officers (Administrator for Rehabilitation and Resettlement, Commissioner for Rehabilitation and Resettlement and Ombudsman) appointed under the Bill, acting in pursuance of the provisions of the Bill, to be deemed to be public servants.

Clause 56.—seeks to indemnify against any suit, prosecution or legal proceedings, the appropriate Government, local body or authority etc. for acts done or purported to be done under the Bill or rules etc. made thereunder.

Clause 57.—seeks to provide that the Central Government may remove any difficulty that arises in giving effect to the provisions of the Bill by an order not in consistent with the provisions of the Bill up to a period of 3 years from the commencement of the Bill and such order to be laid before each House of Parliament.

Clause 58.—seeks to provide for over-riding effect of the Bill cover all land related laws {except the Provisions of the Panchayats (extension to scheduled areas) Act}, 1996 etc.

Clause 59.—seeks to empower the appropriate Government to make rules for carrying out the functions and duties etc. under the Bill.

Clause 60.—seeks to provide that a scheme or plan for rehabilitation may provide for benefits higher than the extent and the amount of benefit laid down under the Bill.

FINANCIAL MEMORANDUM

Clause 14 of the Bill provides for the appointment of an Ombudsman by the appropriate Government, in such manner as may be prescribed for time-bound disposal of grievances arising out of the matters covered under this Bill; to consider and dispose of all complaints relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the district, as he may deem proper for the redressal of such grievances.

Clause 15 of the Bill provides that in case a project covers an area in more than one State or Union Territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union Territories, appoint the Ombudsman for the purpose of the Bill.

Appointment and functioning of the office of the Ombudsman will involve both recurring and non-recurring expenditure, which would be a part of the administrative expenditure of the Ministry.

Clause 16 of the Bill provides for constitution of a National Monitoring Committee by the Central Government for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under the Bill. The Committee may, besides having representatives of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields. The Central Government shall provide officers and other employees to the Committee as may be necessary for its efficient functioning. The terms and conditions subject to which the Committee members and other staff may be appointed and the time, place and procedure of the meetings shall be as may be prescribed by the Central Government. The Central Government may also envisage to create a National Monitoring Cell in the Ministry of Rural Development to service the National Monitoring Committee. This may involve payment of allowances to the experts, salary and other expenses for the officers and staff provided to the committee. These expenditure would be of a recurring as well as non-recurring in nature.

Clause 19 of the Bill provides for setting up of a National Rehabilitation Commission by the Central Government with the power to exercise external oversight over rehabilitation and resettlement of the affected persons covered under the Bill and the terms and conditions subject to which the Chairperson and other members of the Commission may be appointed. This would involve expenditure of a recurring and non-recurring nature, which would be a part of the administrative expenditure of the Ministry.

The exact expenditure which will be involved under the proposed Bill will depend upon the composition/appointment of the above mentioned Committee, Commission and Ombudsman. Hence, it is not possible to visualise the exact estimate of the recurring and non-recurring expenditure for the purpose at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 4 seeks to prescribe by rules, the manner in which Social Impact Assessment study is to be carried out in the proposed affected area. Sub-clause (1) of clause 7 of the Bill seeks to provide that Social Impact Assessment clearance shall be granted in such manner and within such time as may be prescribed by rules. Clause 8 of the Bill provides that projects involving emergency acquisition of minimum area of land by the Central Government for the purpose of defence national security may be exempted, subject to such institutional safeguards as may be prescribed by rules. Sub-clause (3) of clause 12 of the Bill seeks to provide by rules the procedure regulating the business of the Rehabilitation and Resettlement Committee, its meetings and other matters connected thereto.

2. Sub-clause (2) of clause 13 of the Bill seeks to provide, by rules, the composition, powers, functions and other matters relating to the functioning of the Rehabilitation and Resettlement Committee at the district level by the State Government.

3. Sub-clause (1) of clause 14 of the Bill seeks to provide, by rules, the manner of appointment of ombudsman by the appropriate Government for time-bound disposal of grievances arising out of the matters covered under the Bill. Sub-clause (3) of said clause provides for making rules in respect of form and manner in which and the time in which complaints may be made and disposed of by him.

4. Sub-clause (3) of clause 16 of the Bill seeks to empower the Central Government to prescribe by rules, the procedures to be followed by the National Monitoring Committee. The composition functions and procedure of the Oversight Committee under sub-clause (2) clause 18 shall be such as may be prescribed by rules. Sub-clause (2) of clause 19 of the Bill seeks to provide for the composition, terms and conditions powers and the procedure of transaction of business of the National Rehabilitation Commission.

5. Sub-clause (2) of clause 20 of the Bill seeks to empower the appropriate Government to prescribe by rules, the method in which a copy of notification of notice of declaration of effected areas may be affixed. Sub-clause (4) of clause 21 seeks to provide for making rules in regard to manner in which the Administrator for Rehabilitation and Resettlement shall, by notification, publish a draft of the details of the

findings of the survey conducted. Sub-clause (2) of clause 23 of the Bill seeks to provide that the draft rehabilitating and resettlement scheme of plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by rules by the appropriate Government.

6. Clause 27 of the Bill seeks to provide that the Administrator for Rehabilitation and Resettlement may, on behalf of the appropriate Government, and subject to such rules as may be prescribed, enter into an agreement with any person for the purpose of the rehabilitation and resettlement scheme of plan.

7. Sub-clause (3) of clause 28 seeks to provide the manner to be prescribed by rules in which the Administrator for Rehabilitation and Resettlement shall keep proper books of accounts and records of the funds for rehabilitation and resettlement.

8. Sub-clause (3) and (4) of clause 36 seeks to provide one time financial assistance to affected family of such amount as the appropriate Government may prescribe by rules.

9. Clause 38 of the Bill seeks to provide by prescribing rules one-time financial assistance to the affected family to construct cattle shed. Clause 39 of the Bill seeks to provide by rules, one-time financial assistance for transportation cost for shifting of the family, etc. Clause 40 of the Bill seeks to provide by prescribing rules one-time financial assistance for construction of working shed or shop. Clause 42 of the Bill seeks to prescribe by rules the manner in which rehabilitation grant shall be provided.

10. Clause 43 of the Bill seeks to provide, by rules, the limits of land for the purposes of said clause. Clause 44 of the Bill seeks to provide manner in which fishing rights in the reservoirs shall be given to the affected families by the appropriate Government by prescribing rules. Clause 46 of the Bill seeks to provide, by rules, the amount which shall be payable as monthly pension for life to the vulnerable affected persons. Clause 47 of the Bill seeks to provide an *ex-gratia* grant of amount as the appropriate Government may prescribe by rules. Sub-clause (1) of clause 49 seeks to prescribe, by rules, the forms for the purposes of the said clauses.

11. Sub-clause (2) of clause 58 enumerates the matters on which rules may be made by the appropriate Government. Sub-clause (2) and (3) of clause 58 provide that rules made under the Bill are required to be laid before Parliament or the State Legislature, as the case may be.

The aforesaid matters in respect of which rules may be made by the Central Government or the State Government relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the rehabilitation and resettlement of persons affected by the acquisition of land for projects of public purpose or involuntary displacement due to any other reason, and for matters connected therewith or incidental thereto.

(Shri Raghuvansh Prasad Singh, Minister of Rural Development)

APPENDIX II

LIST OF EXPERTS/STAKEHOLDERS WHO TENDERED ORAL EVIDENCE BEFORE THE COMMITTEE ON 'THE REHABILITATION & RESETTLEMENT BILL, 2007'

Sl.No.	Name of Expert/Stakeholder
1	2
1.	(i) Ms. Aruna Roy (ii) Shri Nikhil Dey, Mazdoor Kisan Shakti Sangathan
2.	(i) Shri K.C. Jain, Advocate, Supreme Court; (ii) Shri Hemant Jain; (iii) Shri Akash Gupta; (iv) Shri Kshitiz Sachdeva; and (v) Shri Rahul Jain
3.	Shri Shankar Gopalakrishnan, Campaign for Survival and Dignity
4.	Dr. Abhijit Guha, Reader & Head, Department of Anthropology
5.	Shri S.R. Pillai, President, All India Kisan Sabha, New Delhi
6.	Prof. Sebastin Morris, Indian Institute of Management, Ahmedabad
7.	(i) Smt. Medha Patkar, National Convenor, National Alliance of People's Movement (ii) Shri Sanjay Parikh
8.	(i) Shri Ajit Warty, Mumbai, SEZ Limited; (ii) Shri Sanjay Punkhia; (iii) Shri Sanjay Radkar; (iv) Shri Atul Sharma; and (v) Shri Ashok Shahi

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9. (i) Shri Ashok K. Harnal, Additional Director General, Defence Estates (Acquisition), Ministry of Defence;
(ii) Shri. S. Majumdar, Deputy Director General, Defence Estates
10. (i) Ms. Sudha Sundaraman, General Secretary, All India Democratic Women's Association (AIDWA);
(ii) Dr. Shakti Kak; and
(iii) Dr. Archana Prasad
11. Shri Avik Saha, Secretary, Land Resources Law Research Forum, Kolkata
12. (i) Prof. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, New Delhi;
(ii) Ms. Sandhya Bajaj, member, NCPCR;
(iii) Ms. Dipa Dixit; and
(iv) Shri S.K. Ravi
13. Shri Suhas Chakma, Convenor, North East Regional Consultation and Director, Asian Centre for Human Rights
14. Ms. Nandita Haksar, Human Rights Lawyer & Activist
15. Shri Gam A. Shimray, Advisor on Traditional Knowledge, UN Convention on Bio-diversity (UNCBD), Manipur
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APPENDIX III

LIST OF STATES/UNION TERRITORY ADMINISTRATIONS
WHOSE VIEWS ON THE LAND ACQUISITION (AMENDMENT)
BILL, 2007 AND THE REHABILITATION AND RESETTLEMENT
BILL, 2007 WERE RECEIVED

Sl.No.	State/Union Territory Administration
1.	Chandigarh
2.	Pudduchery
3.	Jharkhand
4.	Goa
5.	Chhattisgarh
6.	Dadra & Nagar Haveli and Daman & Diu
7.	Arunachal Pradesh
8.	Nagaland
9.	Himachal Pradesh

LIST OF MINISTRIES/DEPARTMENTS FROM WHOM WRITTEN
REPLIES ON LIST OF POINTS WERE OBTAINED AND WITH
WHOM THE COMMITTEE HELD DETAILED DELIBERATIONS
ON VARIOUS PROVISIONS OF THE BILLS

S.No.	Name of the Ministry
1.	Ministry of Tribal Affairs
2.	Ministry of Environment and Forests
3.	Ministry of Panchayati Raj
4.	Ministry of Agriculture
5.	Ministry of Commerce
6.	Ministry of Urban Development
7.	Ministry of Social Justice and Empowerment
8.	Ministry of Railways
9.	Ministry of Defence
10.	Ministry of Home Affairs
11.	Ministry of Communications & IT (Department of Posts)
12.	Ministry of Communications & IT (Department of Telecommunications)
13.	Ministry of Shipping, Road Transport and Highways (Department of Road Transport & Highways)
14.	Ministry of Power

