

## REPORT

### CHAPTER I

#### BACKGROUND OF THE LAND ACQUISITION (AMENDMENT) BILL, 2007

1.1 The Land Acquisition (Amendment) 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 and Procedure and Conduct of Business, 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 Whereas land and its management is under the State List, Acquisition and requisitioning of property falls under the Concurrent List. To deal with the issues related to land acquisition and determining the amount of compensation in lieu of the land acquired by the Government, 'The Land Acquisition Act' was promulgated on the first day of March, 1894. The Act has been amended in the years 1919, 1921, 1923 and 1933 before independence and in the years 1962, 1967 and 1984 after independence. The details of the amendments after independence in this regard have been given at **Appendix-II**

1.4 With the enormous expansion of the State's role in providing public welfare and economic development since independence, acquisition of land for public purposes has become far more important than ever before. Further, with the changing scenario of industrialization, liberalization, urbanization and new economic policy, there is an immense pressure on land. Besides, recently the land is

being acquired for setting up of Special Economic Zones (SEZs) to generate more employment. With the increased activity of land acquisition for public purposes as well as for setting up industries, the issues related to land acquisition and rehabilitation of the affected persons have been the matter of debate recently.

1.5 The provisions made under 'The Land Acquisition Act, 1894' have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property as acknowledged in the Statement of Objects and Reasons of the aforesaid Bill.

1.6 As per the Statement of Objects and Reasons of the Bill, the provisions made under the amending legislation seek to extend the provisions of the extant policies or statutes for rehabilitation and resettlement of those affected by the acquisition of land under the Act. Further the legislation seeks to provide for the following:-

- (i) expand the ambit of expression 'person interested';
- (ii) to define the 'public purpose' so as to restrict the scope of land acquisition under the Act to provision of land for strategic purposes vital to the State and for infrastructure projects where the benefits accrue to the general public;
- (iii) restricting the State intervention to acquire land for companies to the extent of a limited portion of the total area of land required when the 'person' which includes any company or associations or body of individuals has already purchased the rest of the land through private negotiations;
- (iv) to provide for the alternative mechanism of civil courts for disposal of disputes relating to land acquisition compensation in a time bound manner;
- (v) to provide a fair compensation at market value commensurate with the purpose for which the acquired land would be used;
- (vi) to ensure that physical possession of the land is taken over and the amount of compensation is paid within a defined period from the date of the compensation award; and
- (vii) return of the land to the appropriate Government when any land or part thereof, acquired under the Act remains unutilized for a defined period from the date of taking over possession.

## CHAPTER II

### PROCESS OF CONSULTATIONS HELD BY THE GOVERNMENT WHILE BRINGING THE AMENDMENTS TO 'THE LAND ACQUISITION ACT, 1894' AND THE CONSULTATIONS HELD BY COMMITTEE ON RURAL DEVELOPMENT WHILE EXAMINING THE SAID LEGISLATION

2.1 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 observations/recommendations in the Eighth Report (Tenth Lok Sabha), presented to Parliament on 15 December, 1994. Subsequently, the Standing Committee on Rural Development have persistently been recommending in their respective reports to bring amendments to the old and outdated 'The Land Acquisition Act, 1894' so as to balance the larger interests of the public for which the land is being acquired and the right of the individuals whose land is being acquired thereby depriving him/her of means of livelihood and also to address the issue of acquisition of land for private enterprises.

2.2 Pursuant to the persistent recommendations of the Committee, the Government have brought 'The Land Acquisition (Amendment) Bill, 2007' which has been referred to the Committee for examination and report to Parliament as stated above.

2.3 When asked about the reasons for delay in bringing amendments to 'The Land Acquisition Act 1894', the Department has submitted as under :-

"The process for amendment to 'The Land Acquisition Act, 1894' was started in October 1998. The Cabinet, in its meeting held on 23-11-1998, decided that the proposal relating to amendment to 'The Land Acquisition Act, 1894', in the first instance, be considered by a GoM. The GoM held several meetings to consider the proposed amendments to 'The Land Acquisition Act, 1894'. Finally, the Land Acquisition (Amendment) Bill, 2004 was submitted to the Cabinet Secretariat on 29 January, 2004 for approval of the Cabinet. The Cabinet Secretariat, after consideration, returned the Bill with the direction that the Department of Land Resources may submit a fresh proposal after

the formation of the 14th Lok Sabha. Accordingly, the Land Acquisition (Amendment) Bill, 2007 was introduced on 6th December 2007 in the 14th Lok Sabha. The recommendations of the Standing Committee on Urban and Rural Development in its 8th report (10th Lok Sabha) have been duly considered and most of them have been touched upon by the proposed amendments.”

2.4 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. As regards consultations with the various related Union Ministries, the Committee during the deliberations have found that most of the Ministries had been consulted before finalization of the National Rehabilitation Policy 2007. However, no formal consultations were held while bringing amendments to one of the important legislations *i.e.* ‘The Land Acquisition (Amendment) Bill 2007’. Even the sister Ministry of Urban Development which plays a key role in ensuring that the various issues raised in the amending legislation are taken care from the urban perspective has not been formally consulted while bringing the said amending legislation.

2.5 As stated above, the Land Acquisition (Amendment) 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-III**) 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 include the criterion of market value of land, part payment of compensation by shares, debentures, the definition of public purpose etc.

2.6 Since the State Governments acquire land and primary responsibility of the implementation of the provisions made under the Bill is of the respective State Governments/Union Territory Administrations, they 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. The Committee were greatly benefited by the exhaustive suggestions made by the State Governments of Puducherry and Goa.

2.7 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), Power, Road Transport and Highways and Shipping, (Department of Road Transport and Highways) 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 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 and Industry (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.

2.8 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.

2.9 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 at their same sitting took evidence of the representatives of the nodal administrative Department *i.e.* Department Land Resources (Ministry of Rural Development). 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.

2.10 Subsequently the Committee undertook clause-by-clause consideration of the Bill at the sittings held on 3 and 4 September, 2008.

**2.11 The Committee note that 'The Land Acquisition (Amendment) Bill, 2007' is one of the most important legislations introduced in Parliament after independence. The Government have to acquire land from the private individuals for setting up various infrastructure projects and for other developmental activities. Besides the Government have to acquire land for various strategic defence purposes. The land, besides being the source of livelihood for a person, is a symbol of social status in the society where a person lives. Besides with the land various emotional issues are also attached. Such acquisition of land leads to displacement of people depriving them of their livelihood and shelter, restricting access to their traditional source and uprooting them from their socio-cultural environment. While acknowledging the sovereign right of the State to acquire land for public good, it is of utmost importance to address all these concerns and compensate the affected person/family whose land is being acquired so as to maintain a balance between the larger interest of the community for which the land is being acquired on the one hand and the right of the individual whose land is**

being acquired thereby depriving him/her of means of livelihood on the other.

2.12 'The Land Acquisition Act, 1894' has been an effective instrument for the acquisition of land. With the increased activities of land and tremendous pressure on land, the issues related to land acquisition and rehabilitation of the affected persons have been a matter of debate recently and it has been felt that the provisions made under the Principal Act are inadequate in addressing these concerns. Even the Statement of Objects and Reasons of the Bill has acknowledged this fact. The Committee find that with the persistent efforts of the erstwhile Standing Committee on Urban and Rural Development and Standing Committee on Rural Development, the Government have brought the exhaustive amendments to the Principal Act of 1894 to address the aforesaid concerns. Even when the process for amendment started in the Ministry way back in October, 1998, it took around 10 years for the Government to bring the amending Bill before the Parliament. The Committee find that even then formal consultations with some of the key Ministries were not held by the Department. 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 17 sittings (the details of which are at Appendix-IV) held for the purpose. After detailed deliberations, the Committee arrived at conclusions, which have been given in the subsequent chapters of the report. Each and every recommendation of the Committee has been made with the primary objective of ensuring the interests of the affected person/family whose land is being acquired as well as other persons affected by the land acquisition.

2.13 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 Land Acquisition (Amendment) Bill as well as the other related Bill *i.e.*, 'The Rehabilitation and Resettlement Bill, 2007.

## CHAPTER III

### **A. Issues not addressed by the Land Acquisition (Amendment) Bill, 2007**

3.1 Exhaustive amendments have been proposed in 'The Land Acquisition (Amendment) Bill, 2007'. During deliberations, the Committee have found that many important issues/concerns have not been addressed while bringing the amendments. This part of the report deals with these issues and the amendments/suggestions have been made by the Committee based on the exhaustive deliberations, the details of which have been given in the preceding chapter of the report.

### **B. Bringing exhaustive Land Acquisition Bill before the Parliament**

3.2 As per the information provided by the Department, 'The Land Acquisition Act, 1894' has been amended since independence, in the years 1962, 1967 and 1984. These amendments are listed in **Appendix-II**. Exhaustive amendments have been proposed to 'The Land Acquisition Act, 1894' by 'The Land Acquisition (Amendment) Bill, 2007'. On the issue of repealing the old and outdated legislation *i.e.* 'The Land Acquisition Act, 1894' and bringing a new comprehensive legislation, the nodal Department in the preliminary material had contended that a large number of very old cases are still pending in various courts and as such, it was decided in consultations with the Ministry of Law and Justice that instead of bringing an exhaustive and comprehensive Bill, an Amendment Bill should be brought before the Parliament. When the information with regard to the number of cases pending in various courts was sought from the Department, it has been stated that no formal study in this regard has been conducted.

3.3 When the attention of the nodal Department was drawn to various social Acts which had been repealed and new legislations brought since the amendments were exhaustive, it referred the matter to the Ministry of Law and Justice. The Legislative Department of the aforesaid Ministry in the opinion furnished to the Committee has stated that whenever amendments are exhaustive and it is not possible to understand the amendment clause contained in the Amendment Bill without reading into each and every section of the Principal Act, new legislations are enacted by the Parliament. The Department has also referred to some of such legislations *viz.* 'The Cantonment Act, 2006', 'The Juvenile Justice (Care and Protection of Children) Act, 2000' and 'The Food Security and Standards Act, 2006.'

3.4 The Committee take note of the advice given by the Legislative Department of the Ministry of Law and Justice that new legislations are enacted by the Parliament whenever amendments are exhaustive and it is not possible to understand the amendment clause contained in the amendment Bill without reading into each and every section of the Principal Act. The Legislative Department has infact referred to some of the legislations where new legislations were enacted, keeping in view the exhaustive amendments. During the detailed deliberations on the various provisions made under the present legislation, the Committee have noted that it is not possible to understand the meaning of an amending clause without inserting it properly into the Principal Act. Thus, in each and every case, the Principal Act has to be referred to. Not only that, bringing such exhaustive amendments to such an important legislation without comprehensively amending the Principal Act may create confusion and invite legal complications too. In this situation the Committee are of the firm opinion that old and outdated legislation *i.e.*, 'The Land Acquisition Act, 1894' should be repealed and a new comprehensive legislation brought before the Parliament.

3.5 While recommending for repealing the old legislation and bringing a new comprehensive legislation, the Committee are aware of the urgency of bringing the amendments to the Principal Land Acquisition Act, 1894, keeping in view the recent debate going on in the country with regard to rehabilitation laws. The Committee would like that for the time being amending legislation should be considered by the Parliament and enacted after taking into consideration the recommendations/observations of the Committee made in this report. However, the Government may take immediate action thereafter to bring a comprehensive legislation after suitably incorporating amendments in the Principal Act and the old and outdated legislation *i.e.*, 'The Land Acquisition Act, 1894' may be repealed.

### C. Use of word 'may' in the legislation

3.6 Various experts who appeared before the Committee/submitted written memoranda expressed concerns over the use of word 'may' in the legislation like Clause 20 of the Bill whereby it has been stated that the amount of compensation payable to the entitled person may be determined on the basis of Section 11B as inserted by the said Act. When asked about the comments of the nodal Department, it has stated that this is a drafting issue and may be taken up with the Ministry of Law. Again when the issue was taken up with the Ministry

of Law, it has commented as under :—

“It is pertinent to mention that the legislation was drafted by the Legislative Department as per the policy requirement of the concerned administrative department on the basis of the inputs furnished by them. However, in this connection, it is also relevant to mention that there are cases in which it has been held by the Apex Court that the words ‘may’ and ‘shall’ are interchangeable. [Mohan Singh & Ors. V. International Airport Authority of India & Ors. (1997) 9 SCC 132].”

**3.7 The Committee feel that the use of word ‘may’ dilutes the specific provision and provides undue discretion to the implementing agency. As such the Committee would like to recommend that the use of the word ‘may’ should be replaced by ‘shall’ in all the clauses of the Bill barring some of the clauses where the intent of the Government is to provide flexibility to the appropriate State Government.**

**D. Need for making suitable provisions in the Land Acquisition Legislation to protect agricultural land in the country**

3.8 Nowadays, land is being acquired for setting up Special Economic Zones (SEZs) to generate employment through industries and related activities. When asked about the procedure with regard to acquisition of land for setting up of SEZs, the Ministry of Commerce in the written replies had submitted that wherever land is acquired, these are as per the rules and procedures of the State Land Acquisition Act.

3.9 When asked about the measures taken by the Government to ensure that agricultural land is not acquired for setting up SEZs, the Ministry of Commerce and Industry has submitted as under:—

“The Board of approvals follow the general principle that in case of land acquisition for Special Economic Zones, first priority should be for acquisition of waste and barren land and if necessary single crop agricultural land could be acquired for the SEZs. If perforce a portion of double-cropped agricultural land has to be acquired to meet the minimum area requirements, especially for multi-product Special Economic Zones, the same should not exceed 10 per cent of the total land required for the SEZ. The State Governments have been advised suitably in this regard.”

3.10 Distribution of land under different usages in India as on 1980-81 to 2005-06 as provided by the Ministry of Agriculture (Department of Agriculture and Cooperation) has been given in **Appendix-V**. The analysis of the data indicates that the total cultivable land has decreased from 185.09 million hectares in 1980-81 to 182.57 million hectares in 2005-06 in spite of the efforts being made by the various Ministries and the State Governments who develop the wasteland. The data given by the Ministry of Agriculture indicates that wasteland has decreased from 16.74 million hectares in 1980-81 to 13.16 million hectares during the year 2005-06.

3.11 When asked about the total area acquired so far for setting up SEZs, the Ministry of Commerce and Industry (Department of Commerce) has informed that the total extent of land in the 404 formal approvals for SEZs so far is 57412.7 hectares. The total land area involved in 490 formal approvals granted till date is 65664 hectares out of which over 103 approvals are for State Industrial Development Corporations/State Government Ventures, which account for 20723 hectares approximately.

3.12 When asked about the type of land acquired for setting up SEZs, the Department of Commerce has submitted that various State Governments have been requested to furnish the information. Till date, information has been received in respect of 181 SEZs from 6 State Governments *viz.*, Andhra Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab & Rajasthan. The total area of the land involved in these SEZs is about 16987 hectares. Out of this, 92 per cent is reported to be barren/waste land and 7.5 per cent of the land is single crop. The double crop land acquired for SEZs is negligible. Further when asked about the status of the other States, the Secretary during the course of oral evidence has informed as under:—

“We do not have the full details from all the States. I had visited quite a large number of the States. Bulk of the land is barren. The States like Gujarat have not been indicated here but almost 80 per cent to 90 per cent of the land there is barren land, which is coming there in all these SEZs. Mundra is one of the largest areas where more than 10,000 hectares or 12,000 hectares in two SEZs are barren. The entire area is barren. In fact, there are salt lands available. So, they are barren lands. In Goa also, out of seven approvals, six are industrial estates acquired by the Goa Industrial Development Corporation in 2001, and, therefore, they are lying barren with fence and there is no cultivation there.”

3.13 The representative of Department of Commerce during the course of oral evidence has further informed as under :—

“xxx out of the 404 approvals that we have given so far, you will find the land requirement of 57,000 hectares; in our reply, we have furnished that; it is 0.035 per cent of the cultivable land available in the country. Our requirement is extremely small at this point of time.”

3.14 Various experts who appeared before the Committee, submitted written memoranda have expressed serious concerns over the acquisition of agricultural land for setting up SEZs particularly in view of the need of food security for billion plus population of the country. Not only that, the Ministry of Agriculture (Department of Agriculture and Cooperation) were of the opinion that with rapid urbanization per capita land availability for the purpose of food security would be a problem. The specific views of the Ministry of Agriculture are as under :—

“In the Bill, provisions should be made that the person/ organization should give priority to purchase/acquire wasteland and only after all efforts are exhausted, agricultural land including single crop land should be purchased.” and

“In extreme cases, if agricultural land is acquired, equivalent wasteland/degraded land should be developed by the persons/ companies for whom land is being acquired by their own funds and the cost of development for equivalent wasteland/degraded land should also be included in the cost of acquisition”.

3.15 On the suggestion of some of the experts to make it mandatory to provide wasteland for setting up SEZs, the Committee considered the State-wise position in various States as given in **Appendix-VI**. It could be seen from the data that percentage of wasteland to total geographical area in 8 States is less than 10 per cent. In UTs, it is just 2.8 per cent of wasteland to total geographical area.

3.16 When the issue was further debated, the Ministry of Agriculture made a suggestion as under :—

“In those States where there is limited availability of wasteland, the States may put an appropriate mechanism in place to promote yield enhancement through greater use of micro nutrients etc. which can be subsidized out of the funds generated through acquisition of land.”

3.17 It may further be pertinent to indicate here that the National Rehabilitation and Resettlement Policy 2007 dealt with the aforesaid issue as under :—

“As far as possible, projects may be set up on wasteland, degraded land or un-irrigated land. Acquisition of agricultural land for non-agricultural use in the project may be kept to the minimum, multi-cropped land may be avoided to the extent possible for such purposes, and acquisition of irrigated land, if unavoidable, may be kept to the minimum.”

3.18 When asked about the legal provisions that should have been made in the Bill as to protect the agricultural land, the nodal Department has informed that Rule 4 (vi) of Land Acquisition (Companies) Rules, 1963 specifically provides that Collector will have to submit report on the following matter:

“where the land proposed to be acquired is good agriculture land, that no alternative suitable site can be found so as to avoid acquisition of that land.”

This requirement will be carried through in the revised rules, after the amendments are carried out to the LA Act.

3.19 When asked whether it is feasible to fix a specific percentage of agricultural land in the country, the Ministry of Agriculture has stated that it is not justified. When further attention of the nodal Department was drawn to the minimum forest area as protected, it has clarified that agriculture and forest are different subjects. For the conservation of forests, the Central Government has enacted the Forest Conservation Act, 1980, which controls the diversion of forest land for non-forest purposes. For agriculture, there is no similar Act in the Central Government.

3.20 The Ministry of Agriculture has further informed that the Government of India have approved the National Policy for Farmers 2007 which provides that prime farmland must be conserved for agriculture, except under exceptional circumstances provided the agencies that are provided with the agricultural land for non-agricultural projects should compensate for treatment and full development of equivalent degraded wasteland elsewhere. The Secretary, Ministry of Agriculture during evidence before the Committee has submitted as under :—

“There should be a provision in the Bill that even after private persons or companies purchase about 70 per cent of the land

acquired for the project, the land use of agricultural land should not be changed without consultation with the State Land Use Boards; there must be a system to assess the optimal size of the land that would be required for the project in question. The State Land Use Boards which already exist almost in all the States may be utilised for assessing the requirement of the land in a particular project in consultations with the concerned Departments for developing appropriate guidelines for the purpose; further projects taken out by companies may perhaps be treated as public projects provided such companies financially contribute for the development of wasteland.”

**3.21 The Committee find that inspite of the efforts being made by the various Ministries and the State Governments to convert the wasteland into agricultural land, the data furnished by the Ministry of Agriculture indicates that the total cultivable land in the country has declined from 185.09 million hectares in 1980-81 to 182.57 million hectares in 2005-2006. Besides, almost 50 percent of the total cultivable land is area sown more than once and the remaining area is under single crop. With the increased land acquisition, the issue related to food security has recently been debated by the various quarters in the country. The Committee in their 27th Report on Demands for Grants (2007-2008) have also dealt with the various issues, related to acquisition of land *vis-à-vis* food security and have made several suggestions. The Committee while examining the present ‘The Land Acquisition (Amendment) Bill, 2007’ have widely deliberated the aforesaid issue, the details of which have been given above.**

**3.22 During the course of examination of the Bill, various experts have strongly suggested that good agricultural land should not be acquired at any cost. While appreciating the concerns expressed by the experts, the Committee feel that such a proposition may not be practical, particularly, in the States/Districts where the wasteland area is very limited. Further for linear projects, construction of hydropower projects and for strategic defence purposes projects, a particular area/land needs to be acquired. The Committee, therefore, are of the view that to put a complete ban on the acquisition of agricultural land would not be a practical solution. While giving the aforesaid view, the Committee are fully aware of the urgent need to protect the agricultural land in the country.**

**3.23 In this context, the Committee note that whereas the National Rehabilitation and Resettlement Policy, 2007 had provided some sort of provision, whereby an advisory has been made to avoid**

acquisition of multi crop land, no such provision to protect the agricultural land has been made in 'The Land Acquisition (Amendment) Bill, 2007'. The detailed deliberations further indicate that the Department intend to make some sort of provisions, while framing rules on the lines of the existing rule 4(vi) of Land Acquisition (Company) Rule, 1963, whereby it has been provided that the Collector will have to submit report in case where the land proposed to be acquired is good agriculture land, that no alternate and suitable site can be found so as to avoid acquisition of that land. The Committee feel that making such a provision in the legislation itself instead of leaving it to the rules would further strengthen the aforesaid provision. The Committee, therefore, would like to recommend that the provisions proposed to be made by rules with some of the modifications as stated below should suitably be inserted in the Land Acquisition (Amendment) Bill, 2007:—

“where the land proposed to be acquired is agricultural land, the Collector shall submit a report that wasteland, degraded/ barren land was not available for the particular project in that district.”

3.24 The Committee further feel that there is an urgent need to develop wasteland where agricultural land is acquired. As such suitable provision in the legislation should be made whereby it should be provided that equal area of wasteland shall be developed in case the agricultural land is acquired in the respective State/Union Territory, if wasteland/degraded barren land is available and the cost of development of that area of wasteland would be borne by the requiring body or the appropriate Government, as the case may be. Further, the cost of development of wasteland should be part of the project cost proposed to be set up on acquired land.

3.25 Since the proposal for setting up of SEZs is approved by the Ministry of Commerce and Industry, the Committee would like to recommend that in case the land acquired for setting up of SEZs by a State Government is agricultural land, that Government should be required to give the following certificate before finalization of the proposal:—

“wasteland/degraded/barren land was not available in that district for setting up of SEZs and the acquiring body would develop equal or double area of wasteland and the cost of development of wastelands of that area would be borne by the acquiring body/respective Government”.

3.26 While recommending for equal area of wasteland to be developed in lieu of the agricultural land acquired by the appropriate Government/requiring body, the Committee feel that there is an urgent need to indicate which of the wasteland would be developed by the requiring body/appropriate Government. In this case, a suitable provision should be made in the legislation whereby the respective State Government would earmark the area of wasteland which would be developed in lieu of the acquired agricultural land based on the scientific data of wasteland maintained by the Government.

3.27 In addition to the suggested measures and suitable amendments in the legislation, the Committee would like to recommend that the Union Government should do the long term planning for the next 20-25 years regarding the total area of agricultural land required in future to meet the prospective requirement of foodgrains for the growing population of the country. Such a data would further put pressure on the various State Governments to take the desired initiatives to protect the agricultural land at any cost.

3.28 The Committee further feel that there is a need for a strong law whereby the prime agricultural land can invariably be protected. When the attention of the Ministry of Agriculture was drawn towards this fact, it has stated that it is not justified. The Committee, while appreciating the fact that land and its management falls under the State List, may like to emphasize that already there is a Central law *i.e.*, Forest Conservation Act 1980, which controls the diversion of forest land for non forest purposes. The Committee recommend to the Government to bring some legislation on the lines of Forest Conservation Act 1980 so that the prime agricultural land can invariably be protected like forest land. The Committee strongly recommend to take up the issue with the concerned Ministries/ Departments. Since the matter needs urgent attention, the recommendation of the Committee should be placed before the Cabinet Secretary so that immediate action is taken in this regard.

3.29 The Committee further find that State Governments are frequently changing the land use, whereby good agricultural land is being acquired by developers for different projects particularly real estate projects. In this regard, the Committee have persistently been recommending in their reports to finalize the land use policy. The Committee emphasize that the land use policy should be finalized expeditiously which may provide necessary guidelines and

instructions to various State Governments. It may be emphasized in the land use policy to formulate land use plans by the local bodies so as to minimize and regulate the conversion of agricultural land for other uses.

3.30 The Committee would further like to recommend that the Ministry of Commerce and Industry should maintain the data with regard to the type of land acquired by the State Governments for setting up of SEZs so as to have a fair idea of the conversion of agricultural land into other uses. Besides the Ministry of Agriculture/ Department of Land Resources should maintain the data of wasteland converted into agricultural land which may help the Government to take the desired initiatives for the food security for large population of the country. The Department should take up the issue with the concerned Ministries in this regard.

#### **E. Implementation of various provisions made in the Bill prospectively or retrospectively**

3.31 As clarified by the Ministry, the provision made under 'The Land Acquisition (Amendment) Bill, 2007' would be effective from the date of notification in the Official Gazette. Some of the experts were of the view that the benefits that the Government intend to give should be made available to all pending cases. However, the cases that have already been settled should not get the benefit of the amending law. In this regard, clause 20 of the Bill which proposes to insert the following after Section 28A of the Principal Act seems to address the issue partially:—

“28B. Where an award is pending or remains unsettled at any stage under the Act, prior to the coming into force of the Land Acquisition (Amendment) Act, 2007, then the amount of compensation payable to the entitled person may be determined on the basis of section 11B as inserted by the said Act.”

3.32 It could be seen from the aforesaid provision that the revised criteria of market value of the land as proposed to be provided by clause 13 by inserting Section 11B in the Principal Act would be applicable retrospectively in the cases where an award is pending or remains unsettled at any stage under the Act. However with regard to other benefits provided in the Land Acquisition legislation and Rehabilitation and Resettlement legislation like the higher rate of solatium, rehabilitation package etc. nothing has been mentioned about the retrospective applicability in the pending cases.

3.33 The Ministry has further clarified on the issue that in clause 20 of the Bill award being referred to is the award of the Collector under 'The Land Acquisition Act, 1894'. The language of the legislation does not clarify the position. The reading of the clause indicates that the retrospective benefits as enumerated above will be available where an award is pending or remain unsettled at any stage.

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 has been 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.

3.36 Besides, the Committee urge that the word 'may' in the aforesaid clause should be changed to 'shall' to make the provision more effective.

**F. Maximum limit of land to be acquired under 'The Land Acquisition Act, 1894'.**

3.37 The nodal Department has stated that the aforesaid matter of making a provision for some maximum limit of land to be acquired under 'The Land Acquisition Act, 1894' was considered and it was thought that fixing an upper limit in the law may create problems in the future for some major projects of public interest where large area of land will be required. Further, when asked whether the Department had consulted agencies/Ministries on the aforesaid issue. The Department has stated that has not consulted any agency/Ministry on the aforesaid issue.

3.38 The Committee during the deliberations on the aforesaid Bill had consultations with various related Ministries on the aforesaid issue. The Ministry of Environment and Forests felt that it may not be desirable to fix norms for the extent of area and number of ST people in a project. The Ministry of Urban Development was of the view that the quantum of land needed for urban projects is normally governed by the Master Plan and as such, the aforesaid question gets addressed to a large extent by the Master Plan. The Ministry of Tribal Affairs was of the view that fixing limit for the maximum number of STs that may be displaced in a project will compel a project proponent to look for other suitable alternatives.

**3.39 The Committee feel that it may not be practical to set maximum limit of land to be acquired under Land Acquisition Act, keeping in view the concerns expressed by the Ministries of Environment and Forests, Tribal Affairs and Urban Development as given above. However, the Committee find that at times more than the required land is acquired for setting up of a project. Since, land is a limited resource, its optimum utilization is the need of the hour. As such there is an urgent need to have some mechanism to guard against the excessive acquisition of land which is at times much more than the land required for setting up a project.**

3.40 The Committee further find that the appropriate Government *i.e.* State Governments/Union Governments acquire land for the public purpose. As such, the Department in consultation with the Ministry of Law and Justice should consider creating and empowering the Committee at the appropriate Government level to consider and approve the optimum size of land for a project, before the notification for the acquisition of land is made. Such body may include experts/professionals, representatives of the respective

**Government and the representatives of both the acquiring body and the elected local representatives. Suitable provisions in this regard may be made in the legislation accordingly.**

#### **G. Multiple displacement not to be allowed**

3.41 The Ministry of Tribal Affairs was of the view that multiple displacements *i.e.* the displacement more than once should not be allowed except in case of strategic/defence projects having national importance. Some of the experts have also expressed the similar views. The Department of Land Resources has not compiled any data relating to multiple displacement so far under the Land Acquisition legislation.

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.

#### **H. Declaring the area where tribals from Scheduled Areas are rehabilitated as the Scheduled Area**

3.45 The Ministry of Tribal Affairs during the course of oral evidence has submitted that in most of the Scheduled Areas, there is a law that you cannot transfer land from a Scheduled tribes area to a non-tribal area. If they are transferred after the land acquisition, they shall again settle in the Scheduled Area. If the area is not Scheduled Area and the number of persons inhabited is large, the rehabilitation area shall be declared as Scheduled Area. As per Fifth Schedule of the Constitution of India, 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 of any Scheduled Area in a State after consultations with the Governor of that State.

3.46 When asked from the Ministry of Tribal Affairs whether any request from any State Government to declare a rehabilitated area as Scheduled Area has been made by any of the State Government and addressed by the Union Government in view of the aforesaid Constitutional provision, that Ministry has replied in negative. The Ministry of Tribal Affairs has put this clause in the draft National Tribal Policy which has not been approved so far.

3.47 When asked about the legal position for declaring the area where tribals from Scheduled Areas are rehabilitated as the Scheduled Area, the nodal Department has reiterated the position as stated above whereby they have stated that as per the Constitution, President of India on the suggestion of Governor of a State declares any areas as Scheduled Area and as such the issue is under the purview of the concerned State Government.

**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 Land Acquisition 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.**

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

3.49 The experts who appeared before the Committee/tendered evidence have drawn the attention of the Committee to Article 371 A of the Constitution which provides that no Act of Parliament in respect of ownership and transfer of land and its resources shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by resolution so decides.

3.50 When asked about the impact of the aforesaid Article of the Constitution to the provisions made in the LA and R&R Bills, the Department has informed that the matter may be clarified by the Ministry of Law and Justice. In this regard, the Department of Legal Affairs has commented as under :—

“Article 371A of the Constitution deals with special provision with respect to the State of Nagaland. Under the provisions of Article 371A (1)(a) no Act of Parliament in respect of administration of civil and criminal justice involving decision according to Naga customary law and ownership and transfer of land and its resources shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides. In view of the above, Constitutional provision, the applicability of the ‘Land Acquisition (Amendment) Bill, 2007’ and ‘The Rehabilitation and Resettlement Bill, 2007’ to Nagaland will have to be decided by a resolution of the Nagaland Legislative Assembly.”

**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 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 propose suitable amendment in the short title of the Principal Act in the amending legislation.

## CHAPTER IV

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

In this part of the report, the Committee have examined the respective clauses of the Bill and observations/recommendations have been made consequent upon the detailed consultations.

#### A. Definition of 'person interested'

4.1 Clause 3(b) of the existing Land Acquisition Act, 1894 defines 'person interested' as under:—

b) the expression 'person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;"

4.2 As per the amendment proposed by clause 5(b) of 'The Land Acquisition (Amendment) Bill, 2007', the expression 'person interested' has been defined as under:—

(b) the expression "person interested" includes,—

- (i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;
- (ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;
- (iii) a person interested in an easement affecting the land; and
- (iv) persons having tenancy rights under the relevant State laws;

4.3 Further, 'The Rehabilitation and Resettlement Bill, 2007' defines 'affected family' as under:—

"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."

4.4 Various experts who submitted memoranda/tendered evidence before the Committee were of the view that the definition of 'person interested' in LA Bill should include the non-landed and non-cultivating persons dependent on the land and local economy for livelihood and common property. It was suggested that the definition of affected family in the R&R Bill should be incorporated into the definition of interested persons.

4.5 When asked about the comments of the Department on the aforesaid suggestion, it has opined that 'The Land Acquisition (Amendment) Bill, 2007' and 'The Rehabilitation and Resettlement Bill, 2007' deal with different issues, so the same definition cannot be repeated. All persons coming under the definition of the 'affected family' as proposed in clause 3 of the R&R Bill, 2007 will be entitled for the R&R benefit package. This has a wider connotation, and is designed to benefit all those whose livelihood is adversely affected due to involuntary displacement of a permanent nature. However, under the LA Act, 1894, the compensation and solatium will be available to the landowner and others included under the definition of 'person interested' that are tribals and other traditional forest dwellers, persons interested in an easement affecting the land, and persons having tenancy rights under the relevant laws.

**4.6 The Committee find that whereas the 'Rehabilitation and Resettlement Bill, 2007' provides R&R benefits in case of involuntary displacement of an affected person/family due to land acquisition as**

well as due to any reason which as clarified by the nodal Department may be war, natural calamity etc. `The Land Acquisition (Amendment) Bill' provides certain benefits like market rate of land acquired, solatium etc. to the affected person/family only when involuntary displacement is due to the land acquisition. Since the R&R Bill has wider coverage as compared to LA Bill, there is bound to be difference in the definition of person interested/affected family. In view of this, the Committee approve the definition of interested persons proposed in the amending Bill.

4.7 Further, the Ministry of Tribal Affairs has suggested that in clause 5(b)(i), the responsibility may be given to the acquiring authority, and therefore 'claiming an interest' may be replaced by 'all affected persons eligible for compensation'. When asked about the difference between the phrase 'a person claiming an interest' and 'eligible for compensation', the Ministry has opined that the phrase 'a person claiming an interest' has arbitrariness, whereas the phrase 'all affected persons eligible for compensation' highlights a systematic approach wherein the affected persons are identified through a survey before taking up the project. It also brings the responsibility on the project proponent and the concerned Government that nobody from the affected area should be left out, and negates the possibility of an ignorant person being left out.

4.8 When asked about the comments of the nodal Department on the suggestion given by the Ministry of Tribal Affairs, it has stated that the current definitions under the two Bills are adequate.

4.9 The aforesaid analysis indicates that as per the amending legislation, the onus of getting the desired compensation and other benefits envisaged under the LA legislation is on the affected person. In case the amendment suggested by the Ministry of Tribal Affairs is accepted, the onus of providing the adequate compensation as per the legislation would rest with the appropriate Government. The Committee after detailed deliberations conclude that the onus of getting the desired benefit on the claimant as provided under LA legislation is a better proposition and as such decided that the definition of 'person interested' as given in clause 5(b)(1) is appropriate and may be retained.

#### **B. Protecting the interest of tenants whose tenancy is an informal arrangement**

4.10 Clause 5 of the Bill, which intends to amend Section 3 of the Principal Act, includes in the definition of person interested those

persons having tenancy rights under the relevant State laws. The Department in this regard has clarified that different States/UTs have different laws for tenancies. The aforesaid Clause of the Bill refers to persons having tenancy rights under the relevant State laws, which will also include the local laws covering tenancies in urban areas. When asked how the interest of tenants where the tenancy is not registered and there is some informal arrangement between the landlord and the tenant would be protected, the Department has clarified that these issues will be taken care of by the tenancy laws of the respective State Governments and Union Territories.

**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.**

### **C. Protecting the interests of tribals and forest dwellers**

4.12 Further the Clause protecting the interests of tribals and forest dwellers of the Bill includes the following in the category of persons interested:—

- (ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

4.13 In Clause 3 (b) of the R&R Bill occupier has been defined as a member of the Scheduled Tribe community in possession of forest land prior to the 13th day of December, 2005 which is in accordance with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Whereas reference to the aforesaid Act has been made in aforesaid clause of the Rehabilitation and Resettlement Bill, no cut off date has been defined in the LA legislation. When asked how it would be decided that a Scheduled Tribe family is in possession of land at a particular period of time, particularly when the tribals do not have proper title of land to the place they reside, the Department has stated that the possession of land will have to be determined in accordance with the provisions of the applicable laws and rules including the Scheduled Tribes and Other

Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Although the specified date has not been mentioned in the LA Bill by linking the tribals and Other Traditional Forest Dwellers with the aforesaid Act, cut off date has indirectly been made applicable. Various experts who appeared before the Committee/submitted written memoranda have expressed concern over the exclusion of Scheduled Tribe community in possession of forest land after 13th day of December, 2005 from the benefits of R&R Bill. Another issue is deciding the legal right of tribals according to the aforesaid cut off date when in most of the cases the tribals do not have proper title of land.

4.14 The Ministry of Tribal Affairs was further of the view that Clause 5 suffers from legal infirmities in as much as it is against the provisions relating to various State laws for Scheduled areas where land belonging to STs cannot be transferred to non-tribal persons. Similar views have been expressed by the experts who appeared before the Committee. When the nodal Department was asked whether the legal opinion in this matter was obtained, it has informed that the Bill has been drafted by the Ministry of Law & Justice in consultation with the Department. Again when the issue was referred to the Ministry of Law and Justice, it too has ignored the question and did not respond the matter categorically. Further the Ministry of Environment and Forests in connection with R&R Bill has stated that other traditional forest dwellers living in the forest for atleast three generations as provided in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 should be included for benefits under R&R.

**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. Besides the Committee would like to recommend to indicate the aforesaid cut off date in 'The Land Acquisition (Amendment) Bill, 2007' on the lines of 'The Rehabilitation and Resettlement Bill, 2007' keeping in view the fact that both the legislations are independent legislations.**

**D. Preliminary notification for acquisition of land and the advertisement of the notification in the daily newspapers.**

4.17 As per the provisions made under Section 4(1) of the Principal Act, whenever it appears to the appropriate Government that the land in any locality is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulated in that locality, of which at least one shall be in the regional language. It has further been provided that the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. The erstwhile Standing Committee on Urban and Rural Development in their Eighth Report on the Land Acquisition Act, 1894 had recommended that a copy of the notification in English, Hindi and the concerned regional language should be affixed in the Tehsildar's Office/Gram Panchayat's/Patwari's office in order to remove those complications which might arise due to inadequacy of means of communications, especially, in remote areas. The Committee had also recommended that the affected person must also get a copy of the notification by a registered post.