DETAILS OF SITTINGS HELD IN CONNECTION WITH
EXAMINATION OF THE REHABILITATION AND
RESETTLEMENT BILL, 2007

S.No.	Date of Sitting	Subject/Agenda
1	2	3
1.	24 December, 2007	Briefing by the representatives of the nodal Ministry <i>i.e.</i> Ministry of Rural Development (Department of Land Resources).
2.	18 January, 2008	Oral evidence of various related Ministries <i>viz.</i> Ministries of Tribal Affairs, Environment and Forests, Panchayati Raj, Agriculture and Commerce.
3.	17 June, 2008 (1100 hrs-1330 hrs)	Evidence of experts and organisations/ stake holders etc.
4.	17 June 2008 (1430 hrs-1600 hrs)	-do-
5.	18 June 2008 (1100 hrs-1230 hrs)	-do-
6.	18 June 2008 (1400 hrs-1530 hrs)	-do-
7.	02 July, 08 (1100 hrs-1230 hrs)	Oral evidence of the representatives of various related Ministries <i>viz.</i> Ministries of Urban Development, Social Justice and Empowerment, Defence and Railways.
8.	02 July, 08 (1400 hrs-1530 hrs)	-do-
9.	03 July, 2008 (1100 hrs-1300 hrs)	Oral evidence of the representatives of various related Ministries <i>viz.</i> Ministries of Agriculture, Tribal Affairs, Panchayati Raj, Environment & Forests and Commerce & Industry.

1	2	3
10.	03 July, 2008 (1400 hrs-1500 hrs)	-do-
11.	18 July 2008 (1100 hrs-1300 hrs)	Oral evidence of related Ministries <i>i.e.</i> Ministries of Urban Development, Defence and Home Affairs.
12.	18 July 2008 (1400 hrs-1530 hrs)	Oral evidence of related Ministries/ Departments <i>i.e.</i> Department of Posts, Telecom, Road Transport and Highways and Power.
13.	25 August 2008 (1500 hrs-1630 hrs)	Oral evidence of the Department of Land Resources (Ministry of Rural Development) on 'The Rehabilitation and Resettlement Bill, 2007.
14.	22 September 2008 (1100 hrs-1300 hrs)	Clause-by-clause consideration of the Rehabilitation and Resettlement Bill, 2007.
15.	22 September 2008 (1400 hrs-1530 hrs)	-do-
16.	15 October 2008	Consideration and adoption of the draft Report on 'the Rehabilitation and Resettlement Bill, 2007'.

APPENDIX IV

THE EXTRACTS OF OBSERVATIONS/RECOMMENDATIONS MADE BY THE COMMITTEE IN THE REPORT ON 'THE LAND ACQUISITION (AMENDMENT) BILL, 2007 ON THE ISSUES COMMON IN BOTH THE BILLS VIZ. 'THE LAND ACQUISITION (AMENDMENT) BILL, 2007 AND 'THE REHABILITATION AND RESETTLEMENT BILL, 2007

Implementation of various provisions made in the bill prospectively or retrospectively

3.34 It seems that the aforesaid clause covers the cases where the various stages of land acquisition prior to award like preliminary investigation, declaration of intended acquisition, inquiry into measurements, value and claims have already been completed and the award by the Collector is pending on the date when the amending legislation is being made operational. There is utter confusion with regard to providing retrospective benefits to the affected persons in such cases. Only Section 11B, which provides for determination of market value of land has been stated to be applicable retrospectively. The provision made in the Bill indicates that whereas the affected person will get the current market value of land, he will be debarred from the other enhanced benefits like solatium and the rehabilitation package as provided in R&R legislation. Another confusion created by the Ministry by stating that the award being referred to is the award of the Collector, whereas the language of the legislation clearly covers all the cases where the award is pending or remains unsettled at any stage which may include the cases where the award is pending with the Collector or the aggrieved party has filed the case in the court due to one or the other reason and the award remains unsettled.

3.35 Keeping in view the position as explained above, the Committee would like to recommend that the applicability of the various other benefits *viz.* solatium and the Rehabilitation and Resettlement package provided under the 'The Rehabilitation and Resettlement Bill, 2007' in cases of land acquisition where the award is pending or remains unsettled at any stage under the existing Act should also be provided retrospectively as has been provided in case of market rate as per clause 20 of the Bill. The Committee feel that such a provision would help in early settlement of pending cases.

However, it should be explicitly made clear in the legislation that revised rates would not be applicable in the cases already settled on the date, the amending legislation would be made operational. Accordingly, clause 20 of the Bill should be suitably amended.

Rehabilitation and Resettlement benefits in case of multiple displacements

3.42 The Committee note that the acquisition of land leads to displacement of people, which result in depriving them of their livelihood and shelter. Besides the displacement has traumatic psychological and socio-cultural consequences for the affected population. It takes years together for a displaced person/family to settle at the rehabilitated place. If the person/family is again uprooted, it is more painful. While recognizing the fact that sometimes multiple displacement becomes necessary due to strategic defence purposes having national importance or for some crucial infrastructure projects, the Committee feel that there is an urgent need to compensate the person/family who are uprooted more than once for the purpose of public good. The Committee, therefore, recommend that all the benefits provided under the Land Acquisition and Rehabilitation and Resettlement legislation should be doubled at every stage in case of second and subsequent displacement of a family/person. Suitable amendments in both the Bills *viz.*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' should accordingly be made.

3.43 The Committee further note that when tribals are rehabilitated in an area, they face a lot of problems in getting their rights as tribals. As such the Committee strongly recommend that all rights and entitlements of such tribals emerging out of the existing documents should be preserved in perpetuity. The Department may make suitable provision in this regard in the legislation.

3.44 The Committee further note that no efforts have been made to maintain the data with regard to multiple displacement due to land acquisition. The Committee strongly recommend that the Union Government should maintain data in this regard which should further be posted on the website for transparency.

Declaring the area where tribals from Scheduled Areas are rehabilitated as the Scheduled Area

3.48 The Committee find that the Fifth Schedule of the Constitution provides that the Governor of each State having Scheduled Area therein, shall annually or whenever so required by the President of India,

make a report to the President of India and the President of India may at any time by order declare the area as Scheduled Area in a State after consultations with the Governor of that State. The Committee understand that no such request from any State Government has been received and addressed by the Union Government which indicates that perhaps the rehabilitated areas are not being declared as Scheduled Areas by the State Governments. The Ministry of Tribal Affairs has put a clause in this regard in the draft National Tribal Policy which has not been approved so far. The Committee, therefore, recommend that suitable provision in the LA Bill should be made whereby the State Governments may be asked to take the desired action to declare the area where the tribals are rehabilitated as Scheduled Area as per the Constitutional position on the lines of the proposed provisions in the draft tribal policy.

Clarification with regard to the applicability of the legislation in the State of Nagaland to be made in the short title of the Act

3.51 The Committee find that as per the Constitutional provision and clarification given by the Department of Legal Affairs, the LA legislation would apply to Nagaland only when decided by a resolution of the Nagaland Legislative Assembly. The LA Act is not applicable in the state of Jammu & Kashmir in the view of its special status, as per Article 370 of the Constitution. As such the short title of the Principal Act indicates that the Act extends to the whole of India except (the State of Jammu & Kashmir). The Committee feel that similar clarification with regard to Nagaland as per the Constitutional position should be made in the short title of the LA Act. As such the Department should make suitable amendment in the short title of the amending legislation.

Protecting the interest of tenants whose tenancy is an informal arrangement

4.11 The Committee appreciate that since most of the times, tenancy is an informal arrangement between the landlord and the tenant, there is an urgent need to protect the interest of those tenants. The Committee further find that as per the Constitutional position tenancy falls under the State List and as such State Governments have to devise the mechanism to cover the informal tenancies for the purpose of providing benefits under the LA as well as R&R legislation. Necessary instructions in this regard should be issued to the State Governments.

Protecting the interests of tribals and forest dwellers

4.15 The Committee find that at present there are various laws which clearly define how community rights can be recognized. To protect the interests of the tribals, it is of utmost importance that no land acquisition in the Scheduled Areas should take place unless the rights of the tribals are recognized and settled. The Committee, therefore, recommend that suitable provisions should be made in the legislation.

4.16 The aforesaid details indicate that the cut off date of 13th December, 2005 has indirectly been made applicable. The Committee considered the reservations expressed by various experts with regard to the aforesaid cut off date. After detailed deliberations, the Committee are of the view that since the aforesaid cut off date has been provided in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the purpose of recognizing the rights of the tribals in Scheduled Areas, providing some different date for the purpose would contradict the provisions made in the two legislations. In view of this, the Committee feel that the aforesaid cut off date as 13th day of December, 2005 for providing benefits of R&R Bill in cases where the land of the tribals is acquired is appropriate.

Making identical provisions, where there is duplication of issues in the two Bills

4.22 The Committee further note that the Land Acquisition legislation and R&R legislation are inter-linked legislations. As such, there is an urgent need to make identical provisions, where there is duplication of issues in the two Bills. In view of this, the Committee would like to recommend that identical provision with regard to the number of newspapers through which the publicity of notification would be given by the appropriate Government should be made in LA Bill on the lines of the provisions made in R&R Bill. As such the notification should be published in at least three newspapers two of which shall be the local vernacular having circulation in villages or areas likely to be affected on the lines of the proposed provisions in this regard in R&R Bill. The Committee would also like to add that the newspapers through which publicity would be made should be widely circulated newspapers in that area. Suitable amendments in the respective clauses of the Bill should accordingly be made.

Rejecting the concept of 70:30 criteria

4.38 The Committee find that land is acquired either by the private body or by Government for setting up public purpose projects. Sometimes the appropriate Government help the private body in acquisition of land. The Committee are of the firm opinion that fixing some percentage of the land to be acquired by the appropriate Government and private body for a particular project of public purpose is very contradictory and impractical, the analysis of which has been given above. As such the Committee unanimously decided not to agree to the aforesaid 70:30 criteria.

Further the Committee feel that the definition of public purpose as given in Section 3 (f) of the Principal Act was much better. Besides Part VII of the Principal Act which the amending legislation propose to delete further tighten the definition of public purpose by putting some of the conditionalities. In view of this, the Committee unanimously decided not to agree to the definition to the proposed definition of public purpose as per Clause 5 of the amending legislation. The Committee also decided that the definition of public purpose as given in the Principal Act of 1894 along with Part VII of the Principal Act should be retained.