4.18 When asked whether the Department had considered the aforesaid recommendation of the Committee, the Committee have been informed that the aforesaid recommendation of the Committee was considered before proposing the amendments to the LA Act, 1894. Serving notification on individuals would require information on holders of land titles, which may not be possible at this stage. Further, the process of establishing legal titles to land is a quasi-judicial process and is governed by section 9(3) of the LA Act.

4.19 Section 4 (1) of the Principal Land Acquisition Act, 1894 states that publication of preliminary notification shall be published in the Official Gazette and in two daily newspapers including atleast one in regional language. Further, it has been mentioned that the Collector

shall cause public notice of the substance of such notification to be given at convenient places in the said locality. R&R Bill, 2007 also addresses to the aforesaid area. In that Bill, it has been mentioned that every declaration shall be published in atleast three newspapers two of which shall be in local vernacular having circulation in villages or areas likely to be affected. It has further been mentioned that a copy of the notification may be affixed on the notice board of the concerned Gram Panchayats or Municipalities and other prominent place or places in the affected area as well the resettlement area.

**4.20 The Committee consider the recommendation made by the erstwhile Standing Committee on Urban and Rural Development in their 8th Report (Tenth Lok Sabha) whereby it has been recommended that the person affected due to the land acquisition must get a copy of the notification by registered post. After due deliberations, the Committee note that the aforesaid suggestion is not practical, keeping in view, the fact that the land records are not updated regularly and it may be really difficult to find out the real name of the owner of the properties which are going to be acquired from the Registrar Office in urban areas and Revenue Offices in rural areas. In view of this, the Committee feel that the details of the property *viz.* khasra numbers in rural areas and quarter number in urban areas should at least be identified and widely publicized through prominent local English, Hindi and regional language newspapers. Besides, the Committee reiterate the recommendation of the earlier Committee that a copy of the notification in English, Hindi and the concerned regional language should be displayed in the Tehsildar Offices/Gram Panchayat Offices in rural areas and Municipality Offices in urban areas in order to remove the complications which might arise due to inadequacy of communicating the intent of acquisition through notification especially in hilly, tribal and remote areas.**

**4.21 The Committee would also like to recommend that the aforesaid provision of due publicity of the notification should also be made applicable in cases where the appropriate Government acquire land for private companies for setting up projects of public purpose.**

**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.**

**E. Suitable placement of proviso to Section 4 of the Principal Act**

4.23 The detailed reading of the Principal Act indicates that Section 4 deals with preliminary investigation followed by Section 5 and 5A, which relate to payment of damages and hearing of objections. Further, Section 6 deals with the declaration of the intended acquisition. Clause 9 of the Bill seeks to insert provisos related to declaration in Section 4 of the Principal Act. In this regard, it may be pointed out that whereas the proviso relates to declaration which has to be made under Section 6, the amending legislation propose to insert it after Section 4 which deals with preliminary investigation which does not seem to be proper.

4.24 When asked whether the provisos as indicated in clause 9 of the Bill should be inserted in Section 6 of the Principal Act suitably, particularly, when the provisos relate to issue of fresh notification where no declaration is made consequent upon the issue of a notification which has been dealt with under Section 6 of the Act, the Department has stated that this is a drafting issue, and the Law Ministry may be requested to take position on the same.

4.25 The Department of Legislative Department in this regard has clarified that the provisos proposed in section 4(1) (clause 9 of the Bill) intend that no fresh notification shall be issued for a period of one year in respect of the same land and no proceedings to be initiated for five years if the notification issued under sub-section (1) lapses for the second time. Section 4 of the Land Acquisition Act, 1894 relates to issuing of the preliminary notification with regard to intention of acquisition of land. As such, the provisos proposed to be inserted therein provides for a bar with regard to issue of the declaration/ notification under section 6 of the said Act, where no notification under that section is issued within a period of one year from the date of

impugned notification under section 4, and as a corollary to it the said preliminary notification would lapse. Thereafter, as per the provisos no second notification for the same land under section 4 can be issued by the Government for a period of five years. Since the provisos provide a time frame with regard to continuance of the notification made under section 4, and as such may appropriately be provided in section 4 (1) only as reversal prior to the intent notification upon the failure of declaration notification under section 6.

**4.26 The Committee consider the advice of the Legislative Department that the provisos proposed in Section 4 (1) (Clause 9 of the Bill) provide a time frame with regard to continuance of the notification made under section 4, and as such may appropriately be provided in section 4 (1) only as reversal prior to the intent notification upon the failure of declaration notification under section 6 and feel that the existing position in the Land Acquisition (Amendment) Bill, 2007 is appropriate.**

#### **F. Period for hearing objections to the acquisition of land**

4.27 As per Section 5A (1) of the Bill, any person interested in any land which has been notified under Section 4, sub-Section 1 can object to the acquisition of land or notification thereof within 30 days from the date of publication of the notification. When asked whether the aforesaid period is sufficient particularly in view of the fact that a large number of people may not be aware and informed of this notification in this regard, the Department has informed that the aforesaid Section of the principal Act has not been touched by the proposed amendment Bill. However, the Committee may take a view on this aspect. Further, the erstwhile Standing Committee on Urban and Rural Development in their 8th Report (Tenth Lok Sabha) had recommended that one-month time must be counted from the date of the receipt of the copy of the notification by the affected person.

**4.28 The Committee find that as per the provisions made in the Principal Act, 30 days time period from the date of publication of the notification has been provided for the affected person to object to the acquisition of land or notification thereof. The Committee feel that the aforesaid period is not sufficient and would like to recommend that the period of 30 days should be increased to 60 days. As such the desired amendment should be made in the proposed legislation.**

## G. Definition of 'public purpose'

4.29 Comparative position of the definition of 'public purpose' as per the Principal Act of 1894 [Section 3 (f)] as per the amending legislation [Clause 5 (v) (f)] of the Bill is given as under:—

Provision as per the Principal Act	Provision as per the 'Land Acquisition (Amendment) Bill, 2007'
1	2
Section 3(f)	Clause 5(v)(f)
The expression "public purpose" includes—	Clause 5(v) for clause (f), the following clause shall be substituted, namely:—
(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;	'(f) the expression "public purpose" includes,—
(ii) the provision of land for town or rural planning;	(i) the provision of land for strategic purposes relating to naval, military and air force works or any other work vital to the State;
(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;	(ii) the provision of land for infrastructure projects of the appropriate Government, where the benefits accrue to the general public; and
(iv) the provision of land for a corporation owned or controlled by the State;	(iii) the provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy per cent but the remaining thirty per cent of the total area of land required for the project as yet to be required.'
(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;	<i>Explanation.</i> —The word "person" shall include any company or association or body of individuals, whether incorporated or not;
(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored	(vi) after clause (f), the following clause shall be inserted, namely:—

by Government or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a state, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate Government, by a local authority;□

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for companies;

Section 3(e)

The expression “Company” means—

(i) a company as defined in section 3 of the Companies Act, 1956 (1 of 1956), other than a Government company referred to in clause (cc);

(ii) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc);

(iii) a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State, other than a co-operative society referred to in clause (cc);

‘(ff) the expression “infrastructure project” shall include,—

(i) any project relating to generation, transmission or supply of electricity;

(ii) construction of roads, highways, bridges, airports, ports, rail systems or mining activities;

(iii) water supply project, irrigation project, sanitation and sewerage system; or

(iv) any other public facility as may be notified in this regard by the Central Government in the Official Gazette.’.

Explanation.—The word “person” shall include any company or association or body of individuals, whether incorporated or not;.

4.30 Various experts who appeared before the Committee/ submitted memoranda were of the view that the definition as per the Principal Act was more detailed. The views have also been expressed that the clause 5(v)(f)(iii) of the Bill which includes acquisition of land for any other purpose useful to the general public is very vague and can be misused. Some of the experts were also of the view that the previous definition was much better and should be retained.

4.31 Whereas the word 'companies' has been deleted from the LA Act, a provision has indirectly been made to acquire 30 per cent of the total area of the land required for the project for 'public purpose' in the case where the private company has purchased land to the extent of 70 per cent under lawful contract. The explanation to clause 5 (v) provides that the word 'person' shall include any company or association or body of individuals, whether incorporated or not. In this regard, various experts who appeared before the Committee/ submitted written memoranda were of the view that the aforesaid provision would in other way open a field for the private parties to acquire the land, particularly when the definition of public purpose as per clause 5(v)(f)(iii) is too vague. The experts have also expressed the apprehensions that even the commercial activities of certain organizations have an element of usefulness to general public, which raises a question mark on the provision of making available 30 per cent of the land to the private parties by the State Governments.

4.32 On the aforesaid issue, the Ministry of Commerce has opined that the definition of 'public purpose' could be tightened further.

4.33 Various apprehensions have been expressed by various experts and other stakeholders, who submitted memoranda/ appeared before the Committee, as under:—

- (i) Some of the experts have expressed that the aforesaid provision of providing 30 per cent of land by the Government to the companies in a way encourage the private sector to acquire more and more land and is more dangerous than the provision of acquiring land for companies in the Principal Act.
- (ii) In cases where 70 per cent of the land is acquired by private party *i.e.* the requiring body and 30 per cent is acquired by the Government for setting up public welfare project as per the clarification provided by the Government, the provisions of rehabilitation and resettlement would apply only to the involuntarily displaced persons *i.e.* up to 30 per cent of the

total area of the project. Thus, out of the total area acquired for setting up a public welfare project, the provisions with regard to social impact assessment and rehabilitation would apply only to the 30 per cent of the population and for 70 per cent of the families, seller-buyer agreement would be applicable.

Some of the experts were of the view that in the aforesaid case, the acquisition by the Government will be costlier and for private companies, it will be cheaper because the provisions of R&R Bill are not applicable to them. It can be argued that for the same project, people residing in a same area would be treated differently as regards the issue of rehabilitation and resettlement packages, which may create contradictions and frictions.

- (iii) Various apprehensions have further been expressed by the experts with regard to 70:30 criteria of acquisition of land. It has been argued that once the 70 per cent of the land is acquired by the requiring body for a project, the market price of the surrounding area will artificially increase. As such when the Government would acquire the 30 per cent of the land, the market price would be higher which may deprive the persons who had agreed to sell their land on a 'willing seller-willing buyer' basis to the price of land, which the Government would pay to the remaining 30 per cent. Thus, the benefits provided to two sets of affected families would be quite different.
- (iv) As per the clarification given by the Department, the provisions of the R&R would apply only to the involuntarily displaced. Thus, the SIA clearance shall be necessary for the land acquisition by the Government (up to 30 per cent of the total area of the project) if it involves involuntary displacement of the prescribed number of families. For 70 per cent of affected families, in whose case the land is acquired on willing seller-willing buyer basis, SIA will not be done.

4.34 Further Clause 21 of the Bill provides that Part VII of the Principal Act relating to acquisition of land for companies (Sections 38A to 44B) (both inclusive) shall be omitted. Part VII of the Principal Act is given below.

38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an

association of individuals and not being a Company, desiring to acquire land for the erection of dwelling-houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 4, 5A, 6, 7 and 50 shall be interpreted as references also to such concern.

39. The provisions of sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive) shall not be put in force in order to acquire land for any company under this part, unless with the previous consent of the appropriate Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

40. (1) Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under section 5A, sub-section (2), or by an enquiry held as hereinafter provided—

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the Company or for the provision of amenities directly connected therewith; or

(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or

(b) that such acquisition is needed for the construction of some work and that such, work, is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the appropriate Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure, 1908 in the case of Civil Court.

41. If the appropriate Government is satisfied after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40 that the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40, it shall

require the Company to enter into an agreement with the appropriate Government providing to the satisfaction of the appropriate Government for the following matters, namely:—

- (1) the payment to the appropriate Government of the cost of the acquisition;
- (2) the transfer, on such payment, of the land to the Company;
- (3) the terms on which the land shall be held by the Company;
- (4) where the acquisition is for the purpose of erecting dwelling-houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling-houses or amenities shall be erected or provided;
- (4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which and the conditions on which, the building or work shall be constructed or executed; and
- (5) where the acquisition is for the construction of any other work the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Official Gazette, and thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

43. The provisions of section 39 to 42, both inclusive, shall not apply and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land of any Railway or other Company, for the purposes of which, under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, the Central Government or any State Government is or was bound to provide land.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

44A. No Company for, which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

44B. Notwithstanding anything contained in the Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company.

*Explanation.*—“Private company” and “Government company” shall have the meanings respectively assigned to them in the Companies Act, 1956.

4.35 As per Clause 5 (v) of the Bill, ‘public purpose’ includes the provision of land for strategic purposes relating to naval, military and air force works or any other work vital to the State. The Ministry of Home Affairs has submitted that entry of Seventh Schedule of the Constitution of India mentions Navy, Military and Air Force; and other armed forces of the Union as a Central subject. It is therefore felt that the relevant clause in these bills should make a specific mention of “Armed Forces of the Union” in addition to Navy, Military and Air Force as is mentioned in the Constitution. Otherwise vital requirements of the Central Para military Forces (CPFs) which are primarily responsible for internal security and guarding the frontiers of the country will be open to interpretation of the Land Acquisition process on each occasion.

4.36 The Department of Land Resources has agreed with the view of the Ministry of Home Affairs.

**4.37 The Committee find that although the proposed amending legislation omits the word ‘company’ from the Principal Act, the 70:30 criteria as stated above in a way would help the company or association or body of individuals to acquire land for the public purpose projects. This clause has widely been debated by various experts and other stakeholders. The details of the apprehensions expressed by the experts and various stakeholders as emerged during the deliberations of the Committee have been given in the preceding paras. The Committee considered the proposed amendment with regard to public purpose in detail during the various sittings of the Committee. This clause was further deliberated exhaustively while undertaking clause by clause consideration of the Bill. The conclusions arrived during the deliberations are as under:—**

- (i) The criteria of acquiring land for private company where 70 per cent of the land is acquired by private company

*i.e.* requiring body for setting up public welfare projects is contradictory particularly in view of the clarifications given by the Department whereby it has been stated that the issues with regard to rehabilitation and resettlement for 30 per cent of the population would be taken care of by the appropriate Government and for 70 per cent by the private company. Further, Social Impact Assessment Study would be done for 30 per cent of the families for which appropriate Government is acquiring land. Thus, the benefits provided to two sets of families would be governed by different criteria and would result in contradictions and frictions in families living in the same area.

- (ii) The provisions made under Clause 5 (v)(f)(iii) which includes 'any other purpose useful' to the general public for declaring a project as public purpose gives too much discretion to the appropriate Government and can be interpreted favourably to give benefit to a particular person/company. The earlier definition of public purpose was more detailed and did not provide any such discretion to the appropriate Government.
- (iii) Part VII of the Principal Act provided certain conditionalities and details of the agreement of the company with appropriate Government and as such was more exhaustive, detailed and conditional whereas the new definition provides too much liberty.

4.38 The Committee find that land is acquired by the appropriate Government for setting up public purpose projects. Sometimes the appropriate Government help the private body in acquisition of land for setting up public purpose projects. 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 tightened the definition of public purpose by putting some of the conditionalities. In view of this, the Committee unanimously decided not to agree to the proposed definition of

public purpose as per Clause 5 of the amending legislation. The Committee after deliberations unanimously 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.

4.39 While recommending to retain the earlier definition alongwith Part VII (clause 38A to 44B) of the Principal Act the Committee deliberated further on the aforesaid provisions in the Principal Act in the light of the various reservations expressed by various quarters which include the various Union Ministries. As such the Committee decided to retain the existing definition of public purpose alongwith Part VII as per the Principal Act with some of the modifications, the details of which are given in the succeeding paras.

4.40 In the existing position as per the Principal Act, the provision of land for strategic purposes has not been included in the definition of public purpose whereas in the amending clause it has specifically been provided. Since strategic purpose is the foremost need for the acquisition of land, the Committee after considering the suggestions of the Ministry of Home Affairs as stated above would like that the following should be added in the existing details of the public purpose in the Principal Act.

*“The provision of land for strategic purposes relating to naval, military, air force and armed forces of the union or any other work vital to the State.”*

4.41 Further, Section 3(f) (vi) of the Principal Act provides as under:—

*“the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a state, or a co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State”*

The Committee note that the word ‘housing’ in the aforesaid section is too liberal and includes the acquisition of land for private company for the purpose of building posh high income group residential premises as well as posh colonies/residential complexes

by the private builders. In view of this the Committee would like that the word 'housing' should be replaced by 'housing for lower and middle-income groups' in the aforesaid section.

4.42 Further, Section 3(f) (vii) of the Principal Act provides as under:—

“the provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate Government, by a local authority”

The Committee note that the aforesaid provision provide too much discretion to the appropriate Government. The Committee feel that only the acquisition of land for any Centrally sponsored/State Sector Scheme of the Union Government as well as the State Government's social welfare Schemes should be included for the purpose of acquisition of land by the Government.

4.43 The Committee, therefore, recommend to the Government to retain the existing definition of public purpose as given in Section 3(f) of the Principal Act alongwith Part VII (clause 38A to 44B) with the modifications as suggested above.

4.44 The Committee while deliberating the definition of public purpose have found that at times the Government helps the companies in acquisition of land for a particular public purpose project say hospitals or schools. After sometimes definition of public purpose for which the private company was assisted in the acquisition of land is changed. The Committee feel that allowing such change of the public purpose defeats the very purpose of acquisition of land. As such change of the purpose should not be allowed. The Committee further find that while helping the private companies in acquiring land for a public purpose, the appropriate Government fixes some conditionalities. Such conditionalities should not be allowed to be changed subsequently. The Committee recommend that suitable provisions should be made in this regard either in Part VII or appropriately in the amending legislation.

#### H. Social Impact Assessment Study

4.45 As per clause 8 of the Bill, social impact assessment study is mandatory for all projects involving physical displacement beyond the defined threshold *i.e.* 400/200 families *en masse* in plain and 200 in hilly, tribal, scheduled areas.

4.46 Different Ministries have given different views on the number of families as given in Clause 8 for making the social impact assessment study mandatory:

Ministry	Suggestion
Ministries of Panchayati Raj and Tribal Affairs	<p>The Ministry had suggested that for the areas governed by PESA the aforesaid limit of 200 households should be flexible so that the entire habitation is covered even if it were to be below the prescribed limit of 200 families. Various arguments substantiating aforesaid suggestion have been given by the Ministry—</p> <ul style="list-style-type: none"> <li data-bbox="772 860 1228 1144">(i) The pattern of habitation in PESA areas is different from the plains and there is a lesser population contained in their Panchayats. There would be at an average about 5000 persons in a Panchayat in Jharkhand while there would be about 1500 persons, in Chhattisgarh. This figure varies from State to State.</li> <li data-bbox="772 1173 1228 1491">(ii) Under the Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996. "A village shall ordinarily consist of a habitation or a group of habitations comprising a community and managing its affairs in accordance with traditions and customs." Ordinarily, tribal habitations are scattered and would comprise 30-40 households.</li> <li data-bbox="772 1520 1228 1615">(iii) In areas inhabited by primitive tribes, the number of households would be significantly less.</li> <li data-bbox="772 1644 1228 1872">(iv) The Ministry would, therefore, suggest that for the areas governed by PESA, the aforesaid limit of 200 households should be flexible so that the entire habitation is covered even if it were to be below the prescribed limit of 200 families.</li> </ul>

4.47 All the experts who tendered evidence/submitted memoranda were of the view that the limit of families for SIA study as given above is too large particularly in hilly/difficult/tribal areas. The experts were of the view that social impact assessment study should be done irrespective of the number of families displaced for a particular project.

4.48 On the other hand, the Ministry of Urban Development has suggested to increase the limit to 1000 families in the context of metro cities *i.e.* a city like Delhi. The Department of Telecommunication was of the view that the aforesaid threshold can be increased. When asked about the basic criteria for fixing the aforesaid limit of prescribed number of families, the Department has clarified that the criteria for aforesaid limit of 400 in plain and 200 in hilly/difficult/scheduled areas for mandatory social impact assessment was fixed after consultations with various Ministries including Ministry of Tribal Affairs. This number of 400/200 for social impact assistance has been taken from the National Rehabilitation & Resettlement Policy 2007, duly notified in the official Gazette on 31 December, 2007. The draft policy was circulated to various Ministries/Departments of Government of India including Ministry of Urban Development. However, no comment was received from the Ministry of Urban Development.

4.49 The State Government of Goa has suggested that it would be appropriate that State Governments should be given the option to make social impact assessment study even for smaller projects.

4.50 When the opinion of the administrative Department was sought on the concerns expressed by various stakeholders as well as Union Ministries, it has agreed to review its stand. The Department has suggested that the Standing Committee of the Rehabilitation and Resettlement at the district level proposed in R&R Bill, 2007 may be empowered to decide the limit of number of families for the purpose of Social Impact Assessment for various projects.

**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.**

4.52 Ministries of Railways, Defence and Road, Transport and Highways have suggested to exempt their projects from social impact assessment study. Clause 8 of the R&R Bill already prescribes that the projects involving emergency acquisition of minimum area of land by the Central Government 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.

4.53 The Ministry of Road, Transport and Highways has stated that their projects are of linear nature which require acquisition of only a narrow strip along highways. Consequently, there is no *en masse* displacement of population as compared to large scale projects concentrated in a particular area. The Ministry of Railways has also requested to exempt their linear project from SIA.

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.

#### **I. Determination of Market Value of Land**

4.56 As per the principal Act, (section 11 (1)(ii)) states that the Collector shall make an award for the compensation which in his opinion should be allowed for the land.

4.57 Clause 13 of 'The Land Acquisition (Amendment) Bill, 2007' seeks to insert Section 11B in the Principal Act. The aforesaid clause provides the following with regard to the determination of market value of land:—

"11B.(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land,—

- (i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or
- (ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years, where higher price has been paid; or
- (iii) the average of the sale price, ascertained from the prices paid or agreed to be paid for not less than fifty per cent of the land already purchased for the project where higher price has been paid, for the purpose of item (iii) of clause (f) of section 3, whichever is higher.

(2) Where the provisions of sub-section (1) are not applicable for the reason that:

- (i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or
- (ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or
- (i) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority, the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years where higher price has been paid, and the Collector may calculate the value of the land accordingly.

(3) The Collector shall, before assessing and determining the market value of the land being acquired under this Act,—

- (a) ascertain the intended land use category of such land; and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity, for the purpose of determination of the market value of the land being acquired.

(4) In determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, the Collector may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the Collector.

(5) The Collector may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the Collector may utilise the services of experienced persons in the field of agriculture as he considers necessary.

4.58 The comments of the various Ministries on the aforesaid criteria of market value of land along with the reaction of the nodal Department on the suggestions are as under:—

Name of the Ministry	Suggestion	Comments of the Nodal Department
1	2	3
Urban Development	The criteria for assessing and determining the market value of land should be the average of the sale price for similar type of land situated in the village for vicinity ascertained from not less than 50 per cent of the sale deeds registered during the preceding three years, where higher prices have been paid. This should be made applicable to urban areas.	Agreeable

1	2	3
Agriculture	<p>The normal practice of looking at market price base and its statistics can be totally inadequate and inequitable. The value of land to the farmer has both tangible and intangible aspects. Further, the value of the land is much more than the recorded in the market value. It opens up wide opportunities. The farmer is deprived of this potential and benefits simply because the rate of compensation and fund valuation process does not capture the future potential of enhanced value of land. We are trying to take that. Even if we give the liberal compensation that may not capture the potential value of land because once developed its value is much higher. So, a minimum should be put in place so that the farmer gets the benefit because the potential have been realized in future.</p>	<p>The aim of the proposed provisions is to give the land owner the best possible value for his/her land. The requirement that private parties must purchase 70% or more of the total area required through voluntary sale and purchase, and only then they can approach the Government for the remaining 30% or less of the total land needed, is one such provision. Another provision in this direction is the requirement that the intended category of use of the land being acquired shall be taken into consideration in fixing the value of the land. The suggestion that a minimum land value to be fixed by the Government should be the criteria, is also there at proposed sections 11B(1)(i) and 11B(2)(iii).</p>
Tribal Affairs	<p>Clause 13 dealing with the determination of market value of land to be acquired must include the parameters related with Net Present Value of land and the opportunity cost, which is not there at present.</p>	<p>The NPV and opportunity cost calculation may not always be accurate, because these calculations are based on many assumptions. Also, particularly in the case of acquisition of agricultural land, the NPV calculation may not always give a better deal to the land owner. Therefore, a provision has been made that the intended category of use of the land being acquired shall be taken into account in determining the value of the land.</p>

4.59 Various experts who deposed before the Committee/submitted memoranda have given various suggestions with regard to the market value of the land formula as proposed under Clause 13 of the Bill. Almost all the experts were unanimous in the view that the affected persons should also get the share in the enhanced value of the land acquired due to change in the land use. On the averaging criteria as given under clause 2 (i) of the proposed Section 11 (b) of the Act various views have been expressed. Some of the experts were of the view that the average of the sale deeds registered during the preceding one year should be taken into consideration.

4.60 Another view expressed was that instead of less than 50 per cent of the sale deeds it should be of the highest sale deeds to the tune of 25 per cent. On this the administrative Department has stated that the proposed provision in the amending legislation seem to be adequate.

4.61 The State Government of Puducherry has further given the following suggestion:—

“Sub-section (i) of Section 11 B of the Bill provides for adopting the minimum land value specified in the Indian Stamp Act, 1899 for registration of sale deeds as the criterion for assessing and determining the market value of the land. The minimum land value register maintained for the purpose of collecting stamp duty under the provisions of the Indian Stamp Act, is often not updated or updated after long intervals of time. The minimum land values should be updated periodically every year. If it is not updated, the last such minimum land value in the register may be updated on cost index basis or through similar other mechanism. A proviso to this effect is suggested under sub-Section (i) of Section 11 B of the Bill.

Sub-section (ii) of Section 11 B of the Bill provides for taking the average sale price of similar type of land situated in the village ascertained from not less than fifty per cent of registered sale deeds during the preceding three years. A clarification is needed that average sale price is not the average of unit price of different transactions. It is a common experience that land owners sell and register documents showing higher market values for small parcels of land to push up average sale price. The ‘modal average’ or ‘weighted average of land price and area’ may reflect a more realistic market price of land.”

On this the nodal Department has stated that the suggestion is agreeable.

4.62 The erstwhile Standing Committee on Urban and Rural Development in their earlier report had also recommended that the increasing value of land during the years which are taken into consideration for average value of the sale deeds should also be taken into consideration while granting compensation. The nodal Department in this regard has stated that this suggestion shall be taken care, once the changes are made as per the suggestions of the Government of Puducherry.

4.63 Further Clause 11 B (3)(a) of the Bill states that the Collector shall before assessing and determining the market value of the land being acquired under the Act ascertain the intended land use category of such land. The experts have stated that a clarification to the intended land use is required clearly specifying whether the intended land use means the purpose of the acquired land by the appropriate Government/requiring authority or the use as is permitted under the building regulation in force. Some of the experts have also stated that the provision of intended land use may make the valuation process subjective and speculative.

4.64 The Standing Committee in the earlier report had also referred to the valuation of compensation of land according to the special features of the land. In this regard, some of the recommendations are reproduced below:—

1.35 The Land Acquisition Manual of all the State Governments have envisaged that the cost of land should include the cost of the properties attached to it and while evaluating the cost of land and other properties, State Governments have been following the guidelines contained in their manual and the executive instructions issued to them from time to time.

1.37 As regards the valuation of compensation of land under Land Acquisition Act, it has been observed by the Committee that in some of State Government's manuals, it has been stated that owners of trees may be given the option of cutting them down instead of receiving compensation for them. The Committee are of the view that there are certain trees which are in a pre/bearing stage but have

timber value. They feel that this is quite unjustifiable that a farmer, who has planted trees which acquire timber value after 10 to 20 years and if in the meantime the Government acquires land under Land Acquisition Act by completing entire proceedings, will not get any compensation for the labour and other expenditure incurred by him/her for planting such trees. Similarly, there are trees for example fruit bearing trees e.g. coconut, sindhi, rubber, tea, coffee etc. which do not have any timber value, but involve lots of labour and expenditure for planting and rearing are not taken into account while deciding about compensation.

- 1.38 It has also been observed by the Committee that there are some non-agricultural land which do not have any agricultural value but may have mineral resources with immense economic value underneath. The Committee observe that this factor is not taken into account while evaluating non-agricultural land for the purpose of granting compensation.

In order to provide judicious compensation to the land owner, the Committee would like to recommend that while evaluating land for the purpose of deciding compensation, the Acquisition Officer shall take into account all these factors. While evaluating all the above mentioned factors the concerned authority must consult Departments of Agriculture, Horticulture, Forest and Irrigation etc. some uniform modalities, guidelines should also be issued by the Ministry of Rural Development to the State Governments so that no area of compensation should be left unassessed. Any benefit which might accrue from those trees subsequent years should also be taken into consideration.”

4.65 Some of the experts have also stated that there should be some criteria to compensate the unique feature of a land. A suggestion has also been made to involve the services of professional like assessors for determining the special feature of an area so as to give the proper compensation to the affected person. On this, the Department has stated that the aforesaid recommendations of the Committee have been duly considered before bringing the amendments to the LA Act, 1894. Clause 13 of the proposed Bill prescribes scientific method for determining the market value of the land, buildings, immovable property and other assets attached to the land.

4.66 The Committee find that besides public purpose, the other most debated clause of the Land Acquisition (Amendment) Bill, 2007 was the market value of land. The concerns expressed by various Union Ministries/State Governments of Puducherry and experts were considered in detail at the various sittings of the Committee. Further the issue was debated threadbare while undertaking the clause by clause consideration of the Bill by the Committee. The Committee noted that the value recorded in the registered sale deeds is generally far less than the actual market value since the usual tendency of a buyer is to indicate lesser price to save the stamp fee/registration fee. Further the Committee could not agree to the principle of averaging since by adopting this formula also the affected person could not be compensated adequately.

4.67 The Committee also considered the suggestion of the Ministry of Tribal Affairs to include the parameters related to net present value of land and the opportunity cost. However, in view of the clarification given by the administrative Department that the NPV and opportunity cost calculation may not always be accurate, primarily being based on many assumptions and also the fact that NPV calculation may not always give a better deal to the land owner, the Committee could not agree to the said concept.

4.68 Further, the Committee also considered the suggestion of the State Government of Puducherry to adopt Modal Average or the Weighted Average of land price and area and found from the calculations done by the State Government as given in Appendix-VII that by the Weighted Average the average sale price comes far lesser than the simple average. As such the Committee could not agree to the aforesaid concept suggested by the Government of Puducherry.

4.69 After detailed deliberations during the clause-by-clause consideration of the Bill, the Committee finally decided to recommend that the highest price of sale deed as indicated in the sale deeds of the last three years plus 50 per cent of the said highest price should be the criteria for assessing and determining the market value of the land. As regards the question of determining the market value of the land in the cases covered by Clause 11B(2)(i)(ii) as given below:—

“(2) Where the provisions of sub-section (1) are not applicable for the reason that:

- (i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

- (ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or",
- (iii) the average of the sale price, ascertained from the prices paid or agreed to be paid for not less than fifty per cent of the land already purchased for the project where higher price has been paid, for the purpose of item (iii) of clause (f) of section 3",

whichever is higher,

4.69A The Committee decided that in such cases the sale deeds of adjoining areas for the last three years should be taken into consideration. The highest price of a sale deed for the last three years of the adjoining area plus 50 per cent of that highest price should be the criteria in such cases. Further the Committee note that in tribal areas since the land could not be purchased by the non-tribals, tribals usually do not get adequate compensation when their land is acquired. For tribal areas, the Committee would like to recommend that the highest price of a sale deed of the adjoining non-tribal blocks/village for the last three years plus 50 per cent should be the criteria in this regard. The Committee strongly recommend that Clause 13 of the Bill which proposes to insert Section 11B in the Principal Act should suitably be changed in the light of the suggestions given above.

4.70 The Committee further do not agree to Section 11B (3) to be inserted as per Clause 13 of the Bill which provides that the Collector shall before assessing and determining the market value of the land ascertain the intended land use category of such land and take into account the value of the land of the intended category in the adjoining areas or vicinity in the light of the views given by the experts that the intended land use may make the valuation process subjective and speculative. As such the Committee recommend that the aforesaid clause should be deleted from the Bill.

4.71 The Committee further considered Section 11B (4) proposed to be inserted by Clause 13 of the Bill. They recommend that the use of word 'may' in the aforesaid Clause should be changed to 'shall' to make the provisions more effective. Further, the word 'as may be considered necessary by the Collector' as appearing at the end of the Clause should be deleted.

4.72 The Committee considered the Section 11B (5) to be inserted by the proposed Clause 13. The Committee again recommend that the use of word 'may' should be changed by 'shall' and the last words as appearing in the Clause 'as may be considered necessary by the Collector' should be deleted. Similarly for Section 11B (6), the Committee recommend to substitute the word 'may' by shall. The Committee feel that besides the services of experienced persons in the field of agriculture, the specialists from other relevant fields should also be taken for the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings and as such recommend that 'specialists from other relevant fields' should be added after the words 'in the field of agriculture' in the said Clause.

4.73 The Committee further find that sometimes appropriate Government acquire the land for a public purpose and the land use of that land is changed which results into several times hike of the price of that land. Whereas the people residing in the surrounding areas are greatly benefited by the project that is set up on the acquired land, the persons whose land is acquired for setting up the project do not get any portion of the resultant hike due to the acquisition. The Committee feel that some share of the resultant hike due to land acquisition should also go to the persons on whose land the specific project is set up. In view of this, the Committee recommend that provisions should be made to give some sort of extra monetary benefits to the affected person/family in such cases. The nodal administrative Department should consider the aforesaid recommendation of the Committee and make appropriate provision in the amending legislation after consultation with the Ministry of Law & Justice.

#### **J. Part payment of compensation by shares/debentures etc.**

4.74 As per Clause 11 (c) of the amending legislation, the acquiring body is authorized to issue shares and debentures to the extent of 50 per cent, but in any case not less than 20 per cent of the compensation amount to be paid to the person whose land has been acquired. Various experts have expressed strong concerns over the payment of compensation by the companies by shares and debentures particularly when the affected person is illiterate and do not know how to make transaction in shares and debentures. Further in cases where the company is running on losses or do not have good standing the compensation by way of shares and debentures should be misleading. The experts have suggested that the payment of shares

and debentures should be over and above the compensation provided under LA and R&R legislations.

4.75 Various Ministries who furnished views/appeared before the Committee have given divergent views use on the aforesaid provision. The Ministry of Defence has stated that most of the Defence PSUs and Ordnance Factories are 100 per cent owned by the Government. It would be inadvisable to dilute the ownership pattern in such PSUs and Ordnance Factories. Secondly, Defence PSUs and Ordnance Factories have security implications and giving shares to Project Affected Families would not be desirable.

4.76 The Ministry of Power has further stated that the Government companies should be excluded from the provision, which mandates allotment of shares and debentures to the affected parties. The Ministry has also stated that in case of Government owned companies implementing these provisions it would amount to a disinvestments decision.

4.77 The State Government of Puducherry has raised another issue whereby they have suggested that the shares should be allotted at face value.

4.78 The nodal Department has responded to the aforesaid issues raised by various Ministries, experts and State Governments of Puducherry as under:—

“The provision of shares or debentures has been taken from the National Rehabilitation & Resettlement Policy 2007, duly notified in the Official Gazette on 31 October, 2007. The draft Policy was circulated to various Ministries/Departments of Government of India including Ministry of Finance. The views of Ministry of Finance are as under:—

‘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.’”

4.78A The administrative Department has further stated that above suggestions of the Ministry of Finance will be taken into consideration while formulating the rules under the Bill.

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 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.

4.82 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.

**K. 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.**

4.83 The reading of the R&R Bill indicates that the issue of shares up to 50 per cent but not less than 20 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.

4.84 When the attention of the Department was drawn to the aforesaid contradiction, it has stated that the issue of shares and debentures can be made optional in the two legislations.

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 (Amendment) 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. The Committee would like that while taking the desired action, the aforesaid recommendation of the Committee should be read alongwith 4.79 to 4.82 of the report.

**L. Section 17(1) of the Principal Act – Special Powers in case of urgency**

4.86 As per the aforesaid Section, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in Section 9, sub-section (1), take possession of any land needed for a public purpose. Such land shall thereupon vest absolutely in the Government, free from all encumbrances. A suggestion in this regard has been made that the word 'urgency' may be revoked as it may widely be used by the Collector due to sweeping powers. Another suggestion has been made that the Act must contain adequate safeguards against its misuse and Section 17(1) must be deleted.

4.87 The Legislative Department in this regard commented as under:—

'Section 17 of the Land Acquisition Act, 1874 relates to the acquisition of land in case of urgency. The cases of urgency are required to be decided by the appropriate Government [section 17 (1)]. It has been left to the best judgment of the Government. Apart, it also provides that before taking over the possession, it is mandatory for the Collector to offer 80 per cent of the amount of compensation before he proceeds to take over possession of

the land. In the Bill it has also been proposed that in addition to other benefits payable under the Act, an additional compensation of 75 per cent of the market value as determined under section 11B shall be paid by the Collector. Hence, it is matter of policy.'

4.88 The nodal Department while reviewing the existing position has stated that the emergency powers may be restricted to acquisition of minimum area of land by the Central Government for the purpose of defence or national security, or the appropriate Government in cases of natural calamities requiring permanent displacement, subject to such institutional safeguards as may be prescribed for protecting the interests of the affected persons. The Department has also stated that the Law Ministry may examine these aspects.

**4.89 The Committee find that section 17(1) of the Principal Act has not been touched while bringing amendment to the Principal Act. However, since the nodal Department has agreed to review the existing position under Section 17A of the Principal Act with regard to special powers in case of urgency in the light of various reservations expressed by experts, the Committee recommend that suitable amendments to ensure the following should be made in the Bill after consulting the issue with the Ministry of Law & Justice:—**

- (i) the emergency powers may be restricted to acquisition of minimum area of land by the Central Government for the purpose of defence or national security;
- (ii) appropriate Government in cases of natural calamities requiring permanent displacement may be permitted to acquire the land, subject to institutional safeguards as may be prescribed by rules for protecting the interests of the affected persons.