Social Impact Assessment Study

4.51 Keeping in view the concerns expressed by various quarters with regard to the limit of number of families for undertaking Social Impact Assessment Study, the Committee observe that the discretion should be provided to the Standing Committee of the Rehabilitation and Resettlement at the district level proposed in R&R Bill, 2007 to decide about the Social Impact Assessment Study where the number of families is below the stipulated criteria *i.e.* four hundred families *en masse* in plain and two hundred in hilly, tribal and scheduled areas. However, the Social Impact Assessment study should invariably be undertaken where the number of families exceeds the aforesaid threshold. The desired amendments in Clause 8 of the Bill should accordingly be made.

4.54 The Committee considered the request of the Ministry of Defence to exempt their projects from the Social Impact Assessment study. In this regard, the Committee decided that the defence projects, which are for strategic purposes should be exempted from Social Impact Assessment Study. However, for the projects other than the strategic purpose like building houses for employees of the Defence, the provisions of SIA Study should be retained.

4.55 As regards the request of the Ministries of Railways, Road Transport and Highways to exempt their projects from SIA Study, the Committee recommend that only the linear projects which require acquisition of only a narrow strip should be exempted from SIA Study. For other projects of these Ministries, the provision of SIA Study should be retained. The desired amendments in this regard should be made accordingly.

Part payment of compensation by shares/debentures etc.

4.79 The Committee note that the allotment of shares and debentures involves various technical issues which perhaps have not been taken into consideration by the nodal Department. As represented by various Ministries, it is not clear how the various Government undertakings would issue the shares and debentures to the affected persons, particularly when the implementation of the aforesaid provision would amount to disinvestment decision. Further, how the Defence PSUs and Ordnance Factories would issue the shares and debentures to public is not clear particularly when it would dilute the ownership pattern in such PSUs and Ordnance Factories. Other technical issues involved are how the company, which has no rights issue would address to the provision of allotment of shares and debentures to the public.

4.80 The nodal Department has referred to the comments of the Ministry of Finance according to which if the requiring body is a company and it makes a public issue of shares, the affected family may subscribe to the IPO in the category reserved for retail investors and such application shall be considered on preferential basis among the applicants in the category of retail investors. The Committee find that the provisions made in the legislation are not of the nature of preferential shares/debentures.

4.81 In view of the position as explained above, the Committee conclude that issue of shares and debentures as part of the compensation is not practical and as such issue of shares and debentures should be over and above the admissible compensation. Further, it should be left to the acquiring body to issue shares and debentures over and above the admissible compensation to the affected person/family whose land is acquired.

4.82 Above all, the Committee feel that it is not possible for the illiterate rural poor to understand the technicalities involved in making transaction in shares/debentures. Further, if the company involved is a loss making company the affected person would definitely be a loser.

Contradiction in Clause 11 (c) of LA Bill and Clause 42 of the R&R Bill on the issue of offering shares and debentures to the affected persons.

4.85 The detailed reading of the two legislations *viz.*, 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' indicates that provisions relating to some of the common issues have been made in the two Bills. However, there is some difference in the language used, which has created contradictions as in the present case. Since the provisions made in 'The Rehabilitation and Resettlement Bill, 2007' are applicable in every case where 'The Land Acquisition (Amendment) Bill, 2007' is being applied by Clause 1A of the 'The Land Acquisition Bill, 2007, the Department may consider retaining this provision in only 'The Rehabilitation and Resettlement Bill, 2007'. However, if it is decided that the provision needs to be retained in the two Bills, it should be ensured that the language in those clauses is identical so as to avoid such contradictions.

Involvement of Panchayati Raj Institutions (PRIs)

4.119 The Committee would also like to recommend that suitable provisions should be made for active involvement of the three tiers of Panchayati Raj Institutions and particularly the Gram Sabhas while undertaking SIA study.

Overriding authority of PESA

4.125 The Committee find that whereas specific provisions have been made in Rehabilitation and Resettlement Bill, 2007 to give overriding authority to PESA, no such provision has been made under the LA Bill, 2007. Since each of the Bill is an independent legislation, the Committee would like to recommend that suitable provisions to give overriding effect to PESA under the LA legislation on the lines of Rehabilitation and Resettlement legislation should be made. Besides, the Committee would recommend that Forest Conservation Act 1980 should also be given overriding effect as has been done in the case of PESA in the R&R legislation. Suitable provisions in this regard should accordingly be made in the legislation.

The time period prescribed with regard to various provisions in the Principal Act as well as amending Bill 2007

4.127 Serial No. 1 in the statement—Clause 8 of the Bill proposes to insert a new Section 3A in the Principal Act which provides for a

Social Impact Assessment Study. In this regard, at the end of the aforesaid clause, it has been stated that Social Impact Assessment Study shall be carried in such manner and within such time as may be prescribed by rules made by the Central Government whereas in the starting of the clause, it has been stated that the Social Impact Assessment Study shall be carried out whenever the appropriate Government intends to acquire land for public purpose. The Committee feel that the words 'Central Government' as appearing in the end of the clause should be replaced by 'appropriate Government'.

4.128 Further the Committee note that the limit of number of two hundred or more families *en masse* in tribal or hilly areas or Desert Development Programme blocks or areas specified in Schedule V or Schedule VI to the Constitution has been provided as per clause 3A (ii) of the Bill for the purpose of carrying out Social Impact Assessment Study. The Committee feel that besides Desert Development Programme blocks, Drought Prone Area Programme blocks should also be included for the aforesaid purpose. Desired amendment in the aforesaid clause should accordingly be made.

APPENDIX V

MINUTES OF THE FIFTH SITTING OF THE COMMITTEE HELD ON MONDAY, THE 24TH DECEMBER, 2007

The Committee sat from 1500 hrs. to 1730 hrs. in Committee Room 'E' Basement Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Hannan Mollah
4. Shri D. Narbula
5. Shri A.F.G. Osmani
6. Shri Madhusudan Reddy
7. Shrimati Jyotirmoyee Sikdar
8. Shri Sita Ram Singh
9. Shri Bagun Sumbrui
10. Shri Chandramani Tripathi
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Dr. Chandan Mitra
14. Dr. Ram Prakash

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary-II*
4. Shri Hoti Lal — *Deputy Secretary-II*

WITNESSES

**Representatives of the Department of Land Resources
(Ministry of Rural Development)**

1. Shri Bhaskar Chatterjee, Additional Secretary
2. Shri A.K. Singh, Director

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. Thereafter, the Chairman informed the members that the 'Land Acquisition (Amendment) Bill, 2007' and the 'Rehabilitation and Resettlement Bill, 2007' as introduced in Lok Sabha on 6 December, 2007 have been referred to the Committee by Hon'ble Speaker for examination and report within three months to Parliament. The Chairman informed them that the sitting of the Committee has been convened to decide the future course of action with regard to examination of the aforesaid Bills as also for a briefing by the representatives of the nodal Ministry/Department *i.e.* Department of Land Resources (Ministry of Rural Development) on the aforesaid Bills. The Chairman also informed the members that the aforesaid Bills are important legislations concerning the public at large, thus, various provisions of the Bill need wider consultations with a view to have detailed examination. In this connection, the Committee decided to obtain public opinion on the respective Bills through print and electronic media. The Committee also decided to obtain the views of State Governments/Union territory (UT) Administrations on the Bills as implementation of the provisions made under the said Bills is the responsibility of the State Governments. The Committee also decided to seek views of experts on the aforesaid Bills based on a list of experts given by the nodal Ministry.

[The representatives of the Department of Land Resources (Ministry of Rural Development) were then called in]

3. The Chairman welcomed the representatives of the nodal Ministry *i.e.* Ministry of Rural Development, Department of Land Resources to the sitting of the Committee. Thereafter, the Chairman expressed his unhappiness over non-appearance of Secretary of the nodal Ministry before the Committee. He clarified that since the sitting was convened for briefing over the aforesaid Bills, exemption was granted to Secretary. The Chairman, however, pointed out that Committee has to present the report thereon within three months to Parliament and as both the above Bills concern with public at large, number of sittings of the Committee will be held for examining the Bills and attendance of Secretary of the Ministry is, therefore, essential.

4. Thereafter, the Chairman also informed that the aforesaid Bills have been brought out by the Government as a result of repeated pursuance by the Committee in their respective reports. Before asking the representatives of the nodal Ministry to brief the Committee, the Chairman made some observations which *inter-alia* pertained to acquisition of agricultural land for setting up Special Economic Zones (SEZs), non-acquisition of agricultural land for setting up a Company as ruled by Hon'ble Supreme Court of India, balanced use of land for agriculture, industries etc. for food security, absence of clarity with regard to preferred use of wasteland development for projects involving involuntary displacement etc. The Chairman also drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'.

[Thereafter a power point presentation highlighting various provisions of both the Bills was done before the Committee]

5. After the aforesaid presentation the members raised various provisions of each of the two Bills. These include, need for one Bill for Land Acquisition and Rehabilitation and Resettlement of Project Affected Persons (PAPs) involving involuntary displacement of land acquisition, need for comprehensive examination of both the two Bills as these concern the common man.

6. On Land Acquisition (Amendment) Bill, 2007 the main issues that came up for discussion were: need for broad based parametres for land acquisition in the country as Bill amounted to concentration of land acquisition in the country by a limited big business houses in the country, need for involving civil society activist in the issue of land acquisition, need for over all planning for setting up industries in the country before actual land acquisition, need for higher compensation as existing provision in the Bill is quite inadequate, need for revising the provision of compensation in the form of shares in companies requiring land acquisition as the companies will not register profit fearing payment of accrued compensation thereon, need for revising arbitrary limit of four hundred persons or more *en masse* in plain areas and two hundred persons or more *en mass* in hilly areas for mandatory social impact assessment prior to land acquisition, need for making some provisions for common man's interest in the Bill for whom land acquisition is becoming a distant dream in view of high price of land being offered by multinational companies etc.

7. On the Rehabilitation and Resettlement Bill, 2007, the points that emerged out of the discussions include making employment essential and not preferable in the event of involuntary displacement

by land acquisition, uncertainty over funding the rehabilitation and resettlement package by the requiring bodies particular when it has been left to State Governments to implement package for rehabilitation and resettlement, uncertainty over land assessment of cost of land as land records in the country are largely unauthentic, faulty mechanism for implementation of rehabilitation and resettlement package etc.

8. The representatives of the nodal Ministry responded to the queries of the members of the Committee. The representatives were asked to send written replies to the points on which information was not readily available.

9. Thereafter, the Committee decided to meet on Friday, the 18th January, 2008 at 1100 hrs.

A Verbatim record of the proceedings was kept.

The Committee then adjourned.