#### **M. The rate of solatium**

4.90 As per clause 19 of the Bill, the rate of solatium has been proposed to be increased from thirty per centum on market value to sixty per centum on market value. Some of the experts have suggested to increase the rate of solatium to 100 per cent/150 percent. The reasons for increasing the rate of solatium has been given as:—

- (i) Registered sale deeds do not indicate the true market value;
- (ii) The World Bank Policy Research Working Paper No. 3413 has been referred by the expert whereby it has been stated

that the under statement of the value of the registered sale deeds has been stated as 50 per cent, therefore, in order to give true market value, solatium amount should be doubled; and

(iii) To compensate compulsory nature of acquisition.

4.91 The State Government of Puducherry has suggested for enhancement of solatium from 30 per cent in normal acquisitions to 60 per cent and in emergent acquisition to 75 per cent of the market value.

4.92 Contrary to the suggestion given by some of the experts Mumbai SEZ has suggested that the provision of solatium should be dropped and omitted. Keeping in view the benefits available under the proposed R&R Legislation and market price as per LA Legislation. Besides the Ministry of Transport has stated that the hike is reasonable.

4.93 When asked about the rationale for doubling the rate of solatium from 30 per cent to 60 per cent, the nodal Department has informed that

“this figure was arrived at by the GoM after due deliberations.”

4.94 Further, when asked about the comments of the nodal Department as given by experts to increase the compensation further to 100 per cent/150 per cent, they have informed as under:—

“the proposed increase in solatium to 60 per cent in the proposed Bill is appropriate.”

**4.95 The Committee note that as per the proposed amendment in the LA Bill, the rate of solatium has been increased from thirty per centum on market value to sixty per centum on market value. The Committee consider that the aforesaid enhancement is appropriate and as such approve the proposed amendment.**

#### **N. Alternate mechanism for speedy disposal of disputes**

4.96 Existing provision as per the Principal Act are as under:—

‘18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.’

4.97 Clause 17K of the Bill proposes to debar civil courts to entertain any dispute relating to land acquisition. It has clearly been stated that no injunction shall be granted by any court in respect of which the Collector or the Authority is empowered under the Land Acquisition Legislation. However, the appeals from original decrees can be made in High Court/Supreme Court, as per Section 54 of the Principal Act.

**O. Land Acquisition Compensation Disputes Settlement Authority of the State**

4.98 Clause 17A (2) provides for the constitution of more than one authority or benches that a State Government may constitute. Further Clause 17A (3) provides that the authority shall consist of not more than three but not less than two members, including the Chairperson to be appointed by the State Government. Further Clause 17A (4) and (5) prescribe for qualification of members of the authority. The aforesaid clauses are given as under:—

“(4) The Members of the Authority shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with the problems relating to land acquisition matters, public administration, finance, economics and law.

(5) A person shall not be qualified to be a Member of the Authority unless he is or has been—

- (i) a judge of a district court;
- (ii) an officer of the State Government not below the rank of District Collector;
- (iii) an officer of the State Government in the Law Department not below the rank of Director.”

**P. Land Acquisition Compensation Disputes Settlement Authority for the Centre**

4.99 As per Clause 17L (3), the aforesaid authority shall consist of a Chairperson and not less than two members to be appointed by the Central Government. The qualification of member of the authority as per Clause 17L (4) is as under:—

“(4) A person shall not be qualified to be a Member of the Authority for the Centre unless he,—

(i) is or has been a Judge of a High Court; or

(ii) has for at least fifteen years held any Legislative or Legal post of the Union and a post in the Grade II of the Indian Legal Service for at least three years; or

(iii) a person who is or has been a member of the Indian Administrative Service having sufficient knowledge of land acquisition and has held the post of Collector of a district and a post equivalent to a Joint Secretary in the Government of India:

Provided that no appointment of a sitting Judge under clause (i) shall be made except after consultation with the Chief Justice of the High Court concerned."

4.100 Almost all the experts were against debarring civil courts. The provisions with regard to the establishment of authorities, one for the Centre and one for the State have differently been objected by different stakeholders.

- (i) The members of the authority shall be appointed by the State Government/Union Government. It has been apprehended that the political reasons, favouritisms, castism would worsen the appointment of the members and there is no representation of any judicial member.
- (ii) The retirement age as 67 years indicates that all the retiring persons would be the members of the aforesaid authorities.
- (iii) The proposal for appointment of an officer not below the rank of District Collector would show that the reference would be from the award to the Collector which would give rise to dissatisfaction amongst the land owners.

4.101 The nodal Department has stated that a member with judicial background is already provided for and the award of the Collector would be referred to the authority as a body and not to a person. On the issue of retirement age, the Department has clarified that the provisions provides for an upper age limit and not debar the appropriate Government from appointing any younger person as a member of the authority.

4.102 Further, the Ministry of Tribal Affairs has stated that there is no representation of local Government in the Land Acquisition Compensation Dispute Settlement Authority. To this, the nodal Department has informed that the Land Acquisition Compensation

Disputes Settlement Authority is a quasi-judicial authority, so only persons experienced in revenue administration and law may be appointed as members of the Authority.

4.103 The Committee note from the Statement of Objects and Reasons that the Land Acquisition Compensation Disputes Settlement Authorities at the Centre and State level have been proposed as an alternate mechanism proposed to be created for the disposal of disputes which remain pending in the courts of law. By creating this alternate judicial mechanism civil courts have been debarred to entertain any dispute relating to land acquisition. However, the appeals from original decrees can be made in High Court/Supreme Court as per Section 54 of the Principal Act. The Committee after detailed deliberations decided to approve the aforesaid alternate dispute redressal mechanism and hope that it would result in settlement of large number of pending cases and would also help in settlement of disputes related to land acquisition in a time bound manner.

4.104 The Committee further note that as per the proposed Bill, the Acquisition Compensation Disputes Settlement Authority at the State level shall consist of not more than three members but not less than two members including Chairperson to be appointed by the State Government. Further, the aforesaid Authority for the Centre shall consist of Chairperson and not less than two members to be appointed by the Central Government. After deliberations, the Committee decided that the authority at the State as well as Central level should consist of at least three members including Chairperson. The requisite amendments should accordingly be made in the amending legislation.

4.105 The Committee further note that as per the provisions made under the legislation, no member of the Centre and State Authority shall hold office as such after he has attained the age of 67 years. After deliberations, the Committee recommend that the retirement age should be reduced from 67 years to 65 years.

#### **Q. Reversion of acquired land, if not utilized**

4.106 Clause 22 of the Bill provides for insertion of Section 54A, according to which the land acquired shall not be transferred to any other purpose except for a public purpose and when any acquired land or part thereof remains unutilized for a period of five years from the date of taking over the possession, the same shall return to the appropriate Government by reversion. Most of the experts have

welcomed this provision in principle. Some of the Ministries have reacted to the aforesaid provision in the context of the activities of their Ministry. The concerns of some of the Ministries are given below:—

S. No.	Name of the Ministry	Comments
1	2	3
1.	Ministry of Railways	For mega projects, gestation period is much larger and period of 5 years for non-utilization is too short. In respect of Railway Projects, land is acquired considering a future growth period. Wherever Railway systems are established, growth of cities and towns follows and it may not be possible to acquire land subsequently for expansion needs. As appropriate and comprehensive rehabilitation/ resettlement package including compensation is envisaged to be provided for in the proposed amendment bill, this clause along with sub-clause for sharing with landowners the difference in price of a land in the event of transfer to other person may not be applied for land acquired for Government purposes.
2.	Ministry of Power	There are some apprehensions on the applicability of Clause 22 for projects with long gestation period (exceeding 5 years), on account of planned future expansions, the definition of unutilized land etc. While the objective of expeditious development of project and the intended utilisation of the acquired land is appreciated, there are several genuine concerns relating to project delays on account of geological

1	2	3
		surprises, prolonged litigation etc. which need to be excluded from these provisions.
3.	Department of Telecommunications	The Department of Telecommunications is also of the view that the period of five years proposed in Clause 22 for reversion to the appropriate Government may not be adequate in view of long term plan and development activities required in the telecom sector. The Telecom Sector would come under the definition of 'Infrastructure'. In view of this, a period of five years in clause 22 may be increased to 10 to 15 years. This will enable the public sector undertakings under Department of Telecommunications to acquire land and utilize it in the most efficient manner.
4.	Department of Posts	The period of five years seems to be on a lower side. The expenditure on construction of buildings is in the nature of 'Capital expenditure' and funds are allotted in the Five Year Plan for construction of Post Offices/ Administrative Offices/ Staff Quarters, etc. Construction of building requires substantial degree of coordination involving number of formalities before actual commencement of construction work relating to the building project. The construction on acquired lands is not possible within a specific time and within a Plan period. As such, 10 years may be provided for utilization of the land. On other points, the Department of Posts have no comments as these are not in its domain.

4.107 When asked for the comments, the nodal Department has stated that the time period of 5 years prescribed under the clause 22 of proposed LA Amendment Bill, 2007 is quite reasonable. Land Acquisition deeply affects the lives of concerned people. So, the acquiring bodies are expected to go for minimum land acquisitions, which can be utilized in a specific time only. In any case, since the land will revert to Government only, the Government can re-allot the land to the requiring body if it is convinced that the project period quoted by the requiring body is warranted.

4.108 Some of the experts were of the view that the acquired land, if not utilized for the specific purpose, should revert back to the owner of the land instead of the appropriate Government as suggested in the aforesaid clause of the Bill.

4.109 The Ministry of Tribal Affairs is of the view that unutilized land should be returned to the original tribal owner, not to the Government.

4.110 On this the Department has stated that reverting back the land to the original owner may not be practicable, as the original landowner has already been adequately compensated, so there is no need to revert this land to him. One of the experts has referred to an identical provision in the UP Urban Planning and Development Act, 1973. He has suggested that on similar lines provision should be made to revert back the agricultural land, if not put to use for five years, to the original owner. As regards the question of compensation already been paid to the land owner he has suggested that it can be refunded with interest.

4.111 The Department has however stated that it is not aware of the provisions made in the UP Urban Planning and Development Act, 1973. Reverting back the land to the original owner may not be practicable, as the original landowner has already been adequately compensated. Also, making such a provision can lead to misuse of the Land Acquisition Act.

**4.112 The Committee considered the request of the Ministries of Railways and Power to exempt them from the provision of reversion of acquired land. Besides, the Committee also considered the request of the Department of Telecommunication and Posts to extend the aforesaid period from 5 years to 10 years for reversion of acquired land. The Committee understand from the clarification given by the nodal Department that unutilised land in this regard would revert back to the Government only and the Government can always**

re-allot the land to the requiring body. As such, as per the existing position the Government can always review the position after five years. Keeping in view the aforesaid clarification the Committee feel that the proposed provision of reverting back the acquired land to the appropriate Government if it remains unutilised for a period of five years is appropriate.

4.113 The Committee also considered the suggestion made by experts that unused land should be returned to the original owner. After detailed deliberations, the Committee noted that the aforesaid suggestion is not practical and decided to approve the provision made in the amending legislation whereby the unused land would revert back to the appropriate Government.

4.114 The provisions made in the amending legislation provide that the land acquired shall not be transferred to any other purpose except for a public purpose and after obtaining the prior approval of the appropriate Government. During deliberations it has come out that the acquired land should be utilized for the specific purpose for which the land has been acquired. Keeping in view the fact that public purpose is very vast and due to the aforesaid provision, the appropriate Government would be at liberty to use the acquired land for any purpose coming within the definition of public purpose, the Committee after detailed consideration decided that the land acquired should be used only for the purpose it has been acquired and if not utilized for that specific purpose, it should be returned to the appropriate Government. Besides an inbuilt safeguard against acquisition of excess land should be provided at Section 4 notification stage so that the provisions of sub-Section (2) of proposed section 54-A of the LA are rarely resorted to. The desired provisions in this regard should be made in the legislation.

#### R. Large tracts of land lying unutilised with various Ministries

4.115 Various Ministries acquired the land and large tracts of land are remaining unutilized with various Ministries, some of the information collected from the various Ministries is as under:—

Ministry	Information
1	2
Railways	Information is being collected
Post	145 have not been constructed upon mainly because of constraint of fund 206108 sq. mtrs. is unutilized

1	2
Defence	Information received from DGDE has been referred to the three services for their comments  Trying to collect the exact data
Commerce	Data is not available with the Ministry
Home	All acquired land has been utilized in fact we are always short of land

**4.116 The Committee find that large tracts of land remain unutilised with various Ministries. In this regard, the Committee would like to recommend that the appropriate Government should make a clear list and repository of land unutilised. Before making notification for acquiring land in every case the respective Government should be required to certify that no acquired land at that particular time was available in that area for the particular project. Besides, the Committee would also like to recommend that the different Departments of the Union Government as well as State Governments should maintain the data with regard to unused land and indicate the same on their website for transparency.**

#### **S. Involvement of Panchayati Raj Institutions (PRIs)**

4.117 The Ministry of Panchayati Raj has made the following suggestions with regard to involvement of Panchayati Raj Institutions (PRIs) in Scheduled Areas:—

‘4(i) The Gram Sabha or the Panchayats at the appropriate level should be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-setting or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.’

‘The Ministry is of the opinion that authentication of land records must necessarily in the Gram Sabha and the Panchayats at the appropriate levels must be fully consulted as per the provisions of Section 4(i) of the PESA Act prior to the formal land acquisition proceedings for greater transparency and accuracy.’

**4.118 The Committee appreciate such assurance by the nodal Department. As such, the Committee recommend that the suggestion**

**of the Ministry of Panchayati Raj should be considered urgently and the necessary changes made in the amending legislations. Besides, utmost care should be taken to ensure that there is no contradiction between the provisions made in the amending Bill and PESA.**

**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.**

#### **T. Gender Bias**

4.120 As per clause 45(3) of the Bill, the service of the notice shall be made on the person therein named. Further, clause 45(3) of the Bill provides that when such person cannot be found the service may be made on any adult male member of his family residing with him. Various experts who appeared before the Committee have expressed concern over the gender bias in the Bill.

4.121 The nodal Department on this has agreed that the word 'adult male member' mention in section 45 (3) of LA Act, 1894 may be replaced by 'adult member'.

**4.122 The Committee find that Clause 45 (3) of the Bill provides that the service of the notice shall be made on the person therein named and when such person cannot be found, the service may be made on any adult male member of his family residing with him. The Committee take strong objection to the use of word 'adult male member' and recommend that the 'adult male member' should be replaced by 'adult member'.**

#### **U. Overriding authority of PESA**

4.123 Clause 57 of the R&R Bill states that 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. In this regard the Ministry of Environment and Forest has suggested to add Forest Conservation Act, 1980 in the bracket after except along with PESA.

4.124 Whereas specific provision in this regard giving overriding authority to PESA has been provided in the R&R Legislation, there is

no mention about this in LA legislation. When asked how the situation of conflict between the aforesaid laws would be addressed, the Department has stated that the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 have carefully been examined and there is no conflict between this Act and the proposed Bill.

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.

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

4.126 The statement showing the time period provided with regard to various provisions made in the Principal Act as well as the amending Bill 2007 is given at Appendix-VIII. The Committee deliberated each and every provision with regard to time period as given in the statement and decided to recommend for some of the modifications, the details of which have been given in the succeeding paras. The suggested amendments in this regard are as under:—

**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 Fifth Schedule or Sixth Schedule 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.

4.129 Serial No. 4 in the statement—Clause 12 of the amending Bill seeks to substitute Section 11A in the Principal Act. The aforesaid provision provides that the Collector shall make an award under Section 11 within a period of one year from the date of publication of the declaration. The aforesaid period under the Principal Act was two years. Further proviso 1 to clause 12 provides that where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 2007, the award shall be made within a period of one year from such commencement. Proviso 2 further provides that the Collector may after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, make the award within an extended period of six months. Further, third proviso provides that where the award is made within the extended period the entitled person shall be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent of the value of the award, for each month of the delay. The Committee after deliberation decided that the period of one year for making an award is sufficient. No further extension should be provided. As such the Committee recommend that proviso 2 and proviso 3 of the Clause 12 of the Bill should be deleted.

4.130 Serial No. 5 – Clause 13 of the Bill proposes to insert Section 11B(1) & (2). After Section 11A of the Principal Act. The aforesaid Clause provides the criteria for determination of market value of land. The Committee have already recommended modifications in the aforesaid clause as per recommendation No 4.69. As such the aforesaid clause should be read in the light of the recommendation made in the earlier part of the Report and suitable changes in the time prescribed wherever applicable may accordingly be made.

**W. The rate of interest provided under various sections of the Principal Act and the amending Bill**

4.131 The Statement indicating the rate of interest provided under various sections of the Principal Act and the amending Bill has been given in the Appendix-IX.

4.132 The clause 11A of the amending legislation and Sections 28 and 34 of the Principal Act provide for rate of interest at the rate of nine per centum per year. Besides, Section 23(1A) of the Principal Act provides for rate of interest at the rate of twelve per centum per annum. The Committee after deliberations decided that the rate of interest in this regard should be increased from nine per centum/ twelve per centum per annum to fifteen per centum per annum. Besides, the Committee also recommend that the compound rate of interest should be paid wherever the provision of providing interest has been made in the Principal Act/amending legislation. In view of this the desired modifications should be made in the amending legislation.

## CHAPTER V

### MISCELLANEOUS

#### **A. Expeditious enactment of the Land Acquisition (Amendment) Legislation**

5.1 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.

#### **B. Awareness Campaign**

5.2 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.

5.3 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."

**5.4 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. Court Fee

5.5 One of the experts has drawn the attention of the Committee to *ad valorem* court fee which a land owner or a farmer has to pay while filing an appeal as per Section 8 of the Court Fees Act 1870. He has apprised the Committee that in U.P. 75 per cent of the claim value is to be paid as court fee whereas in Punjab High Court, this fee is Rs. 100. The expert has suggested that Section 54 of the Principal Act should be amended to make Section 8 of the Court fees non-applicable or alternatively the Court Fees Act be suitably amended.

5.6 When asked whether the Department is aware of the provisions made under Section 8 of the Court Fees Act 1870 which require *ad valorem* court fee for filing an appeal before the High Court, the Department has stated that the Ministry of Law and Justice can provide the details regarding this which has been requested separately. The Ministry of Law and Justice have informed that the subject of 'Court Fee payable in any Court except the Supreme Court' falls under Entry 3 of list II (State List) of Schedule Seventh of the Constitution of India. Court fee payable in Supreme Court falls under the Entry 77 of List I (Union List). As the Court Fees payable in any Court except Supreme Court falls under the 'State List' ten States have already repealed the Court Fees Act, 1870 in application to their respective states and have enacted their own Court Fees Legislation. Most of the other States have also amended the Court Fees Act, 1870 as applicable in these States. Union Territory of Puducherry has also enacted a separate Court Fee Act. Parliament can make law only for Union Territories and the Supreme Court on the subject of Court Fee. The Supreme Court has made Rules in this behalf.

5.7 The Committee would like to recommend to the Government to take up the issue of Court Fee with the various State Governments, so that it is not exorbitant. The Committee have been apprised by one of the experts that in Punjab High Court, the fee is Rs.100. The Government should take up the issue with various State Governments to ensure that the Court Fee is not more than Rs. 100 in any State.

NEW DELHI;  
16 October, 2008  
24 Asvina, 1930 (Saka)

KALYAN SINGH,  
Chairman,  
Standing Committee on  
Rural Development.

APPENDIX I

Bill No. 97 of 2007

THE LAND ACQUISITION (AMENDMENT)  
BILL, 2007

A

BILL

*further to amend the Land Acquisition Act, 1894.*

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

Short title and commencement.