APPENDIX VI

MINUTES OF THE SIXTH SITTING OF THE COMMITTEE HELD ON FRIDAY, THE 18 JANUARY 2008

The Committee sat from 1100 hrs. to 1345 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shrimati Kiran Maheshwari
4. Shri Hannan Mollah
5. Shri A.F.G. Osmani
6. Shri T. Madhusudan Reddy
7. Shrimati Tejaswini Seeramesh
8. Shrimati Jyotirmoyee Sikdar
9. Shri Bagun Sumbrui
10. Shri Tarit Baran Topdar
11. Shri Chandramani Tripathi

Rajya Sabha

12. Shri Balihari Babu
13. Shri Jayantilal Barot
14. Shri Pyarelal Khandelwal
15. Dr. Chandan Mitra
16. Dr. Ram Prakash
17. Shri P.R. Rajan
18. Shri Bhagwati Singh
19. Ms. Sushila Tiriya

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

Representatives of the Ministry of Tribal Affairs

1. Shri G.B. Mukherjee, Secretary
2. Smt. Ruchira Pant, Joint Secretary

**Representatives of the Ministry of Agriculture
(Department of Agriculture & Cooperation)**

1. Shri P.K. Mishra, Secretary (A&C)
2. Dr. S.M. Jharwal, Principal Advisor

Representatives of Ministry of Environment and Forests

1. Shri G.K. Prasad, Additional Director General (Forests)
2. Shri R. Ananda Kumar, Advisor

Representatives of the Ministry of Panchayati Raj

1. Smt. Sushma Singh, Secretary (Panchayati Raj)
2. Shri B.K. Sinha, Additional Secretary (PR)
3. Ms. Susen D. George, Joint Secretary

Representatives of the Ministry of Commerce

1. Shri R. Gopalan, Additional Secretary
2. Shri Anil Mukim, Joint Secretary

**Representatives of the Ministry of Rural Development
(Department of Land Resources)**

1. Shrimati Rita Sinha, Secretary
2. Shri Bhaskar Chatterjee, Additional Secretary
3. Shri A.K. Singh, Director

**Representatives of the Ministry of Law and Justice
(Department of Legal Affairs)**

1. Shri T.K. Viswanathan, Secretary
2. Shri P. K. Malhotra, Additional Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee convened for briefing by the representatives of Ministries of (i) Tribal Affairs (ii) Agriculture (Department of Agriculture & Cooperation) (iii) Environment and Forests (iv) Panchayati Raj and (v) Commerce on 'The Land Acquisition (Amendment) Bill, 2007' and 'The Resettlement and Rehabilitation Bill, 2007' as introduced in Lok Sabha on 6 December, 2007 and referred to the Committee by the Hon'ble Speaker, Lok Sabha for examination and report.

3. The Committee took evidence of the representatives of the aforesaid Ministries. The representatives were called in Ministry/ Department wise one by one and Hon'ble Chairman drew their attention to direction 55 (1) of the 'Directions by the Speaker' and invited their views and suggestions on the various provisions made in the aforesaid Bills. After a brief presentation by the representatives of the Ministries, the detailed deliberations were held on some of the issues related to each Ministry/Department.

4. The various pertinent issues that were raised during the deliberations included the need to make provision for acquisition of degraded / wastelands for setting up SEZs, issues related to land use and balance use of land for particular purposes, need to ensure that agricultural land is not acquired for other purposes to meet the food security in the country, impact of the aforesaid legislation on tribal and Scheduled Tribes living in forests and compatibility between the provisions made under the aforesaid legislations and Panchayat Extension to Scheduled Areas Act (PESA) and Forest Act and effective role of Panchayati Raj Institutions at every stage of land acquisition and rehabilitation etc. Valuable suggestions emerged during the deliberations.

5. The representatives of the Ministries of Tribal Affairs and Agriculture explained that they were not consulted by the nodal Ministry/ Department while drafting the aforesaid legislations. Since the Committee had desired their comments, detailed study required time and they would submit the detailed note in due course. The Committee requested them to send the comments expeditiously.

6. The witnesses responded to the clarifications sought by the members of the Committee. On some of the queries raised by members, on which the information was not readily available, they were requested to send the written replies to the Secretariat at the earliest.

7. The representatives of the nodal Ministry/Department *i.e.* the Ministry of Rural Development (Department of Land Resources) and the Ministry of Law and Justice (Department of Legal Affairs) also assisted the Committee by providing the desired clarifications on the queries raised during the deliberations.

8. The representatives withdrew after the evidence one by one.

A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX VII

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE HELD ON TUESDAY, THE 17 JUNE 2008

The Committee sat from 1100 hrs. to 1330 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Hannan Mollah
4. Adv. Renge Patil Tukaram Ganpatrao
5. Shrimati Tejaswini Gowda
6. Shri Neeraj Shekhar
7. Shrimati Jyotirmoyee Sikdar
8. Shri Sita Ram Singh
9. Shri Bagun Sumbrui
10. Shri Tarit Baran Topdar
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri P.R. Rajan
16. Shri Bhagwati Singh
17. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S.K.Sharma — *Additional Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

WITNESSES

1. Ms. Aruna Roy, Former member of National Advisory Council
2. Shri Nikhil Dey, Mazdoor Kishan Shakti Sangathan
3. Shri K.C. Jain, Advocate, Supreme Court
4. Shri Hemant Jain, Advocate
5. Shri Akash Gupta, Advocate
6. Shri Kshitiz Sachdeva, Advocate
7. Shri Rahul Jain, Advocate
8. Shri Shankar Gopalakrishnan, Campaign for Survival and Dignity
9. Dr. Abhijit Guha, Reader & Head, Department of Anthropology, Vidyasagar University

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. The Committee then welcomed Shri Neeraj Shekhar, MP, Lok Sabha, Shri Prabhat Jha and Smt. T.Ratna Bai, members of Rajya Sabha on their nomination to serve as members of the Committee.

3. The Committee thereafter condoled the sad demise of Kumari Nirmala Deshpande, who was a member of Rajya Sabha and also a member of the Committee. The Committee observed two minute's silence in memory of the departed soul.

4. The Committee then took evidence of the following experts/representatives of organizations/individuals on the provisions made under the 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation & Resettlement Bill, 2007' at the time indicated against each:

	Name	From	To
1.	Ms. Aruna Roy Shri Nikhil Dey	1110 hrs.	1150 hrs.
2.	Shri K.C. Jain, Advocate, Supreme Court	1150 hrs.	1240 hrs.
3.	Shri Shankar Gopalakrishnan	1240 hrs.	1300 hrs.
4.	Dr. Abhijit Guha, Reader & Head, Department of Anthropology	1300 hrs.	1330 hrs.

5. The aforesaid witnesses were called one by one at the time indicated above. The Hon'ble Chairman welcomed the witnesses and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'.

6. The experts/representatives of organizations/individuals deposed before the Committee one by one. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The witnesses responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

7. A verbatim record of proceedings was kept.

The Committee then adjourned to meet again at 1400 hrs.

APPENDIX VIII

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE HELD ON TUESDAY, THE 17TH JUNE 2008

The Committee sat from 1400 hrs. to 1600 hrs. in Committee Room 'E' Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Hannan Mollah
4. Adv. Renge Patil Tukaram Ganpatrao
5. Shrimati Tejaswini Gowda
6. Shri Neeraj Shekhar
7. Shrimati Jyotirmoyee Sikdar
8. Shri Sita Ram Singh
9. Shri Bagun Sumbrui
10. Shri Tarit Baran Topdar
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri P.R. Rajan
16. Shri Bhagwati Singh
17. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

WITNESSES

1. Shri S.R. Pillai, President, All India Kisan Sabha
2. Prof. Sebastian Morris, Indian Institute of Management, Ahmedabad

2. The Committee resumed the evidence and the following experts/representatives of organizations/individuals deposed before the Committee one by one on the various provisions made under 'The Land Acquisition (Amendment) Bill, 2007 and 'The Rehabilitation & Resettlement Bill, 2007' at the time indicated against each:

Name	From	To
1. Shri S.R. Pillai, President, All India Kisan Sabha, New Delhi	1410 hrs.	1450 hrs.
2. Prof. Sebastian Morris, Indian Institute of Management, Ahmedabad	1450 hrs.	1530 hrs.

3. The aforesaid witnesses were called one by one at the time indicated above. The Hon'ble Chairman welcomed the witnesses and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'.

4. The experts/representatives of organizations/individuals deposed before the Committee one by one. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The witnesses responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

5. A verbatim record of proceedings was kept.

*The Committee then adjourned to meet again at
1100 hrs. on 18 June, 2008.*

APPENDIX IX

MINUTES OF THE SEVENTEENTH SITTING OF THE COMMITTEE HELD ON WEDNESDAY, THE 18 JUNE 2008

The Committee sat from 1100 hrs. to 1330 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Hannan Mollah
4. Adv. Renge Patil Tukaram Ganpatrao
5. Shrimati Tejaswini Gowda
6. Shri Neeraj Shekhar
7. Shrimati Jyotirmoyee Sikdar
8. Shri Sita Ram Singh
9. Shri Bagun Sumbrui
10. Shri Tarit Baran Topdar
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri P.R. Rajan
16. Shri Bhagwati Singh
17. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S.K.Sharma — *Additional Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

WITNESSES

1. Smt. Medha Patkar, National Convenor, National Alliance of People's Movements
2. Shri Sanjay Parekh, Advocate, Supreme Court
3. Shri Villabh Bhai, Matu Jan Sangathan
4. Shri Vijayan, Sangharsh 2007
5. Ms. Shree Devi, Delhi Forum
6. Shri Bhupendra Rawat, Jansangharsh Vahini
7. Shri Ajit Warty, Mumbai, SEZ Limited
8. Shri Sanjay Punkhia, Mumbai, SEZ Limited
9. Mr. Sanjay Radkar, Mumbai, SEZ Limited
10. Mr. Atul Sharma, Mumbai, SEZ Limited
11. Mr. Ashok Shahi, Mumbai, SEZ Limited
12. Shri Ashok K. Harnal, Additional DG DE (Acq), Directorate General Defence Estates (Ministry of Defence)
13. Shri S. Mazumdar, Dy. DG DE (Acq.), Directorate General Defence Estates (Ministry of Defence)

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. The Committee then took evidence of the following experts/representatives of organizations/individuals on the provisions made under the 'The Land Acquisition (Amendment) Bill, 2007 and 'The Rehabilitation & Resettlement Bill, 2007' at the time indicated against each:

Name	From	To
1. Smt. Medha Patkar, National Convenor, National Alliance of People's Movements	1115 hrs.	1220 hrs.
2. Shri Ajit Warty, Mumbai, SEZ Limited	1220 hrs.	1305 hrs.
3. Shri Ashok K. Harnal, Additional DG DE (Acq), Directorate General Defence Estates (Ministry of Defence)	1305 hrs.	1330 hrs.

3. Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of direction 55 (1) of the 'Directions by the Speaker, Lok Sabha'

4. The experts/representatives of organizations/individuals deposed before the Committee one by one. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The witnesses responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

5. A verbatim record of proceedings was kept.

The Committee then adjourned to meet again at 1430 hrs.