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 2007.

(2) 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 provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as reference to the coming into force of that provision.

Amendment of long title.

2. In the long title to the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), the words “and for Companies” shall be omitted. 1 of 1894

Amendment of preamble.

3. In the principal Act, in the preamble, the words “and for Companies” shall be omitted.

Insertion of new section 1A.

4. After section 1 of the principal Act, the following section shall be inserted, namely:—

Application of Rehabilitation and Resettlement Act, 2007 to persons affected due to land acquisition.

“1A. The provisions of the Rehabilitation and Resettlement Act, 2007 shall apply in respect of acquisition of land by the appropriate Government under this Act.”.

5. In section 3 of the principal Act,—

Amendment  
of section 3.

(i) for clause (b), the following clause shall be substituted, namely :—

‘(b) the expression “person interested” includes,—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws;’;

(ii) after clause (cc), the following clause shall be inserted, namely:—

‘(ccc) the expression “cost of acquisition” includes—

(i) compensation awarded including the solatium and other amount and interest payable thereupon;

(ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;

(iii) cost of acquisition of out-project land for settlement of displaced or adversely affected families;

(iv) cost of development of infrastructure and amenities at resettlement sites;

(v) additional cost of resettlement as may be required after admissible adjustment of rehabilitation and

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resettlement cost against compensation awarded to affected persons or families;

(vi) administrative cost of acquisition of land including both in project and out-project areas lands; and

(vii) administrative cost involved in planning and implementation of resettlement and rehabilitation packages for providing physical rehabilitation and resettlement to the entitled and interested families, displaced or adversely affected on account of in-project acquisition of land;';

(iii) clauses (d) and (e) shall be omitted;

(iv) for clause (ee), the following clause shall be substituted, namely:—

'(ee) the expression "appropriate Government" means,—

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

(ii) In relation to acquisition of land for the purposes of any infrastructure project in more than one State, the Central Government; and

(iii) in relation to acquisition of land for any other purpose, the State Government;';

(v) for clause (f), the following clause shall be substituted, namely:—

'(f) the expression "public purpose" includes,—

(i) the provision of land for strategic purposes relating to naval, military and air force works or any other work vital to the State;

(ii) the provision of land for infrastructure projects of the appropriate

Government, where the benefits accrue to the general public; and

(iii) the provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy per cent but the remaining thirty per cent of the total area of land required for the project is yet to be required.’.

*Explanation.*—The word “person” shall include any company or association or body of individuals, whether incorporated or not.’;

(vi) after clause (f), the following clause shall be inserted, namely:—

‘(ff) the expression “infrastructure project” shall include,—

(i) any project relating to generation, transmission or supply of electricity;

(ii) construction of roads, highways, bridges, airports, ports, rail systems or mining activities;

(iii) water supply project, irrigation project, sanitation and sewerage system; or

(iv) any other public facility as may be notified in this regard by the Central Government in the Official Gazette.’.

(vii) in clause (g) for the expression “court”, wherever it occurs, the expression “the Authority for the Centre or, as the case may be, the Authority” shall be substituted;

(viii) after clause (g), the following clauses shall be inserted, namely:—

‘(h) the expression “Authority” means the Land Acquisition Compensation Disputes Settlement Authority established

by the State Government under subsection (1) of section 17A;

(i) the expression "Authority for the Centre" means the Land Acquisition Compensation Disputes Settlement Authority for the Centre established by the Central Government under sub-section (1) of section 17L;

(j) the expression "Member" means a Member of the Authority for the Centre, or as the case may be, the Authority, and includes the Chairperson.'

Omission of the expression "or for a company" throughout the Act.

6. Throughout the principal Act, the words "or for a company" along with their grammatical variations, shall be omitted.

Substitution of words "Authority for the Centre or the Authority" in place of words "the Court" throughout the Act.

7. Throughout the principal Act except in Explanation to sub-section (1A) of section 23, , for the words "the Court", along with their grammatical variations the words "the Authority for the Centre, or as the case may be, the Authority" shall be substituted.

Insertion of new section 3A.

8. After section 3 of the principal Act, the following section shall be inserted, namely:—

Mandatory social impact assessment prior to acquisition of land under this Act.

'3A. Whenever the appropriate Government intends to acquire land for public purpose involving physical displacement of—

(i) four hundred or more families *en masse* in plain area; or

(ii) two hundred or more families *en masse* in tribal or hilly areas or Desert Development Programme blocks or areas specified in Fifth Schedule or Sixth Schedule to the Constitution,

a social impact assessment study shall be carried out in the affected area for the purpose of social impact appraisal, incorporation of Tribal Development Plan, plan for giving emphasis for the Scheduled Castes, the Scheduled Tribes and other vulnerable sections of the society, provision for infrastructural amenities and facilities in the proposed resettlement area in terms of the provisions contained in Chapters II, IV, V and VI of the Rehabilitation and Resettlement Act, 2007, in such manner and within such time as may be prescribed by rules made by the Central Government'.—

9. In section 4 of the principal Act,—

Amendment  
of section  
4.

(a) in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that where no declaration is made consequent upon the issue of a notification under sub-section (1) within the time-limit specified in subsection (1) of section 6, no fresh notification under this sub-section shall, subsequent to the expiry of the period aforesaid, be made for a period of one year in respect of the same land:

Provided further that in case a notification issued under sub-section (1) in respect of a particular land lapsed for the second time, no proceeding under subsection (1) shall be initiated at least for a period of five years from the date of such notification.”;

(b) After sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) No person shall make any transaction or cause any transaction of land specified in the notice of acquisition to create any encumbrances on such land from the date of publication of such notice under this section till the final declaration under section 6, or the

award made and paid under section 16 of the Act, whichever is earlier:

Provided that the Collector may, on the application made by the land owner in respect of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(1B) After issuance of notice under sub-section (1), the Collector shall, before issue of declaration under section 6, undertake and complete the exercise of updating of land records, classification of land and its tenure, survey and standardisation of land and property values in respect of the land under acquisition.”.

Amendment of section 6.

10. In section 6 of the principal Act, in sub-section (1),—

(i) the words and figures “subject to the provisions of Part VII of this Act” shall be omitted;

(ii) the *Explanation* 1 shall be omitted.

Insertion of new section 8A.

11. After section 8 of the principal Act, the following section shall be inserted, namely:—

Evaluation of damages during survey, measurement etc.

“8A. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 4 particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.”.

12. For section 11A of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 11A.

“11A. The Collector shall make an award under section 11 within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Period within which an award shall be made.

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 2007, the award shall be made within a period of one year from such commencement:

Provided further that the Collector may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months:

Provided also that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent. of the value of the award, for each month of such delay.”.

13. After section 11A of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections after section 11A.

“11B.(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land,—

Determination of market value of land.

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated; or

(ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years, where higher price has been paid; or

(iii) the average of the sale price, ascertained from the prices paid or agreed to be paid for not less than fifty per cent. of the land already purchased for the project where higher price has been paid, for the purpose of item (iii) of clause (f) of section 3,

whichever is higher.

(2) Where the provisions of sub-section (1) are not applicable for the reason that:

(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

2 of 1899

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years where higher price has been paid, and the Collector may calculate the value of the land accordingly.

(3) The Collector shall, before assessing and determining the market value of the land being

acquired under this Act,—

(a) ascertain the intended land use category of such land; and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity,

for the purpose of determination of the market value of the land being acquired.

(4) In determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, the Collector may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the Collector.

(5) The Collector may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the Collector may utilise the services of experienced persons in the field of agriculture as he considers necessary.

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.

Part  
payment of  
compensation  
by shares,  
debentures,  
etc.

(2) On the acceptance of the offer, a part of the compensation amount shall be adjusted by transfer of shares and debentures to the person to whom such compensation is due and on such transfer the liability of the company in respect of such part of the compensation shall stand discharged.

(3) The allotment of shares and debentures mentioned in this section shall be made by the company in such manner as may be prescribed.

*Explanation.*—In this section, the expression “shares and debentures” has the same meaning as assigned to it under the Companies Act, 1956.” 1 of 1956

Amendment  
of section  
12.

**14.** In section 12 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act.

(4) For the purposes of sub-section (3), the summary of the entire proceedings shall include the summary of schedule for payment of compensation, dates of taking possession of the land and such other information as may be prescribed.

(5) It shall be the duty of the Collector to ensure that physical possession of the land is taken over and the amount of compensation is paid within a period of sixty days commencing from the date of the award.

(6) The possession of the land acquired shall not be taken unless the compensation due under this Act is paid in full or is tendered to the entitled person.”.

15. In section 15 of the principal Act, for the words and figures "sections 23 and 24", the words, figures and letter, "sections 11B, 23 and 24" shall be substituted.

Amendment of section 15.

16. In section 17 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

Amendment of section 17.

"(5) Without prejudice to the provisions of sub-section (3) and sub-section (3A), an additional compensation of seventy-five per cent. of the market value as determined under section 11B, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section."

17. After Part II of the principal Act, the following Parts shall be inserted, namely:—

Insertion of new parts IIA and IIB.

#### **'PART IIA**

#### **ESTABLISHMENT OF THE STATE AUTHORITY**

17A. (1) The State Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, establish, by notification in the Official Gazette, an Authority for the State to be known as the (name of the State) Land Acquisition Compensation Disputes Settlement Authority to exercise the jurisdiction, powers and authority conferred on it by or under this Act with regard to acquisition of land by the State Government:

Establishment of Land Acquisition Compensation Disputes Settlement Authority.

Provided that a State Government may constitute more than one Authority or the benches thereof, for the purposes of this Act, if considers necessary.

(2) The head office of the Authority shall be at such place as the State Government may, by notification in the Official Gazette, specify.

(3) The Authority shall consist of not more than three but not less than two Members, including the Chairperson to be appointed by the State Government.

(4) The Members of the Authority shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with the problems relating to land acquisition matters, public administration, finance, economics and law.

(5) A person shall not be qualified to be a Member of the Authority unless he is or has been—

(i) a judge of a district court;

(ii) an officer of the State Government not below the rank of District Collector;

(iii) an officer of the State Government in the Law Department not below the rank of Director.

(6) The Members of the Authority shall not hold any other office.

(7) The Authority shall ensure transparency while exercising its powers and discharging its functions.

Term of office and conditions of service of Members.

17B. (1) A Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Member shall not be eligible for re-appointment in the same capacity in that Authority in which he had earlier held the office:

Provided further that no Member shall hold office as such after he has attained the age of sixty-seven years.

(2) A Member of the Authority may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that the Member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(3) The salary, allowances and other terms and conditions of service of the Members shall be such as may be prescribed by the State Government:

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

17C. (1) No Member shall be removed from office except in accordance with the provisions of this section. Removal of Member.

(2) The State Government may by order remove from office any Member, if he—

(a) has been adjudged an insolvent;

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude;

(c) has become physically or mentally incapable of acting as a Member;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proved misbehaviour.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

Officers and employees of Authority.

17D. (1) The State Government may specify the numbers, nature and categories of the officers and employees of the Authority.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and employees of the Authority shall be such as may be prescribed by the State Government.

Proceedings of Authority.

17E. The Authority shall have its sittings at the head office or any other place and at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business in its sittings as it may specify.

Filling of a casual vacancy.

17F. A casual vacancy in the office of a Member of the Authority shall be filled by the State Government, by notification in the Official Gazette, as soon as may be, after the occurrence of the vacancy.

Powers of Authority.

17G. (1) The Authority shall, for the purposes of the settlement of disputes relating to land acquisition compensation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, 5 of 1908. namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed;

(2) The Authority shall have the powers to pass such interim order in any proceeding, hearing or matter before it as it may consider appropriate.

45 of 1860. 17H. All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973. Proceedings before Authority.

2 of 1974 17-I. The applications relating to settlement of land acquisition compensation under this Act, shall be decided by the Authority as expeditiously as possible and endeavour shall be made by it to dispose of the disputes finally within a period of six months from the date of receipt of the reference under section 18. Speedy disposal of disputes by Authority.

45 of 1860. 17J. The Members and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Members and officers of Authority to be public servants.

17K. No civil court shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter. Jurisdiction of civil courts barred.

## PART IIB

### ESTABLISHMENT OF THE AUTHORITY FOR THE CENTRE

17L. (1) The Central Government may, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, by notification in the Official Gazette, establish one or more Authority to be known as the Land Acquisition Compensation Establishment of Land Acquisition Compensation Disputes Settlement Authority for the Centre.

Disputes Settlement Authority for the Centre to exercise jurisdiction, powers and authority conferred on it by or under this Act with regard to the acquisition of land by the Central Government.

(2) The Central Government shall specify in the notification referred to in subsection (1) the matters and places in relation to which the Authority for the Centre may exercise jurisdiction.

(3) The Authority for the Centre shall consist of a Chairperson and not less than two Members to be appointed by the Central Government.

(4) A person shall not be qualified to be a Member of the Authority for the Centre unless he,—

(i) is or has been a Judge of a High Court; or

(ii) has for at least fifteen years held any Legislative or Legal post of the Union and a post in the Grade II of the Indian Legal Service for at least three years; or

(iii) a person who is or has been a member of the Indian Administrative Service having sufficient knowledge of land acquisition and has held the post of Collector of a district and a post equivalent to a Joint Secretary in the Government of India:

Provided that no appointment of a sitting Judge under clause (i) shall be made except after consultation with the Chief Justice of the High Court concerned.

(5) The Authority for the Centre will have a Secretariat consisting a Secretary-General and such other staff as may be decided by the Central Government.

17M. The provisions of sections 17B, 17C, 17D, 17E, 17F, 17G, 17H, 17-I, 17J and 17K shall apply to the Authority for the Centre and shall have effect, subject to the following modifications, namely:—

(a) references to “Authority” shall be construed as references to “Authority for the Centre”;

Application of certain provisions relating to Authority for compensation dispute. settlement to Authority for the Centre.

(b) references to “State Government” shall be construed as references to “Central Government”;

(c) for the reference “any Member” in sub-section (2) of section 17C, the reference “any Member except a sitting Judge of a High Court” shall be substituted.’.

18. In section 18 of the principal Act,-

Amendment of section 18.

(i) in sub-section (1), the following provisos shall be inserted, at the end, namely:—

“Provided that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the Authority for the Centre, or as the case may be, the Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority for the Centre, or as the case may be, the Authority, requesting it to direct the Collector to make the reference to it within a period of thirty days.”;

(ii) in sub-section (2), after the proviso, the following proviso shall be inserted, namely :—

“Provided further that the Collector may entertain an application after the expiry of the said period, within a further

period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”.

Amendment of Section 23.

19. In section 23 of the principal Act,—

(i) in sub-section (1), in item “first”, after the words “market value of the land”, the words, figures and letter “in terms of section 11B” shall be inserted;

(ii) in sub-section (2), for the words “a sum of thirty per centum on such marketvalue”, the words “a sum of sixty per centum on such market-value” shall be substituted.

Insertion of new section 28A.

20. After section 28A of the principal Act, the following section shall be inserted, namely:—

Determination of amount of compensation in pending or unsettled cases.

“28B. Where an award is pending or remains unsettled at any stage under the Act, prior to the coming into force of the Land Acquisition (Amendment) Act, 2007, then the amount of compensation payable to the entitled person may be determined on the basis of section 11B as inserted by the said Act.”.

Omission of Part VII.

21. Part VII of the principal Act relating to “Acquisition of Land for Companies” and sections 38 to 44B (both inclusive) shall be omitted.

Insertion of new sections 54A and 54B.

22. After section 54 of the principal Act, the following sections shall be inserted, namely:—

Utilisation of land for the purpose it is acquired.

“54A. (1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the appropriate Government.

(2) When any land or part thereof, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall return to the appropriate Government by reversion.

54B. Whenever any land acquired under this Act is transferred to any person for a consideration, eighty per cent. of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the Collector in such manner as may be prescribed.”

Sharing with landowners the difference in price of a land when transferred for a higher consideration.

23. In section 55 of the principal Act, in sub-section (1),—

Amendment of section 55.

(i) the first proviso shall be omitted;

(ii) in the second proviso, for the words “Provided further that”, the words “Provided that” shall be substituted;

(iii) in the third proviso, for the words “Provided also”, the words “Provided further” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The Land Acquisition Act, 1894 (the Act) has been an effective instrument for the acquisition of land for public purposes and also for companies, yet its provisions have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property.

2. Often, such acquisition of land leads to displacement of people, depriving them of their livelihood and shelter, restricting access to their traditional resource base, and uprooting them from their socio-cultural environment. These have traumatic, psychological and sociocultural consequences for the affected population, which call for protecting their rights, including those of the weaker sections of society, particularly tribals, tenants, etc. Rehabilitation and resettlement of the persons and families affected by involuntary acquisition of private land and immovable property is of paramount importance. Thus, it is necessary to extend the provisions of the extant policies or statutes for rehabilitation and resettlement of those affected by the acquisition of land under the Act.

3. Also, the ambit of the expression “person interested” under the Act is proposed to be expanded so as to include tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognitions of Forest Rights) Act, 2006 (2 of 2007). Moreover, it is necessary to ensure that persons having tenancy rights under the relevant State laws are included under the scope of “person interested”.

4. Although the Land Acquisition Act provides for acquisition of land for public purpose, the expression “public purpose” has not been defined. Hence, the necessity of defining “public purpose”, so as to restrict the scope of land acquisition under the Act to provision of land for strategic purposes vital to the State, and for infrastructure projects where the benefits accrue to the general public is essential.

5. The provision of the Act are also used to acquire private lands for companies. This frequently raises a question mark on the desirability of such state intervention when land could be arranged by the company through private negotiations on a “willing seller-willing buyer” basis, which could be seen to be a more fair arrangement from the point of view of the land owner. In view of this it is desirable to omit the

provisions for the acquisition of land for companies under the Act. However, under certain circumstances, it may be necessary to acquire some land through statutory mechanism to the extent of a limited portion of the total area of the land required when the “person” has already purchased the rest of the land through private negotiations and the purpose is useful to the general public. Such “person” may include any company or association or body of individuals, whether incorporated or not.

6. Further, it has been the experience that a large number of disputes relating to land acquisition compensation are brought before the courts of law. Quite often these cases remain pending for long periods of time in the courts. Such cases also add to the workload of the courts, which are generally over-burdened with cases other than land acquisition matters. Thus, it would be desirable that the jurisdiction of civil courts is barred for the purposes of the land acquisition compensation disputes and other alternate mechanisms created for disposal of such disputes in a time-bound manner.

7. Also, it is desirable to make the various steps of the land acquisition process timebound, so that the entire process can be completed within a reasonable period of time. This will be in the interest of the land owners and farmers whose lands are acquired as well as the projects and requiring bodies.

8. Another area of concern in the application of the Act, so far, has been the requirement of providing a fair compensation at market value commensurate with the purpose for which the acquired land would be used. Certain provisions need to be introduced accordingly in the Act. In addition, in view of the involuntary nature of the acquisition, adequate solatium amount should be offered to the land owners, and the amount may be higher in cases of acquisition under urgency.

9. Often it is seen that the possession of land acquired is not taken over in time, and also there are delays in the payment of the compensation amount. Therefore, it is necessary to make a provision to ensure that physical possession of the land is taken over and the amount of compensation is paid within a defined period from the date of the compensation award under the Act.