APPENDIX X

MINUTES OF THE EIGHTEENTH SITTING OF THE COMMITTEE HELD ON WEDNESDAY, THE 18 JUNE 2008

The Committee sat from 1430 hrs. to 1600 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Hannan Mollah
4. Adv. Renge Patil Tukaram Ganpatrao
5. Shrimati Tejaswini Gowda
6. Shri Neeraj Shekhar
7. Shrimati Jyotirmoyee Sikdar
8. Shri Sita Ram Singh
9. Shri Bagun Sumbrui
10. Shri Tarit Baran Topdar
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri P.R. Rajan
16. Shri Bhagwati Singh
17. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S.K.Sharma — *Additional Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

Name of the experts who tendered evidence

1. Ms. Sudha Sudaraman, General Secretary, All-India Democratic Women's Association (AIDWA)
2. Dr. Shakti Kak, All-India Democratic Women's Association (AIDWA)
3. Dr. Archana Prasad, All-India Democratic Women's Association (AIDWA)
4. Shri Avik Saha, Secretary, Land and Resources Law Research Forum
5. Ms. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, New Delhi
6. Smt. Sandhya Bajaj, Member, National Commission for Protection of Child Rights, New Delhi
7. Ms. Dipa Dixit, Member, National Commission for Protection of Child Rights, New Delhi

2. The Committee resumed the evidence and the following experts/representatives of organizations/individuals deposed before the Committee one by one on the various provisions made under 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation & Resettlement Bill, 2007' at the time indicated against each:

	Name	From	To
1.	Ms. Sudha Sudaraman, General Secretary, All-India Democratic Women's Association (AIDWA), New Delhi	1430 hrs.	1500 hrs.
2.	Shri Avik Saha, Secretary, Land and Resources Law Research Forum, Kolkata	1500 hrs.	1520 hrs.
3.	Ms. Shantha Sinha, Chairperson, National Commission for Protection of Child Rights, New Delhi	1535 hrs.	1600 hrs.

3. Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of direction 55 (1) of the 'Directions by the Speaker, Lok Sabha'

4. The experts/representatives of organizations/individuals deposed before the Committee one by one. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The witnesses responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

5. A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX XI

MINUTES OF THE NINETEENTH SITTING OF THE COMMITTEE HELD ON WEDNESDAY, THE 2 JULY 2008

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri V. Kishore Chandra S. Deo
4. Shri Hannan Mollah
5. Shri D. Narbula
6. Adv. Renge Patil Tukaram Ganpatrao
7. Shrimati Tejaswini Gowda
8. Shri Neeraj Shekhar
9. Shrimati Jyotirmoyee Sikdar
10. Shri Sita Ram Singh
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Chandramani Tripathi
14. Shri Beni Prasad Verma
15. Shri Dharmendra Yadav

Rajya Sabha

16. Shri Balihari Babu
17. Shrimati T. Ratna Bai
18. Shri Prabhat Jha
19. Dr. Chandan Mitra

20. Shri P.R. Rajan
21. Shri Bhagwati Singh
22. Ms. Sushila Tiriya

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*

WITNESSES

- (i) Shri Suhas Chakma, Convenor, North-East Regional Consultation and Director, Asian Centre for Human Rights
- (ii) Ms. Nandita Haksar
- (iii) Gam A. Shimray, Advisor on Traditional Knowledge, UN Convention on Bio-Diversity (UNCBD), Manipur

Representatives of the Ministry of Urban Development

- (i) Shri M. Ramachandran, Secretary
- (ii) Dr. M.M. Kutty, Joint Secretary
- (iii) Shri P.K. Srivastava, Joint Secretary
- (iv) Shri A.K. Mehta, Joint Secretary
- (v) Shri S.K. Lohia, Director (UT)
- (vi) Smt. Veena Ish, Principal Commissioner, DDA

Representatives of the Ministry of Social Justice and Empowerment

- (i) Shri K.M. Acharya, Secretary
- (ii) Smt. Sangita Gairola, Additional Secretary
- (iii) Dr. Vinod Kumar Aggarwal, Joint Secretary
- (iv) Shri V.R. Malhotra, Director

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. The Committee thereafter took evidence of some of the experts/representatives of organizations from North Eastern region in connection with the examination of the 'The Land Acquisition (Amendment) Bill, 2007, and 'The Rehabilitation and Resettlement Bill, 2007'. The experts/representatives of organizations

from North East presented their views on the aforesaid Bills before the Committee. The witnesses also responded to the queries raised by the members of the Committee pertaining to the Bills.

(The witnesses then withdrew)

[Thereafter, the representatives of the Ministry of Urban Development were called in]

3. The Hon'ble Chairman welcomed the representatives and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'.

4. The representatives presented their views in brief on the aforesaid two Bills. The representatives requested the Committee to grant more time to enable them to furnish the detailed response on the various provisions of the Bill related to their Ministry. The Committee after deliberations decided to give 10 days' time to the representatives of the Ministry to furnish the detailed replies. The Committee decided to take the evidence of the representatives of the Ministry after the receipt of the replies.

(The witnesses then withdrew)

[Thereafter, the representatives of the Ministry of Social Justice and Empowerment were called in]

5. The Chairman welcomed the representatives of the Ministry of Social Justice and Empowerment. He also welcomed the representatives of the Ministries of Rural Development and Law and Justice who were called to assist the Committee in examination of the aforesaid Bills. The Committee held detailed deliberations on the various issues related to their Ministry in the context of examination of the aforesaid two Bills and valuable suggestions emerged during the deliberations. The representatives responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

6. A verbatim record of proceedings was kept.

The Committee then adjourned to meet again at 1400 hrs.

APPENDIX XII

MINUTES OF THE TWENTIETH SITTING OF THE COMMITTEE HELD ON WEDNESDAY, THE 2ND JULY, 2008

The Committee sat from 1400 hrs. to 1530 hrs. in Committee Room No. 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Dr. Chandan Mitra — *In the Chair*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri V. Kishore Chandra S. Deo
4. Shri Hannan Mollah
5. Shri D. Narbula
6. Adv. Renge Patil Tukaram Ganpatrao
7. Shrimati Tejaswini Gowda
8. Shri Neeraj Shekhar
9. Shrimati Jyotirmoyee Sikdar
10. Shri Sita Ram Singh
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Chandramani Tripathi
14. Shri Beni Prasad Verma
15. Shri Dharmendra Yadav

Rajya Sabha

16. Shri Balihari Babu
17. Shrimati T. Ratna Bai
18. Shri Prabhat Jha
19. Shri P.R. Rajan
20. Shri Bhagwati Singh
21. Ms. Sushila Tiriya

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*

WITNESSES

Representatives of the Ministry of Defence

Smt. Neelam Nath, Additional Secretary (N)
Shri Anand Misra, JS (C&W)
Shri Balsharn Singh, DGDE
Shri Ashok Harnal, Additional DGDE
Lt. Gen. Sudhir Sharma, QMG
Brig. G.S. Bindra, DDG PPE
Col. Manish Erry, Dir. Plg. (Lands)

Representatives of the Ministry of Railways

Shri S.K. Vij, Member Engineering, Railway Board
Shri V.K. Gupta, Adviser (Land & Amenities), Railway Board
Shri P.D. Sharma, Executive Director (Land & Amenities)-I,
Railway Board
Shri J.S. Lakra, Director (Land & Amenities), Railway Board

The Committee resumed the deliberations on 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' after the lunch-break. In the absence of Hon'ble Chairman, the Committee chose Dr. Chandan Mitra, MP to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

[The representatives of the Ministry of Defence were then called in.]

2. The Chairman welcomed the representatives of the Ministry to the sitting of the Committee and drew their attention to the provisions of Direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. The Ministry of Defence could not furnish the written replies to the list of points sent by the Secretariat by the stipulated time frame. The representatives explained that they needed more time to furnish the detailed replies and requested to grant three weeks' time for the said

purpose. The Committee after detailed deliberations agreed to grant 10 days' time. However, the representatives insisted on three weeks' time. To this, the Committee decided to leave the issue to be decided by the Hon'ble Chairman. The Committee decided to take evidence of the representatives of the Ministry of Defence after they submit the detailed replies as well as comments on each clause of the Bill.

[The witnesses then withdrew.]

[Thereafter, the representatives of the Ministry of Railways were called in.]

3. The Chairman welcomed the representatives of the Ministry of Railways. He also welcomed the representatives of the Ministries of Rural Development and Law and Justice who were called to assist the Committee in examination of the aforesaid Bills. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The representatives responded to the queries raised by the members of the Committee pertaining to the issues related to their Ministry. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

4. A verbatim record of proceedings was kept.

The Committee then adjourned to meet again on Thursday, the 3 July, 2008 at 1100 hrs.

APPENDIX XIII

MINUTES OF THE TWENTY-FIRST SITTING OF THE COMMITTEE HELD ON THURSDAY, THE 3RD JULY, 2008

The Committee sat from 1100 hrs. to 1330 hrs. in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shrimati Kiran Maheshwari
4. Shri Zora Singh Mann
5. Shri Hannan Mollah
6. Shri D. Narbula
7. Adv. Renge Patil Tukaram Ganpatrao
8. Shrimati Tejaswini Gowda
9. Shri Neeraj Shekhar
10. Shrimati Jyotirmoyee Sikdar
11. Shri Sita Ram Singh
12. Shri Bagun Sumbrui
13. Shri Tarit Baran Topdar
14. Shri Chandramani Tripathi
15. Shri Beni Prasad Verma

Rajya Sabha

16. Shri Balihari Babu
17. Shrimati T. Ratna Bai
18. Shri Prabhat Jha
19. Dr. Chandan Mitra
20. Shri P.R. Rajan
21. Shri Bhagwati Singh
22. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S. K. Sharma — *Additional Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*
4. Shri A.K.Shah — *Deputy Secretary Grade-II*

WITNESSES

Representatives of the Ministry of Agriculture (Department of Agriculture and Cooperation)

1. Shri S.K. Mishra, Secretary,
2. Dr. S.M. Jharwal, Principal Advisor,
3. Dr. C.M. Pandey, Deputy Commissioner,
4. Shri Mukesh Khullar, Joint Secretary (DM)
5. Ms. Upma Srivastava, Joint Secretary (NRM&RFS)

Representatives of the Ministry of Tribal Affairs

1. Shri G.B. Mukherjee, Secretary,
2. Smt. Ruchira Pant, Joint Secretary

Representatives of the Ministry of Panchayati Raj

1. Smt. Sushma Singh, Secretary (PR)
2. Shri Sudhir Krishna, Additional Secretary
3. Shri D.K. Jain, Joint Secretary

Representatives of the Ministry of Environment and Forests

1. Shri Vijai Sharma, Secretary (E&F)
2. Shri G.K. Prasad, Additional Director General of Forests, MoEF
3. Shri Ansar Ahmed, Inspector General of Forests, MoEF

Representatives of the Ministry of Law & Justice

1. Shri K.D. Singh, Secretary
2. Dr. Sanjay Singh, Joint Secretary & Legislative Counsel

**Representatives of the Ministry of Rural Development
(Department of Land Resources)**

1. Smt. Rita Sinha, Secretary
2. Dr. A.K. Singh, Director

At the outset, the Hon'ble Chairman welcomed the members of the Committee. He informed the members that the Committee had heard the views of the aforesaid Ministries viz Ministries of Agriculture, Tribal Affairs, Panchayati Raj and Environment & Forests at their sittings held on 18 January 2008. The representatives who were then asked to furnish the concrete amendments to the various provisions of the Bills based on the suggestions made by them at the sitting of the Committee. Accordingly, the representatives of the aforesaid Ministries had again been called to place before the Committee their concrete amendments in this regard. The Committee thereafter took evidence of the aforesaid Ministries on the provisions made under the 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation & Resettlement Bill, 2007' at the time indicated against each:

Name of Ministry/Department	Time taken
(i) Ministry of Agriculture (Department of Agriculture and Cooperation)	1100 hrs. – 1130 hrs.
(ii) Ministry of Tribal Affairs	1130 hrs. – 1200 hrs.
(iii) Ministry of Panchayati Raj	1200 hrs. – 1300 hrs.
(iv) Ministry of Environment and Forests	1300 hrs. – 1330 hrs.

2. The aforesaid representatives were called one by one at the time indicated above. The Hon'ble Chairman welcomed the representatives and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. He also welcomed the representatives of the Ministries of Rural Development and Law and Justice who were present at the sitting of the Committee to assist the Committee in examination of the aforesaid Bills.

3. The representatives deposed before the Committee and furnished their views on the aforesaid two Bills and suggested concrete amendments to the various provisions of the Bills. The representatives were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

4. A verbatim record of proceedings was kept.

The Committee then adjourned to meet again at 1400 hrs.

APPENDIX XIV

MINUTES OF THE TWENTY-SECOND SITTING OF THE COMMITTEE HELD ON THURSDAY, THE 3RD JULY, 2008

The Committee sat from 1400 hrs. to 1600 hrs. in Committee Room
'E' Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Hannan Mollah — *In the Chair*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shrimati Kiran Maheshwari
4. Shri Zora Singh Mann
5. Shri D. Narbula
6. Adv. Renge Patil Tukaram Ganpatrao
7. Shrimati Tejaswini Gowda
8. Shri Neeraj Shekhar
9. Shrimati Jyotirmoyee Sikdar
10. Shri Sita Ram Singh
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Chandramani Tripathi
14. Shri Beni Prasad Verma

Rajya Sabha

15. Shri Balihari Babu
16. Shrimati T. Ratna Bai
17. Shri Prabhat Jha
18. Dr. Chandan Mitra
19. Shri P.R. Rajan
20. Shri Bhagwati Singh
21. Ms. Sushila Tiriya

SECRETARIAT

- | | | |
|---------------------------|---|----------------------------------|
| 1. Shri S. K. Sharma | — | <i>Additional Secretary</i> |
| 2. Shri P.K. Grover | — | <i>Joint Secretary</i> |
| 3. Shrimati Sudesh Luthra | — | <i>Director</i> |
| 4. Shri A. K. Shah | — | <i>Deputy Secretary Grade-II</i> |

WITNESSES

Representatives of the Ministry of Commerce & Industry

- (i) Shri G.K. Pillai, Secretary, Commerce
- (ii) Shri Ajai Shankar, Secretary (Department of Industrial Policy & Promotion)
- (iii) Shri Gopal Krishan, Joint Secretary

Representatives of the Ministry of Law & Justice

- (i) Shri K.D. Singh, Secretary
- (ii) Dr. Sanjay Singh, Joint Secretary & Legislative Counsel

**Representatives of the Ministry of Rural Development
(Department of Land Resources)**

- (i) Smt. Rita Sinha, Secretary
- (ii) Dr. A.K. Singh, Director

2. The Committee resumed deliberations on 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' after the lunch-break. In the absence of the Chairman, the Committee chose Shri Hannan Mollah, MP to act as the Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

{The representatives of the Department of Commerce and Department of Industrial Policy and Promotion, (Ministry of Commerce) were then called in}

3. The Chairman welcomed the representatives of the Department of Commerce and Department of Industrial Policy and Promotion, (Ministry of Commerce) to the sitting of the Committee and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. The Chairman also welcomed the representatives of the Ministries of Rural Development and Law and Justice who were present at the sitting of the Committee to assist the

Committee in examination of the aforesaid Bills. The Committee held detailed deliberations on the various provisions made in the aforesaid two Bills and valuable suggestions emerged during the deliberations. The representatives responded to the queries raised by the members of the Committee pertaining to the Bills. The witnesses were asked to send the written replies in respect of the issues on which the information/clarification was not readily available within ten days.

4. A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX XV

MINUTES OF THE TWENTY THIRD SITTING OF THE COMMITTEE HELD ON FRIDAY, THE 18TH JULY, 2008

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room 'G-074', Ground Floor, Parliament Library Building (PLB), New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Hannan Mollah
5. Shrimati Tejaswini Gowda
6. Shrimati Jyotirmoyee Sikdar
7. Shri Sita Ram Singh
8. Shri Bagun Sumbrui
9. Shri Tarit Baran Topdar
10. Shri Chandramani Tripathi
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri Pyarelal Khandelwal
16. Dr. Chandan Mitra
17. Shri P.R. Rajan
18. Shri Bhagwati Singh

SECRETARIAT

1. Shri S. K. Sharma — *Additional Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*
4. Shri A.K.Shah — *Deputy Secretary Grade-II*

WITNESSES

Representatives of the Ministry of Urban Development

1. Shri M. Ramachandran, Secretary,
2. Dr. M.M. Kutty, Joint Secretary,
3. Shri P.K. Srivastava, Joint Secretary,
4. Shri S.K. Lohia, Director (UT)

Representatives of the Ministry of Defence

1. Smt. Neelam Nath, A.S. (N),
2. Shri Anand Misra, JS(C&W)
3. Shri Balsharn Singh, DGDE
4. Shri Ashok Harnal, Addl. DGDE

Representatives of the Ministry of Home Affairs

1. Shri M.L. Kumawat, Spl. Secretary (IS)
2. Shri V.N. Gaur, Joint Secretary (Police)
3. Shri D.K. Jain, Joint Secretary

**Representative of the Ministry of Law & Justice
(Legislative Department – Legislative I Section)**

1. Dr. Sanjay Singh, Joint Secretary & Legislative Counsel

**Representatives of the Ministry of Rural Development
(Department of Land Resources)**

1. Smt. Rita Sinha, Secretary
2. Dr. A.K. Singh, Director

At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. He informed the members that the representatives of the Ministries of Urban Development and Defence

had been called for evidence at the sitting of the Committee held on 2 July 2008 in connection with the examination of 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007'. The representatives could not furnish the written replies to the various issues raised in the list of points sent to them by the Secretariat and, therefore, requested the Committee to grant them some more time. Accordingly, the Committee had agreed to their request. Now, the representatives had furnished the replies and had been called for evidence.

2. The representatives of the Ministries of Urban Development, Defence and Home Affairs were then called in one by one. The Hon'ble Chairman welcomed the representatives to the sitting of the Committee and drew their attention to the provisions of direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. He also welcomed the representatives of the Ministries of Rural Development and Law & Justice who were called to assist the Committee in examination of the aforesaid two Bills. The representatives of the Ministries of Urban Development, Defence and Home Affairs, thereafter, presented their views on the various provisions of the Bills. They also furnished the concrete amendments based on the suggestions made by them. The representatives were asked to furnish the written replies to the issues on which clarification/replies were not readily available with them. The representatives of the Ministries of Rural Development and Law & Justice assisted the Committee during the course of deliberations.

3. A verbatim record of the proceedings was kept.

*The Committee then adjourned to meet after
lunch at 1400 hrs. again.*

APPENDIX XVI

MINUTES OF THE TWENTY FOURTH SITTING OF THE COMMITTEE HELD ON FRIDAY, THE 18TH JULY, 2008

The Committee sat from 1400 hrs. to 1600 hrs. in Committee Room 'G-074', Ground Floor, Parliament Library Building (PLB), New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Hannan Mollah
5. Shrimati Tejaswini Gowda
6. Shrimati Jyotirmoyee Sikdar
7. Shri Sita Ram Singh
8. Shri Bagun Sumbrui
9. Shri Tarit Baran Topdar
10. Shri Chandramani Tripathi
11. Shri Beni Prasad Verma

Rajya Sabha

12. Shri Balihari Babu
13. Shrimati T. Ratna Bai
14. Shri Prabhat Jha
15. Shri Pyarelal Khandelwal
16. Dr. Chandan Mitra
17. Shri P.R. Rajan
18. Shri Bhagwati Singh

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*
4. Shri A.K. Shah — *Deputy Secretary Grade-II*

WITNESSES

Representatives of the Ministry of Communications and Information Technology

(Department of Posts)

1. Ms. Radhika Doraiswamy, Secretary,
2. Ms. Meera Datta, Secretary (O),
3. Shri Ansar Ahmed, Inspector General of Forests, MoEF
4. Shri K.L. Khanna, DDG (Estates)

Representatives of the Ministry of Communications and Information Technology

(Department of Telecommunications)

1. Shri Subodh Kumar, Additional Secretary
2. Shri R.P. Aggarwal, Wireless Advisor
3. Shri Kirthy Kumar, DDG (C&A)
4. Shri N.K. Yadav, DDG (SU)
5. Shri Kuldeep Goyal, CMD (BSNL)
6. Shri R.S.P. Sinha, CMD (MTNL)

Representatives of the Ministry of Shipping, Road Transport & Highways

(Department of Road) and (Department of Highways)

1. Shri Brahm Dutt, Secretary
2. Shri G. Sharan, DGC (RD), D/o RT&H
3. Shri A.N. Dhodapkar, Chief Engineer,
4. Shri K.S. Money, Member (Admn.), NHAI,
5. Shri V.K. Sharma, G.M., NHAI,
6. Shri V. Rajgopal, DDG (T&P), BRO

Representatives of the Ministry of Power

1. Shri Anil Kumar, Additional Secretary
2. Shri Gurdial Singh, Member, CEA and Additional Secretary
3. Shri Jayant Kawale, Joint Secretary
4. Shri A.B.L. Srivastava, Director (F) NHPC

Representative of the Ministry of Law & Justice (Legislative Department – Legislative-I Section)

1. Dr. Sanjay Singh, Joint Secretary & Legislative Counsel

Representatives of the Ministry of Rural Development (Department of Land Resources)

1. Smt. Rita Sinha, Secretary
2. Dr. A.K. Singh, Director

The Committee resumed deliberations after the lunch break. The representatives of the Departments of Posts and Telecommunications under the Ministry of Communications and Information Technology, the representatives of the Departments of Road Transport and Highways under the Ministry of Shipping, Road Transport and Highways and the representatives of the Ministry of Power were then called in one-by-one to depose before the Committee on the provisions made under 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007'. The representatives of the Ministry of Rural Development and Law & Justice were also called in to assist the Committee. The Hon'ble Chairman welcomed and drew the attention of each of the witnesses to direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. The representatives, thereafter, deposed before the Committee and explained their views on the various provisions made in the two Bills, particularly, related to the respective representative Ministry/Department.