10. Issues around the utilisation of the land acquired and their transfer are also areas of concern. Here, provisions are proposed to be made so that the land acquired is not transferred to any other purpose except for a public purpose, and that too, not without prior approval

of the appropriate Government. When any land or part thereof, acquired under the Act remains unutilised for a defined period from the date of taking over possession, the same will return to the appropriate Government. Further, whenever any land acquired under the Act is transferred to any person for a consideration, a part of the net unearned income so accruing to the transferor, will be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired.

11. Bringing in suitable amendments to the Land Acquisition Act, 1894 on these lines will go a long way in striking a balance between the need for land for development and other public purposes and protecting the interests of the persons whose lands are statutorily acquired.

12. The Bill seeks to achieve the above objectives.

New Delhi;  
*The 30th November, 2007.*

RAGHUVANSH PRASAD SINGH

## FINANCIAL MEMORANDUM

Clause 17 of the Bill proposes to insert a new section 17L in the Act under which it is proposed that the Central Government may, by notification, establish one or more Authority to be known as the Land Acquisition Compensation Disputes Settlement Authority for the Centre to exercise jurisdiction, powers and authority conferred on it by or under this Act with regard to the acquisition of land by the Central Government, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation. The Authority for the Centre shall consist of a Chairperson and not less than two members to be appointed by the Central Government. It will have a Secretariat consisting of a Secretary-General and other staff as may be decided by the Central Government. The terms and conditions subject to which the Chairperson and other members of the Authority, will be appointed and the procedure of transaction of business of the Authority for the Centre shall be such as may be prescribed by the Central Government.

This will involve expenditure of a recurring as well as 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 of the above-mentioned Authority, which will be decided after the Bill is passed. Hence, it is not practicable to make an exact estimate of the recurring and nonrecurring expenditure for the purpose at this stage.

## NOTES ON CLAUSES

Clause 2 and 3 seek to omit the words “and for companies” from the long title and the preamble.

Clause 4 seeks to insert new section 1A to provide for application of the provisions of the Rehabilitation and Resettlement Act, 2007 for land acquisition under this Act.

Clause 5 seeks to amend section 3 relating to definitions of certain expressions, insert definitions of new expressions, etc. as a consequence of the amendment to the Act.

Clause 6 seeks to amend the Act to omit the words “or for a Company” (wherever they occur in the Act) alongwith grammatical variations.

Clause 7 seeks to amend the Act to substitute the words “the Court” (along with grammatical variations), with the words “the Authority for the Centre, or as the case may be, the Authority”.

Clause 8 seeks to insert new section 3A relating to mandatory social impact assessment prior to acquisition of land under the Act in cases of displacement of a certain number of families.

Clause 9 seeks to amend section 4 providing that no fresh notification to be issued for a period of one year in respect of the same land and no proceedings to be initiated for five years if the notification issued under sub-section (1) lapses for the second time. It also seeks to bar any person from making any transaction of land specified in the notice of acquisition till final declaration, etc.

Clause 10 seeks to amend sub-section (1) of section 6 so as not to make this subsection “subject to the provision of Part VII of the Act.”. It also seeks to omit Explanation 1 regarding computation of the period referred to in the first proviso.

Clause 11 seeks to insert new section 8A for the purpose of evaluation of damages during survey, measurement, etc.

Clause 12 seeks to substitute new section 11A to provide that the award shall be made within one year; for delay due to unavoidable circumstances and reasons to be recorded, the award to be made within

an extended period of 6 months, and for such extended period additional compensation shall be paid.

Clause 13 seeks to insert new sections 11B and 11C. The proposed new section 11B provides the criteria for assessing and determining the market value, such as the minimum land value if any specified in the Stamp Act, average sale price of similar type of land or average sale price paid for already land purchased for the same project; the State Government may specify floor price per unit area, etc. The proposed new section 11C provides for part payment of compensation by shares, debentures etc. where a company is authorized to issue shares.

Clause 14 seeks to amend section 12 casting upon the Collector a duty to keep open and display summary of the entire proceedings, such summary to include schedule of payment of compensation, date of taking possession, etc.; to ensure physical possession of the land and payment of compensation within 60 days from the date of award etc.

Clause 15 seeks to amend section 15 to include therein reference to new section 11B.

Clause 16 seeks to amend section 17 as a consequence of new section 11B, for the purpose of additional compensation.

Clause 17 seeks to insert Part IIA and Part IIB. The proposed Part IIA relates to Establishment of the State Authority and contains the proposed new section 17A to section 17K. These deal with establishment of the Land Acquisition Compensation Disputes Settlement Authority by the State, number of Members of the authority, qualifications of the Members; terms and conditions of service of the Members, removal of a Member, officers and employees of the Authority, proceedings of the Authority, filling of casual vacancies, powers of the Authority, speedy disposal of disputes, members and officers to be public servants; and barring of jurisdiction of civil courts.

The proposed Part IIB relates to establishment of Authority for the Centre, and contains section 17L and section 17M. These deal with Land Acquisition Compensation, Disputes Settlement Authority by the Centre, constitution of the Authority, qualifications of the members etc.; and application of the provisions of sections 17B to 17K (both inclusive to the Authority for the Centre with necessary modifications to references to "Authority" and "State Government" to be read as "Authority for the Centre" and "Central Government" respectively,

and reference to “any Member” in section 17C to be read as “any member except a sitting Judge of a High Court”.

Clause 18 seeks to amend section 18 for the purpose of making reference to the Authority for the Centre by the Collector, etc.

Clause 19 seeks to amend section 23 as a consequence of new section 11B, etc.

Clause 20 seeks to insert new section 28B for determination of amount of compensation in cases which are pending or unsettled at any stage under the Act prior to the coming into force of this Act.

Clause 21 seeks to omit Part VII of the Act relating to Land Acquisition Act and sections 38 to 44B (both inclusive).

Clause 22 seeks to insert new sections 54A and 54B providing for utilization of land for the purpose for which it is required; and sharing with land owners difference in price of land where the land is transferred for higher consideration.

Clause 23 seeks to omit the first proviso to sub-section (1) of section 55 of the Act.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to insert a new section 3A in the Land Acquisition Act, 1894 which relates to mandatory social impact assessment prior to acquisition of land under the said Act. The new section 3A seeks to empower the Central Government to prescribe, by rules, the manner and time in which social impact assessment study and other matters enumerated in the new section shall be carried out. Clause 13 seeks to insert new section 11C in the Land Acquisition Act, 1894 to provide for allotment of shares and debentures in such manner as may be prescribed. Clause 14 seeks to amend section 12 of the Act to provide for payment of compensation and other related matters by framing the rules.

2. Sub-section (3) of section 17B and sub-section (2) of section 17D, which has been proposed to be inserted by clause 17 of the Bill in the 1894 Act seeks to provide that the State Government may by rules prescribe the salaries and allowances payable to, and other terms and conditions of service of Members of the Authority and the officers and employees of the said Authority. In respect of the Authority for the Centre, similar rules can be framed by the Central Government under section 17M.

3. Clause 22 of the Bill seeks to insert a new section 54B in the 1894 Act which provides sharing with landowners the difference in price of a land when transferred for a higher consideration and provides for making rules for maintaining and administering the fund for the purposes of new section 54B.

4. As per the provisions contained in sub-section (1) of section 55 to the Land Acquisition Act, 1894, the rules made under the Act are required to be laid before Parliament or State Legislature, as the case may be.

The aforesaid matters in respect of which rules may be made 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.

EXTRACTS FROM THE LAND ACQUISITION ACT, 1894

(1 OF 1894)

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition.

It is hereby enacted as follows:—

PART I

PRELIMINARY

	1. (1)	*	*	*	*	*
	(2)	*	*	*	*	*
Definitions.	(3)	*	*	*	*	*
		*	*	*	*	*

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

\* \* \* \* \*

(d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the appropriate Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the Court under this Act;

(e) the expression “company” means—

1 of 1956.           (i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company referred to in clause (cc);

21 of 1860.           (ii) a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, other than a society referred to in clause (cc);

(iii) a co-operative society within the meaning of any law relating to cooperative societies for the time being in force in any State, other than a cooperative society referred to in clause (cc);

(ee) the expression “appropriate Government” means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government;

(f) the expression “public purpose” includes—

(i) the provision of village-sites, or the extension, planned development or improvement of existing village-sites;

(ii) the provision of land for town or rural planning;

(iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;

(iv) the provision of land for a corporation owned or controlled by the State;

(v) the provision of land for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;

(vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government, or by any authority established by Government for carrying out any such scheme, or, with the prior approval of the appropriate Government, by a local authority, or a society registered under the Societies Registration Act, 1860, <sup>21 of 1860.</sup> or under any corresponding law for the time being in force in State, or a cooperative society within the meaning of any law relating to cooperative societies for the time being in force in any State;

(vii) the provision of land for any other scheme of development sponsored by Government or, with the prior approval of the appropriate Government, by a local authority;

(viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for Companies;

(g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(i) no person shall be deemed “entitled to act” whose interests in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

5 of 1908.

(iii) the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II

ACQUISITION

*Preliminary investigation*

Publication of preliminary notification and powers of officers thereupon.

4. (1) Whenever it appears to the appropriate Government that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the Official Gazette and in two daily newspapers circulating in that locality of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification.

\* \* \* \*

*Declaration of intended acquisition*

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Act when the appropriate Government is satisfied after considering the report, if any, made under section 5A, sub-section (2) that any particular land is needed for a public purpose or for a Company a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify is orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2):

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),—

Ord. 1 of  
1967.

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of three years from the date of the publication of the notification; or

68 of 1984.

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984 shall be made after the expiry of one year from the date of the publication of the notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

*Explanation 1.*—In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

\* \* \* \* \*

*Enquiry into measurements value and claims and award by the Collector*

11. (1) On the day so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (1), and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

Enquiry  
and award  
by  
Collector.

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him:

Provided that no award shall be made by the Collector under this sub-section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf:

Provided further that it shall be competent for the appropriate Government to direct that the Collector may make such award without such approval in such class of cases as the appropriate Government may specify in this behalf.

(2) Notwithstanding anything contained in sub-section (1) if at any stage of the proceedings, the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement.

(3) The determination of compensation for any land under sub-section (2) shall not, in any way affect the determination of compensation in respect of other lands in the same locality or elsewhere in accordance with the other provisions of this Act.

(4) Notwithstanding anything contained in the Registration Act, 1908, no agreement made 16 of 1908.

under sub-section (2) shall be liable to registration under that Act.

11A. (1) The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Period within which an award shall be made.

16 of 1984. Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.

*Explanation.*— In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

\* \* \* \*

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Matters to be considered and neglected.

\* \* \* \*

### PART III

#### REFERENCE TO COURT AND PROCEDURE THEREON

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's  
statement  
to the  
Court.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reasons to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11;

(cc) the amount paid or deposited under sub-section (3A) of section 17; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement, shall be attached a Schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested, respectively.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determining the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

Service of notice.

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) in the objection is in regard to the area of the land or to the amount of compensation, the Collector.

\* \* \* \*

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matters to be considered in determining compensation.

*first*, the market-value of the land at the date of the publication of the notification under section 4, sub-section (1);

\* \* \* \*

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of thirty per centum on such market-value, in consideration of the compulsory nature of the acquisition.

24. But the Court shall not take into consideration—

Matters to be neglected in determining compensation.

*first*, the degree of urgency which has led to the acquisition;

*secondly*, any disinclination of the person interested to part with the land acquired;

*thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

*fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

*fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

*sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;

*seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1); or

*eighthly*, any increase to the value of the land on account of its being part to any use which is forbidden by law or opposed to public policy.

Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.

25. The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.

\* \* \* \* \*

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some

deduction from his costs should be made or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Collector may be directed to pay interest on excess compensation.

Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.

28A. (1) Where in an award under this Part, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under section 4, subsection (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Court:

Re-determination of the amount of compensation on the basis of the award of the Court.

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-

section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28 shall, so far as may be, apply to such reference as they apply to a reference under section 18.

#### PART IV

##### APPORTIONMENT OF COMPENSATION

\* \* \* \* \*

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court.

#### PART V

##### PAYMENT

Payment of compensation or deposit of same in Court.

31. (1) \* \* \* \* \*

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court

to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

\* \* \* \* \*

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited, was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereon, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds, of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

\* \* \* \*

PART VI

TEMPORARY OCCUPATION OF LAND

35. (1) \* \* \* \*

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Temporary occupation of waste or arable land, procedure when difference as to compensation exists.

\* \* \* \*

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to, the decision of the Court.

Difference as to condition of land.

PART VII

ACQUISITION OF LAND FOR COMPANIES

\* \* \* \*

38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling-houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections 4, 5A, 6, 7 and 50 shall be interpreted as references also to such concern.

Industrial concern to be deemed Company for certain purposes.

39. The provisions of sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive) shall not be put in force in order to acquire land for any company under this part, unless with the previous consent of the appropriate Government, nor unless the Company shall

Previous consent of appropriate Government and execution of agreement necessary.

have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under section 5A, sub-section (2), or by an enquiry held as hereinafter provided—

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the Company or for the provision of amenities directly connected therewith; or

(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose; or

(b) that such acquisition is needed for the construction of some work and that such, work, is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the appropriate Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure, 1908 in the case of Civil Court. 5 of 1908.

Agreement with appropriate Government.

41. If the appropriate Government is satisfied after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40 that the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40, it shall require

the Company to enter into an agreement with the appropriate Government providing to the satisfaction of the appropriate Government for the following matters, namely:—

(1) the payment to the appropriate Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company;

(3) the terms on which the land shall be held by the Company;

(4) where the acquisition is for the purpose of erecting dwelling-houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling-houses or amenities shall be erected or provided;

(4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which and the conditions on which, the building or work shall be constructed or executed; and

(5) where the acquisition is for the construction of any other work the time within which and the conditions on which the work shall be executed and maintained, and the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the Official Gazette, and thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication  
of  
agreement.

Sections 39 to 42 not to apply where Government bound by agreement.

43. The provisions of section 39 to 42, both inclusive, shall not apply and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land of any Railway or other Company, for the purposes of which, under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, the Central Government or any State Government is or was bound to provide land. 10 of 1870.

How agreement with railway Company may be proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by other of Government.

Restiction on transfer, etc.

44A. No Company for, which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

Land not to be acquired under this Part except for certain purposes for private companies other than Government Companies.

44B. Notwithstanding anything contained in the Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company.

*Explanation.*—“Private company” and “Government company” shall have the meanings respectively assigned to them in the Companies Act, 1956. 1 of 1956.

PART VIII

MISCELLANEOUS

\* \* \* \* \*

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole

of such house, manufactory or building shall be so acquired:

\* \* \* \* \*

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

\* \* \* \* \*

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of any incidental to such acquisition shall be defrayed from or by such fund or Company.

Acquisition of land at cost of local authority or Company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

\* \* \* \* \*

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the Court under this Act.

Code of Civil Procedure to apply to proceedings before Court.

5 of 1908.

Appeals in proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure, 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 XLIV thereof.

Power to make rules.

55. (1) The appropriate Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:

Provided that the power to make rules for carrying out the purposes of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments and the officers of the Central Government and of the State Governments:

Provided further that every such rule made by the Central Government 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 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 the rule:

Provided also that every such rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.

\* \* \* \* \*

LOK SABHA

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A

Bill

further to amend the Land Acquisition Act, 1894.

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*(Shri Raghuvansh Prasad Singh, Minister of  
Rural Development)*

## APPENDIX II

### AMENDMENTS TO THE LAND ACQUISITION ACT, 1894 AFTER INDEPENDENCE

#### LAND ACQUISITION (AMENDMENT) ACT, 1962

**(1) Ins. By Act 31 of 1962, Section 3**

That such acquisition is needed for the construction of some building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose.

**(2) Subs. by Act 31 of 1962, Section 4, for certain words**

“Proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40.

**(3)“Ins. by Act 31 of 1962, Section 4**

Where the acquisition is for the construction of building or work for a company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which and the conditions on which, the building or work shall be constructed or executed;

**(4) Ins. by Act 31 of 1962, Section 5**

No company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

**(5) Added by Act 31 of 1962, Section 6**

Provided that the power to make rules for carrying out the purposes of part vii of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments.

THE LAND ACQUISITION (AMENDMENT AND VALIDATION)  
ACT, 1967

**(1) Subs. by Act 13 of 1967 Sec. 2**

**Hearing of objections**

Sec. 5A (2)—either make a report in respect of land which has been notified U.S. 4, Sub-Section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of the Government.

**(2) Ins. by Act 13 of 1967, Sec. 3**

Sec. 6—Declaration that land is required for public purpose and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under Section 4, Sub-Section (1), irrespective of whether one report or different reports has or have been made (wherever required) under Section 5-A, Sub-Section (2);

**(3) Subs. by Act 13 of 1967, Sec. 3, for the proviso**

Section 6—Proviso

Provided that no declaration in respect of any particular land covered by a notification under Sect. 4, Sub-Sec. (1), (i) & (ii).

**(4) Subs. by Act 13 of 1967, Sec.-3, for the proviso**

Sec. 6—for “Provided that” in place of “Provided further that”.

**(5) Sub. By Act 13 of 1967, Sec. 3**

Sec. 6—Explanation (2)—for “the declaration” instead of “Every declaration”.

LAND ACQUISITION (AMENDMENT) ACT, 1984

**(6) Subs. By Act 68 of 1984, Sec. 2**

For “the territories which, immediately before the 1st day of November, 1956, were comprised in Part B States, and”.

**(7) Ins. by Act 68 of 1984, Sec. 3**

(aa):—the expression “local authority” includes a town planning authority (by whatever name called) set up under any law for the time being in force;

**(8) Ins. by Act 68 of 1984, Sec. 3**

(cc):—Definition of the expression “Corporation owned or controlled by the State”

**(9) Subs. by Act 68 of 1984, Sec. 3 for clause (e)**

(c):—the expression

“company” means

- (i) a company as defined in Section 3 of the Companies Act, 1956, other than a Government Company.
- (ii) a Society registered under the Societies Restriction Act, 1860.
- (iii) A co-operative society within the meaning of any law relating to co-operative societies for the time being in force in any State.

**(10) Subs. by Act 68 of 1984, Sec. 3 for clause (f)**

(f) the expression “public purposes” includes—

(as listed therein)

**(11) Subs. by Act 68 of 1984, Sec. 3 for chapter xxxi of the code of Civil Procedure, 1882**

Order xxxii of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

**(12) Ins. by Act 68 of 1984, Sec. 4**

“and in two daily newspapers circulating in that locality of which at least one shall be in the regional language”.

**(13) Subs. by Act 68 of 1984, Sec. 5**

For “within thirty days after the issue of the notification”.

**(14) Subs. by Act 68 of 1984, Sec. 5**

for

“either in person”

**(15) Subs. by Act 68 of 1984, Sec. 6—for the first proviso**

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1)—

- (i) before the commencement of the LA (Amendment) Act, 1984 shall be made after the expiry of three years from the date of publication of the notification.

**(16) Ins. by Act 68 of 1984, Sec. 6**

Explanation 1—In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under Section-4.

**(17) Subs. by Act 68 of 1984, Sec. 6**

for, “and shall state”

**(18) Subs. by Act 68 of 1984, Sec. 7**

For “registered under Part III of the Indian Post Office Act, 1866 (14 of 1866)”

**(19) Section 11 re-numbered as Sub-Section (i) of that section by Act 68 of 1984, Sec. 8**

**(20) Ins. by Act 68 of 1984, Sec. 8**

Proviso of clause II provided that no award shall be made by the collector under this Sub-Section without the previous approval of the appropriate Government or of such officer as the appropriate Government may authorise in this behalf.