2. The Committee held detailed deliberations on the various issues and valuable suggestions emerged during the deliberations. The representatives of the Ministry of Rural Development and Law & Justice assisted the Committee during the course of deliberations. The representatives were asked to send the written replies to the issues on which information was not readily available.

3. A verbatim record of the proceedings was kept.

The Committee then adjourned.

APPENDIX XVII

MINUTES OF THE SECOND SITTING OF THE COMMITTEE, HELD ON MONDAY, THE 25TH AUGUST 2008

The Committee sat from 1500 hrs. to 1630 hrs. in Committee Room 'E' Basement, Parliament House Annexe, New Delhi.

PRESENT

Shri Kalyan Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shrimati Kiran Maheshwari
4. Shri Hannan Mollah
5. Shri D. Narbula
6. Shri A.F.G. Osmani
7. Shrimati Tejaswini Gowda
8. Shrimati Jyotirmoyee Sikdar
9. Shri Sita Ram Singh
10. Shri Bagun Sumbrui
11. Shri Tarit Baran Topdar
12. Shri Chandramani Tripathi
13. Shri Beni Prasad Verma

Rajya Sabha

14. Shri Balihari Babu
15. Shrimati T. Ratna Bai
16. Shri Prabhat Jha
17. Dr. Chandan Mitra
18. Ms. Sushila Tiriya

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*
4. Shri A.K. Shah — *Deputy Secretary-II*
5. Shri Hoti Lal — *Deputy Secretary-II*

WITNESSES

**Representatives of the Department of Land Resources
(Ministry of Rural Development)**

- (i) Smt. Rita Sinha, Secretary
- (ii) Shri Chinmay Basu, Additional Secretary
- (iii) Dr. A.K. Singh, Director (Land Reforms)
- (iv) Shri Charanjit Singh, Deputy Adviser
- (v) Shri S.K. Narula, Consultant (LR)

**Representatives of the Legislative Department
(Ministry of Law & Justice)**

- (i) Shri K.D. Singh, Secretary
- (ii) Dr. Sanjay Singh, Joint Secretary & Legislative Counsel
- (iii) Shri Diwakar Singh, Assistant Legislative Counsel

**Representative of the Department of Legal Affairs
(Ministry of Law & Justice)**

Shri P.K. Malhotra, Joint Secretary and Legal Adviser

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee and solicited their cooperation for early finalisation of the Reports on the two Bills referred to the Committee *i.e.* 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007'.

[The representatives of the Ministry of Rural Development (Department of Land Resources) and Ministry of Law & Justice (Legislative Department and Department of Legal Affairs) were then called in].

3. The Hon'ble Chairman welcomed the representatives and drew their attention to the direction 55(1) of the 'Directions by the Speaker, Lok Sabha'. Thereafter, the Committee held detailed discussion on the different provisions made under 'The Rehabilitation and Resettlement Bill, 2007'. The representatives of the Department of Land Resources responded to the queries of the Committee. The representatives of the Legislative Department and Department of Legal Affairs clarified the legal issues with regard to examination of the Bill, which were referred to them by the nodal Ministry.

4. The representatives were asked to send the written replies to the issues on which the information was not readily available.

5. The Committee, thereafter, decided to hold the next sittings on the 3rd, 4th and 5th September, 2008 for clause-by-clause consideration on the aforesaid Bills.

6. A verbatim record of proceedings was kept.

The Committee then adjourned.

APPENDIX XVIII

MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE, HELD ON MONDAY, THE 22ND SEPTEMBER, 2008

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room 'G-074', Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shri Hannan Mollah
4. Shrimati Tejaswini Gowda
5. Shrimati Jyotirmoyee Sikdar
6. Shri Sita Ram Singh
7. Shri Bagun Sumbrui
8. Shri Tarit Baran Topdar
9. Shri Chandramani Tripathi
10. Shri Beni Prasad Verma

Rajya Sabha

11. Shrimati T. Ratna Bai
12. Shri Prabhat Jha
13. Dr. Chandan Mitra
14. Shri Bhagwati Singh
15. Ms. Sushila Tiriya

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary-II*
4. Shri Hoti Lal — *Deputy Secretary-II*

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee. He, thereafter, drew the attention of the members to direction 55(1) of the 'Directions by the Speaker, Lok Sabha' whereby it has been provided that the deliberations of the Committee are confidential and not to be made public till the report on the subject is presented to Parliament. He then informed the members that a note containing the clause-by-clause analysis of 'The Rehabilitation and resettlement Bill, 2007', had already been circulated to the members of the Committee. The aforesaid note contains the details of the deliberations clause-wise along with the suggested amendments based on the deliberations.

3. The Committee, thereafter, took-up clause-by-clause consideration of the aforesaid Bill. The detailed note was read out and the Bill was considered clause-by-clause upto paragraph Nos. 1-90 of the aforesaid note. After exhaustive deliberations, the Committee suggested some amendmets to the respective clauses of the Bill.

The Committee then adjourned to meet again after lunch at 1400 hrs to consider the remaining clauses of the Bill.

APPENDIX XIX

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE,
HELD ON MONDAY, THE 22ND SEPTEMBER, 2008.

The Committee sat from 1400 hrs. to 1530 hrs. in Committee Room
'G-074', Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Sandeep Dikshit
3. Shri Hanna Mollah
4. Shrimati Tejaswini Gowda
5. Shrimati Jyotirmoyee Sikdar
6. Shri Sita Ram Singh
7. Shri Bagun Sumbrui
8. Shri Tarit Baran Topdar
9. Shri Chandramani Tripathi
10. Shri Beni Prasad Verma

Rajya Sabha

11. Shrimati T. Ratna Bai
12. Shri Prabhat Jha
13. Dr. Chandan Mitra
14. Shri Bhagwati Singh
15. Ms. Sushila Tiriya

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary II*
4. Shri Hoti Lal — *Deputy Secretary II*

2. The Committee resumed the clause-by-clause consideration of 'The Rehabilitation and Resettlement Bill, 2007'. The Committee took up for consideration clause-by-clause consideration of the Bill. The note containing the analysis clause-by-clause of the amending Bill was read out from para No. 91 onwards. After detailed deliberations, the Committee suggested some amendments to the respective clauses of the Bill.

APPENDIX XX

MINUTES OF THE TENTH SITTING OF THE COMMITTEE, HELD ON WEDNESDAY, THE 15TH OCTOBER, 2008.

The Committee sat from 1400 hrs. to 1600 hrs. in Committee Room 'G-074', Ground Floor, Parliament Library Building, New Delhi.

PRESENT

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri V. Kishore Chandra S. Deo
3. Shri Hanan Mollah
4. Shri D. Narbula
5. Shri Neeraj Shekhar
6. Shrimati Jyotirmoyee Sikdar
7. Shri Tarit Baran Topdar
8. Shri Beni Prasad Verma

Rajya Sabha

9. Shri Balihari Babu
10. Shri Pyarelal Khandelwal
11. Shri Bhagwati Singh

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shrimati Sudesh Luthra — *Director*
3. Shri A.K. Shah — *Deputy Secretary-II*
4. Shri Vinod Gupta — *Under Secretary*

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of the Committee, the Committee then took up for consideration the draft Report on 'The Rehabilitation and Resettlement Bill, 2007' and adopted the said draft Report with slight modifications.

3. The Committee, thereafter, took up for consideration the draft Report on the 'Drinking water scenario in rural areas in the country' and adopted the same without any modifications.

4. The Committee authorized the Chairman to finalise the aforesaid draft Reports on the basis of factual verification from the concerned Ministry/Department and present the same to both the Houses of Parliament.

5. The two Bill viz. 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' had been referred to the Committee for examination and report to Parliament. The Committee had already considered and adopted the draft Report on 'The Land Acquisition (Amendment) Bill, 2007' at their sitting held on 3 October, 2008. The Committee while considering and adopting the draft Report on 'The Rehabilitation and Resettlement Bill, 2007' observed that the aforesaid two legislations are historical and path breaking pieces of legislations and as such decided that the Reports on the two Bills should be presented to Parliament in the printed form.

The Committee then adjourned.

FORTIETH REPORT
STANDING COMMITTEE ON
RURAL DEVELOPMENT
(2008-2009)

(FOURTEENTH LOK SABHA)

MINISTRY OF RURAL DEVELOPMENT
(DEPARTMENT OF LAND RESOURCES)

THE REHABILITATION AND RESETTLEMENT
BILL, 2007

Presented to Lok Sabha on 21 October, 2008

Laid in Rajya Sabha on 21 October, 2008



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

October, 2008/Asvina, 1930 (Saka)

C.R.D. No. 46

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COMPOSITION OF THE STANDING COMMITTEE ON
URBAN AND RURAL DEVELOPMENT (1994-1995)

Shri Prataprao B. Bhosale — *Chairman*

MEMBERS

Lok Sabha

2. Shri Vijayarama Raju S.
3. Shri Bh. Vijayakumar Raju
4. Shri V. Sobhanadreeswara Rao
5. Dr. Y.S. Rajasekhar Reddy
6. Shri S. Gangadhara
7. Shri J. Chokka Rao
8. Shri Dharmabhiksham
9. Md. Ali Ashraf Fatmi
10. Shri Sukhadeo Paswan
11. Shri Shailendra Mahto
12. Shri Karia Munda
13. Shri K.M. Mathew
14. Shri P.D. Chavan
15. Shri Ram Singh Kashwan
16. Shri Girdhari Lal Bhargava
17. Shri Prabhulal Rawat
18. Shri P.P. Kaliaperumal
19. Shri N. Murugesan
20. Shri N. Sundararaj
21. Shri Surendra Pal Pathak
22. Shri Devi Bux Singh
23. Shri Ram Pal Singh
24. Shri Sudhir Giri
25. Shri Rajesh Khanna
26. Shri Subrata Mukherjee
27. Shri Sajjan Kumar
28. Shri Gulam Mohammad Khan

Rajya Sabha

29. Shri Ram Deo Bhandari
30. Shri B.K. Hariprasad
31. Smt. Chandrakala Pandey
32. Shri Thennala Balkrishna Pillai
33. Shri Shiv Prasad Chanpuria
34. Shri Shivajirao Giridhar Patil
35. Shri Sangh Priya Gautam
36. Shri Debabrata Biswas
37. Shri Jagmohan
38. Prof. Vijay Kr. Malhotra
39. Shri Nagmani
40. Shri S. Dronamraju

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri G.R. Juneja — *Deputy Secretary*
3. Shri C.S. Joon — *Assistant Director*

COMPOSITION OF THE STANDING COMMITTEE ON
RURAL DEVELOPMENT (2007-2008)

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri V. Kishore Chandra S. Deo
4. Shri Sandeep Dikshit
5. Shri George Fernandes
6. Shrimati Kiran Maheshwari*
7. Shri Zora Singh Mann
8. Shri Hannan Mollah
9. Shri D. Narbula
10. Shri A. F. G. Osmani
11. Adv. Renge Patil Tukaram Ganpatrao
12. Shrimati Tejaswini Gowda
13. Shri Neeraj Shekhar^{\$}
14. Shrimati Jyotirmoyee Sikder
15. Shri Sita Ram Singh
16. Shri D.C. Srikantappa
17. Shri Bagun Sumbrui
18. Shri Tarit Baran Topdar[#]
19. Shri Chandramani Tripathi
20. Shri Beni Prasad Verma
21. Shri Dharmendra Yadav

Rajya Sabha

22. Shri Balihari Babu
23. Shri Jayantilal Barot**
24. Kumari Nirmala Deshpande
25. Shri Pyarelal Khandelwal
26. Dr. Chandan Mitra
27. Dr. Ram Prakash**
28. Shri P.R. Rajan
29. Shri Bhagwati Singh
30. Ms. Sushila Tiriya
31. Shrimati Kanimozhi@

SECRETARIAT

1. Shri S.K. Sharma — *Additional Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*

*Hon'ble Speaker has changed the nomination of Shrimati Kiran Maheshwari, MP (LS) from Standing Committee on Water Resources to Standing Committee on Rural Development *w.e.f.* 30 August, 2007, *vide* Lok Sabha Bulletin Part II, Para No. 4022 dated August 30, 2007.

@Hon'ble Chairman, Rajya Sabha nominated Shrimati Kanimozhi, MP, (RS) to Standing Committee on Rural Development *w.e.f.* 15 September, 2007 *vide* Lok Sabha Bulletin Part-II, Para No. 4096 dated 19 September, 2007.

#Hon'ble Speaker has changed the nomination of Shri Tarit Baran Topdar, MP (LS) from Standing Committee on Energy to Standing Committee on Rural Development *w.e.f.* 12 December, 2007 as intimated *vide* Lok Sabha Bulletin Part II, Para No. 4366 dated 12 December, 2007.

**Ceased to be member of the Standing Committee on Rural Development consequent upon the retirement from the membership of Rajya Sabha *w.e.f.* 9 April, 2008.

§Hon'ble Speaker has nominated Shri Neeraj Shekhar, MP, Lok Sabha to the Standing Committee on Rural Development *w.e.f.* 10 March, 2008. Consequent upon vacancy caused by resignation given by Shri T. Madhusudan Reddy, MP (LS) from the membership of Lok Sabha *w.e.f.* 4 March, 2008.

COMPOSITION OF THE STANDING COMMITTEE ON
RURAL DEVELOPMENT (2008-2009)

Shri Kalyan Singh — *Chairman*

MEMBERS

Lok Sabha

2. Shri Mani Charenamei
3. Shri V. Kishore Chandra S. Deo
4. Shri Sandeep Dikshit
5. Shri George Fernandes
6. Shrimati Kiran Maheshwari
7. Shri Zora Singh Mann
8. Shri Hannan Mollah
9. Shri D. Narbula
10. Shri A. F. G. Osmani
11. Adv. Renge Patil Tukaram Ganpatrao
12. Shrimati Tejasvini Gowda
13. Shri Neeraj Shekhar
14. Shrimati Jyotirmoyee Sikdar
15. Shri Sita Ram Singh
16. Shri Bagun Sumbrui
17. Shri Tarit Baran Topdar
18. Shri Chandramani Tripathi
19. Shri Beni Prasad Verma
20. Shri Dharmendra Yadav
21. Vacant

Rajya Sabha

22. Shri Balihari Babu
23. Shrimati T. Ratna Bai
24. Shri Prabhat Jha
25. Shri Pyarelal Khandelwal

26. Dr. Chandan Mitra
27. Shri P.R. Rajan
28. Shri Bhagwati Singh
29. Ms. Sushila Tiriya
30. Shrimati Kanimozhi
31. Vacant

SECRETARIAT

1. Shri S.K. Sharma — *Secretary*
2. Shri P.K. Grover — *Joint Secretary*
3. Shrimati Sudesh Luthra — *Director*

INTRODUCTION

I, the Chairman of the Standing Committee on Rural Development having been authorised by the Committee to present the Report on their behalf present this Fortieth Report (14th Lok Sabha) on 'The Rehabilitation and Resettlement Bill, 2007'.

2. 'The Rehabilitation and Resettlement Bill, 2007' was introduced in Lok Sabha on 6 December, 2007 and was referred to the Standing Committee on Rural Development by the Hon'ble Speaker, Lok Sabha under Rule 331 E (1) (b) of the 'Rules of Procedure and Conduct of Business in Lok Sabha' on 7 December, 2007 for examination and report to Parliament.

3. 'The Rehabilitation and Resettlement Bill, 2007' was formulated by the Government to give a statutory backing to the National Rehabilitation and Resettlement Policy, 2007.

4. The Committee obtained written information on various provisions contained in the Bill from the nodal Ministry *i.e.*, The Ministry of Rural Development (Department of Land Resources). The preliminary meeting of the Committee was held on 24 December, 2007 wherein the Committee were briefed about the various provisions of the Bill by the nodal Ministry. Since, the proposed provisions contained in the Bill affect the public at large, the Committee at the aforesaid sitting decided to invite the views of experts/organizations and individuals through print and electronic media.

5. In response to the Press Communiqué, the Secretariat received 190 related memoranda. 15 selected experts/representatives of association and individuals (the list indicated at **Appendix-II**) which include top researchers, social workers, representatives of various organizations, legal persons, representatives from child organizations deposed before the Committee at their sittings held on 17 and 18 June, 2008.

6. With the purpose of having wider consultations, the Committee decided to hear the views of the various related Ministries/Departments of the Union Government. The representatives of the various Ministries *viz.* Tribal Affairs; Environment and Forest; Panchayati Raj; Agriculture; Commerce and Industry; Urban Development; Social Justice and Empowerment; Railways; Defence; Home Affairs; Communication and

IT (Department of Telecommunications and Department of Posts); Shipping, Road Transport and Highways (Department of Road Transport & Highways) and Ministry of Power deposed before the Committee at the sitting held on 18 January, 2008, 2 and 3 July, 2008 and 18 July, 2008. Besides various sets of written documents containing the responses on the various issues raised in large number of sets of list of points were submitted by the aforesaid Ministries, which helped the Committee in arriving at meaningful conclusions.

7. Since the State Governments acquire land and decide on optimum rehabilitation and resettlement benefits to be provided to the displaced persons, the primary responsibility of the implementation of the provisions made under the Bill lies with the respective State Governments/Union Territory Administrations. All State Governments/Union Territory Administrations were requested to give their views on the aforesaid Bill, after seeking permission of Hon'ble Speaker as per direction 60 of the 'Directions by the Speaker, Lok Sabha'. Nine State Governments/UTs *viz* Chandigarh, Puducherry, Jharkhand, Goa, Chhattisgarh, Dadra & Nagar Haveli and Daman & Diu, Arunachal Pradesh, Nagaland and Himachal Pradesh have furnished their views in this regard.

8. The term of the Committee (2007-2008) expired on 4 August, 2008 and the Committee (2008-2009) was constituted *w.e.f.* 5 August, 2008. The Committee (2008-2009) at the first sitting held on 11 August, 2008 decided to continue the examination of the Bill from the stage the earlier Committee had left. Thereafter, the Committee took evidence of the representatives of the Department of Land Resources (Ministry of Rural Development) at their sitting held on 25 August, 2008. The nodal Department furnished replies to the issues raised in a number of sets of list of points and submitted the desired documents to the Committee. The representatives of the nodal Ministry were also present at the various sittings of the Committee where the Committee took evidence of the various concerned Ministries/Departments and assisted the Committee. The representatives of the Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) also assisted the Committee by clarifying the various legal matters. The Committee undertook clause by clause consideration of the Bill at the sittings held on 22 September, 2008.

9. The Draft Report was adopted by the Committee at their sitting held on 15 October 2008. The Committee were immensely benefited by the contribution made by the Members of the Committee for which I express my sincere thanks to them.

10. The Committee place on record their deep appreciation of the work done by the earlier Committee i.e. the then Committee on Rural Development (2007-2008).

11. The erstwhile Standing Committee on Urban and Rural Development examined the various provisions made under the Principal Land Acquisition Act of 1894 in consultation with the State Governments and made exhaustive recommendations/observations in the Eighth Report (Tenth Lok Sabha), presented to Parliament on 15 December, 1994. The Committee were greatly benefited by the observations/recommendations made by the erstwhile Standing Committee on Urban and Rural Development. The Committee place on record their deep sense of appreciation of the work done by the erstwhile Standing Committee on Urban and Rural Development (1994-95).

12. The Committee also wish to express their thanks to the representatives of Ministry of Rural Development (Department of Land Resources) who appeared before the Committee and placed their considered views. They further wish to thank the officers of the other concerned Ministries as mentioned above, who assisted the Committee and offered their valuable suggestions. The Committee express their gratitude to officials of State Governments/Union Territory Administrations for furnishing valuable information and suggestions which the Committee desired in connection with the examination of 'The Rehabilitation and Resettlement Bill, 2007'.

13. The Committee are greatly benefited from the perspectives/suggestions of various individuals/associations/experts on various provisions of the Bill. The Committee express their gratitude to experts/individuals who furnished memoranda or tendered evidence before the Committee.

14. The Committee would also like to place on record their deep sense of appreciation of the invaluable assistance rendered to them from time to time by the officials of the Lok Sabha Secretariat attached to the Committee.

15. For facility of reference and convenience, the observations/recommendations of the Committee have been printed in bold type in the body of the report.

NEW DELHI;
16 October, 2008
24 Asvina, 1930 (Saka)

KALYAN SINGH,
Chairman,
Standing Committee on
Rural Development.

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**STANDING COMMITTEE ON
RURAL DEVELOPMENT
(2008-2009)**

FOURTEENTH LOK SABHA

**MINISTRY OF RURAL DEVELOPMENT
(DEPARTMENT OF LAND RESOURCES)**

**'THE REHABILITATION AND
RESETTLEMENT BILL, 2007'**

FORTIETH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**