**(21) Ins. by Act 68 of 1984, Sec. 9 in clause 11A of Principal Act**

11 A—Period within which an award shall be made.

**(22) Ins. by Act 68 of 1984, Sec. 10**

13A—Correction of clerical errors etc.

**(23) Subs. by Act 68 of 1984, Sec. 11**

14. Under the “Code of Civil Procedure, 1908” for “Code of Civil Procedure, 1882”

**(24) Ins. by Act 68 of 1984, Sec. 12**

15A-Powers to call for records, etc.

**(25) Subs. by Act 68 of 1984, Sec. 13 for certain words**

17—"Appropriate Government".

**(26) Ins. by Act 68 of 1984, Sec. 13**

Section 17—Special power in case of urgency 17 (3A)—Before taking possession of any land under sub-section (1) or sub-section (2) of section 17, the collector, shall, within prejudice to the provisions of sub-section (3)

**(27) Subs. by Act 68 of 1984, Sec. 13**

17(4)—for "after the publication of the notification".

**(28) Ins. by Act 68 of 1984, Sec. 14**

19 (cc)—"the amount paid or deposited under sub-section (3A) of section 17; and

**(29) Ins. by Act 68 of 1984, Sec. 15**

23 (1A)—In addition to the market value of the land, to court shall award calculated at the rate of twelve per centum per annum.

**(30) Subs. by Act 68 of 1984, Sec. 15**

23 (2)—for "fifteen per centum" in place of "thirty per centum"

**(31) Ins. by Act 68 of 1984, Sec. 16**

Sec. 24 (eighthly)—any increase to the value of the land on account of its being part to any use which is forbidden by law or opposed to public policy.

**(32) Subs. by Act 68 of 1984, Sec. 17 for Section 25 of Principal Act**

Sec. 25—Amount of compensation awarded by court not to be lower than the amount awarded by the collector under sec. 11

**(33) Section 28 of the principal Act (see Act 68 of 1984, Sec. 30(2))**

Sec. 28—Collector may be directed to pay interest on excess compensation.

**(34) Subs. by Act 68 of 1984, Sec. 18**

Sec. 28—for “Six per centum” in place of “nine per centum”.

**(35) Ins. by Act 68 of 1984, Sec. 18**

Sec. 28 (Proviso)—added—After the expiry of a period of one year, interest at the rate of fifteen per centum per annum.

**(36) Ins. by Act 68 of 1984, Sec. 19**

Sec. 28A—Re-determination of the amount of compensation on the basis of the award of the court.

**(37) Subs. by Act 68 of 1984, Sec. 20**

Sec. 34—Payment of interest—“for six per centum” in place of “nine per centum.”

**(38) Ins. by Act 68 of 1984, Sec. 20**

Sec. 34—Proviso added—After the expiry of a period of one year, interest at the rate of fifteen per centum per annum.

**(39) Subs. by Act 68 of 1984, Sec. 26**

Sec. 46—Penalty for obstructing acquisition of land for “fifty rupees” in place of “five hundred rupees.”

**(40) Ins. by Act 68 of 1984, Sec. 27**

Sec. 51A—Acceptance of certified copy as evidence.

### APPENDIX III

LIST OF EXPERTS/STAKEHOLDERS WHO TENDERED ORAL  
EVIDENCE BEFORE THE COMMITTEE ON 'THE LAND  
ACQUISITION (AMENDMENT) 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 Gopalkrishnan, Campaign for Survival and Dignity
4.	Dr. Abhijit Guha, Reader & Head, Department to 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. Mebdha 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

1	2
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; (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 Baja, 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

**APPENDIX IV**

LIST OF STATE GOVERNMENTS/UNION TERRITORY  
ADMINISTRATIONS WHOSE VIEWS ON THE LAND  
ACQUISITION (AMENDMENT) BILL, 2007  
WERE RECEIVED

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

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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 BILL

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Sl. 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 (Department of Agriculture and Cooperation)
5.	Ministry of Commerce and Industry (Department of Commerce and Department of Industrial Promotion and Policy)
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

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DETAILS OF SITTINGS HELD IN CONNECTION WITH  
EXAMINATION OF 'THE LAND ACQUISITION  
(AMENDMENT) BILL, 2007'

Sl. 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, 2008 (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, 2008 (1100 hrs.-1530 hrs.)	-do-

1	2	3
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 and Forests and Commerce and Industry.
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 Ministres/ Departments <i>i.e.</i> Department of posts, Telecom, Road Transport and Highways and Power
13.	11 August 2008 (1100 hrs.-1330 hrs.)	Oral evidence of the Department of Land Resources (Ministry of Rural Development) on 'The Land Acquisition (Amendment) Bill, 2007';
14.	3 September 2008 (1100 hrs.-1300 hrs.)	Clause-by-clause consideration of The Land Acquisition (Amendment) Bill, 2007;
15.	3 September 2008 (1400 hrs.-1600 hrs.)	-do-
16.	4 September 2008 (11.00 hrs.-13.00 hrs.)	-do-
17.	4 September 2008 (14.00 hrs.-15.00 hrs.)	-do-
18.	3 October 2008 (1200 hrs.-13.45 hrs.)	Consideration and adoption of the draft Report on 'The Land Acquisition (Amendment) Bill, 2007'

## APPENDIX V

### DISTRIBUTION OF LAND UNDER DIFFERENT USAGES IN INDIA AS ON 1980-81 TO 2005-06 AS PROVIDED BY THE MINISTRY OF AGRICULTURE (DEPARTMENT OF AGRICULTURE & COOPERATION)

(Area in Million hectares)

Sl. No.	Classification of area	Land under Different Usages	
		1980-81	2005-06
1.	Geographical Area	328.73	328.73
(i)	Forests	67.47	69.72
(ii)	Not Available for Cultivation		
	(a) Area Under Non-Agricultural Uses	19.66	24.94
	(b) Barren & Un-Culturable Land	19.96	17.54
(iii)	Other Uncultivated Land Excluding Fallow Land		
	(a) Permanent Pastures & Other Grazing Lands	11.97	10.42
	(b) Land Under Miscellaneous Crops and Groves not included in Net Area sown	3.60	3.37
	(c) Culturable Waste Land	16.74	13.16
(iv)	Fallow Lands		
	(a) Fallow land other than current fallows	9.92	10.41
	(b) Current fallows	14.83	14.03
(v)	<b>Net Area Sown</b>	<b>140.00</b>	<b>141.60</b>
(vi)	Total cultivable land	185.09	182.57
	• Population in million	684.00	1107.00
	• Per capita availability of cultivable land	0.27 ha.	0.16 ha.
	• Area sown more than once	32.63	49.82
	• Area under Single Crop	107.37	91.78
	• Cropping Intensity	123.30	135.00

Source: Agricultural Statistics at a Glance 2006, DAC, New Delhi

APPENDIX VI

STATEWISE POSITION OF WASTELANDS IN THE COUNTRY

Area in Sq. Kms; 10,000 sq. kms = 1 Million Ha.

Sl. No.	State	Total geographical Areas of districts covered	Total Wastelands area in districts covered	% of wastelands to total geog. Area	
1	2	3	4	5	
1.	Andhra Pradesh	23	275068	45267.15	16.46
2.	Arunachal Pradesh	16	83743	18175.95	21.7
3.	Assam	23	78438	14034.08	17.89
4.	Bihar	37	94171	5443.68	5.78
5.	Chhattisgarh	16	135194	7584.15	5.26
6.	Goa	2	3702	531.29	14.35
7.	Gujarat	25	196024	20377.74	10.4
8.	Haryana	19	44212	3266.45	7.39
9.	Himachal Pradesh	12	55673	28336.8	50.9
10.	Jammu and Kashmir*	14	101387	70201.99	69.24
11.	Jharkhand	19	79706	11165.26	14.01
12.	Karnataka	27	191791	13536.58	7.06
13.	Kerala	14	38863	1788.8	4.6
14.	Madhya Pradesh	49	308252	57134.03	18.53
15.	Maharashtra	33	307690	49275.41	16.01
16.	Manipur	9	22327	13174.74	59.01
17.	Meghalaya	7	22429	3411.41	59.01
18.	Mizoram	8	21081	4469.88	21.2
19.	Nagaland	7	16579	3709.4	22.37

1	2	3	4	5	6
20.	Orissa	30	155707	18952.74	12.17
21.	Punjab	17	50362	1172.84	2.33
22.	Rajasthan	32	342239	101453.86	29.64
23.	Sikkim	4	7096	3808.21	53.67
24.	Tripura	4	10486	1322.97	12.62
25.	Tamil Nadu	29	130058	17303.29	13.3
26.	Uttar Pradesh	70	240926	16984.16	7.05
27.	Uttaranchal	13	53483	16097.46	30.1
28.	West Bengal	18	88752	4397.46	4.95
29.	Union Territories	20	10973	314.38	2.87
	Total	597	3166412	552692.16	17.45

\*Un-surveyed area (J&K) 120849

Total geographical area 3287263

Source: 1:50,000 scale wasteland maps prepared from Landsat Thematic Mapper/IRS LISS II/III Data (Wasteland Atlas-2005)

## APPENDIX VII

### STATEMENT SHOWING EXAMPLE OF SIMPLE AVERAGE AND WEIGHTED AVERAGE

Following illustration may be considered—

No.	Date of transaction	Area sold (in acre)	Amount (Rs. in lakhs)	Unit cost (Rs. in lakhs)
1.	18.01.2006	2	18	9
2.	28.03.2007	5	35	7
3.	20.12.2007	1	100	100
Total		8	153	116

The first two sales are normal. The third item requires careful consideration to rule out the possibility of fictitious sale to boost the value. Market value calculated on simple average and weighted average will be as below:

SIMPLE AVERAGE:

$$\text{Average unit cost} = \frac{\text{Sum of unit costs}}{\text{No. of transactions}} = \frac{9 + 7 + 100}{3} = \frac{116}{3} = \text{Rs. 38.66 Lakhs/acre}$$

WEIGHTED AVERAGE:

$$\text{Average sale price} = \frac{\text{Total sale amount}}{\text{Total Area sold}} = \frac{18 + 35 + 100}{2 + 5 + 1} = \frac{153}{8} = \text{Rs. 19.13 Lakhs/acre}$$

However, for more number of transactions, the most repeating unit cost, *i.e.* the 'modal average', will indicate the most realistic average sale price.

## APPENDIX VIII

### CHART SHOWING OLD PROVISIONS *VIS-A-VIS* PROVISION WITH REGARD TO **TIME PERIODS** ON VARIOUS PROVISIONS IN 'THE LAND ACQUISITION (AMENDMENT) BILL, 2007'

Relevant Section	Old Provision	New Provision
1	2	3
As per the Clause 8 of the Amendment Bill, Section 3 A to be inserted in Principal Act	New Section 3A inserted.	<p>'3A. Whenever the appropriate Government intends to acquire land for public purpose involving physical displacement of—</p> <p>(i) four hundred or more families <i>en masse</i> in plain area; or</p> <p>(ii) two hundred or more families <i>en masse</i> in tribal or hilly areas or Desert sixth Development Programme blocks or areas specified in V Schedule or Schedule VI to the Constitution, a social impact assessment study shall be carried out in the affected area for the purpose of social impact appraisal, incorporation of Tribal Development Plan, plan forgiving emphasis for the Scheduled Castes, the Scheduled Tribes and other vulnerable sections of the society, provision for infrastructural amenities and facilities in the proposed resettlement area in terms of the provisions contained in Chapters II, IV, V and VI of the Rehabilitation and Resettlement Act, 2007, <i>in such manner and within such time as</i></p>

1	2	3
As per Clause 9 of the Bill, new provisos to be inserted in Section 4(1) of the Principal Act	(1) Whenever it appears to the [appropriate Government] the land in any locality [is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language], and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)].	<p><i>may be prescribed by rules made by the Central Government.'</i> –</p> <p>1. As per clause 9 of the Bill, the following provisos shall be inserted in Section 4(1) of the principal Act—  “Provided that where no declaration is made consequent upon the issue of a notification under sub-section (1) within the time-limit specified in subsection (1) of section 6, no fresh notification under this sub-section shall, subsequent to the expiry of the period aforesaid, be made <i>for a period of one year in respect of the same land</i>:  Provided further that in case a notification issued under sub-section (1) in respect of a particular land lapsed for the second time, no proceeding under sub-section (1) shall be initiated <i>at least for a period of five years from the date of such notification.</i>”;</p>
As per the Clause 11 of the Bill, Section 8A to be inserted in the Principal Act	New Section 8A to be inserted.	<p>“8A. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence of forest or doing such other acts or things which may cause damages while acting under section 4 particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, <i>within six months from the completion of the said works.</i>”</p>

1	2	3
<p>As per the Clause 12 of the Amendment Bill, Section 11A shall be substituted in the Principal Act</p>	<p>[11A. Period shall be which an award within made—The Collector shall make an award under section 11 <i>within a period of two years from the date of the publication of the declaration</i> and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:          Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made <i>within a period of two years from such commencement.</i>          Explanation—In computing the period of <i>two years referred to in this section</i>, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.]</p>	<p>“11A. The Collector shall make an award under section 11 <i>within a period of one year from the date of the publication of the declaration</i> and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:          Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 2007, <i>the award shall be made within a period of one year from such commencement:</i>          Provided further that the Collector may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award <i>within an extended period of six months:</i>          Provided also that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, <i>every month for the period so extended</i>, at the rate of not less than five per cent. of the value of the award, for each month of such delay.”</p>
<p>As per clause 13 of the Bill, Section 11B (1) and (2) shall be inserted after Section 11A of the Principal Act.</p>	<p>New Section 11B to be inserted.</p>	<p>(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or</p>

1	2	3
<p>As per clause 14 of the Amendment Bill, following sub-Sections shall be inserted after Section 12(2) of the Principal Act.</p>	<p>New sub-sections 12 (3), (4), (5) and (6) to be inserted.</p>	<p>(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the <i>preceding three years</i>; or            (iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority, the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered <i>during the preceding three years</i> where higher price has been paid, and the Collector may calculate the value of the land accordingly.</p> <p>“(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual alongwith details of the land finally acquired under this Act.</p> <p>(4) For the purposes of sub-section (3), the summary of the entire proceedings shall include the summary of schedule for payment of compensation, dates of taking possession of the land and such other information as may be prescribed.</p> <p>(5) It shall be the duty of the Collector to ensure that physical possession of the land</p>

1	2	3
<p>Part IIA for the 'Establishment of the State Authority' shall be inserted in the Principal Act.</p>	<p>New Section 17 I to be inserted in the Part II A of the Principal Act.</p>	<p>is taken over and the amount of compensation is paid <i>within a period of sixty days commencing from the date of the award.</i></p> <p>(6) The possession of the land acquired shall not be taken unless the compensation due under this Act is paid in full or is tendered to the entitled person."</p> <p>17-I. The applications relating to settlement of land acquisition compensation under this Act, shall be decided by the Authority as expeditiously as possible and endeavour shall be made by it to dispose of the disputes finally <i>within a period of six months from the date of receipt of the reference under section 18.</i></p>
<p>As per clause 18 of the Amendment Bill, the following provisos shall be inserted in Section 18(1), sub-section (i) of the Principal Act—</p>	<p>(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.</p> <p>(2) The application shall state the grounds on which objection to the award is taken:</p> <p>Provided that every such application shall be made—</p> <p>(a) if the person making it was</p>	<p>(i) in sub-section (1), the following provisos shall be inserted, at the end, namely:—</p> <p><i>"Provided that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the Authority for the Centre, or as the case may be, the Authority:</i></p> <p><i>Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority for the Centre, or as the case may be, the Authority, requesting it to direct the Collector to make the reference to it within a period of thirty days."</i></p>

1	2	3
<p>present or represented before the Collector at the time when he made his award, <i>within six weeks from the date of the Collector's award</i>;</p> <p>(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or <i>within six months from the date of the Collector's award</i>, whichever period shall first expire.</p>	<p>(ii) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—  <i>"Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso."</i></p>	

## APPENDIX IX

### CHART SHOWING EXISTING PROVISIONS OF PRINCIPAL ACT OF 1894 AND PROVISIONS MADE IN THE AMENDING LEGISLATION WITH REGARD TO INTEREST RATE

Sl.No.	Old Provision	New Provision	Expert's opinion
1	2	3	4
1.	<p>11A. Period shall be which an award within made.—The Collector shall make an award under section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse: Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.</p> <p>Explanation — In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.</p>	<p>“11A. The Collector shall make an award under section 11 within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse: Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 2007, the award shall be made within a period of one year from such commencement: Provided further that the Collector may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months: Provided also that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every</p>	<p>The requiring body should not be penalized if delay in making award is for reasons not attributable to the requiring body. The additional compensation of 5% of the value of award for each month of delay is excessive. This will attract 60% interest per annum, which is exorbitant. The existing provision for payment of interest at the rate of 12% per annum from the date of issue of section 4(1) notification is sufficient to take care of such situation. The second proviso to section 11A imposing penal provision in the form of additional compensation at the rate not less than 5% of the value of the award for each month of such delay should therefore be dropped.</p>

1	2	3	4
		<p>month for the period so extended, <i>at the rate of not less than five per cent of the value of the award, for each month of such delay.</i>"</p>	
2.	<p>23[(1A) In addition to the market value of the land, as above provided, the Authority for the Centre or as the case may be, the Authority, shall in every case award an amount calculated <i>at the rate of twelve per centum per annum</i> on such market value for the period commencing on and from the date of the publication of the notification under section 4, sub-section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.</p>	<p>No change in the new bill with respect to interest rate.</p>	<p>The existing provision for payment of interest at the rate of 12% per annum from the date of issue of section 4(1) notification is sufficient to take care of such situation.</p>
3.	<p>28. Collector may be directed to pay interest on excess compensation.—If the sum, which the Collector did award as compensation, the award of the Court may direct that the collector shall pay interest on such excess at the rate of [nine per centum] per annum from the date on which he took possession of the land to</p>	<p>No changes</p>	

the date of payment of such excess into Court. [Provided that the award of the Court may also direct that where such excess or any part thereof is paid into Court after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry.]

4. 34. Payment of interest.— No changes

When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of *[nine per centum] per annum* from the time of so taking possession until it shall have been so paid or deposited:

[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken,

The rate nine percent for first year and fifteen percent for subsequent years. This interest is tabulated as simple interest whereas in our country we are governed by compound interest. All Banks in India function on compound interest all loaning agencies charge compound interest. The farmer when he takes any loan from any agency, whether Bank or otherwise pays compound interest and when he has to take interest on delay compensation it is given as simple interest.

This should be given as compound interest compounded at six months intervals (All public sector Banks are banking

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1	2	3	4
	interest at the rate of <i>fifteen per centum per annum</i> shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.		on compound interest compounded on daily basis).

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## APPENDIX X

### 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 '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 queries pertaining to 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 particularly 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 XI

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

The Committee sat from 1100 hrs. to 1345 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 A.F.G. Osmani
6. Shri T. Madhusudan Reddy
7. Shrimati Tejasvini 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 XII

### 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 Tejasvini 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:

Sl. No.	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 XIII

### 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 Tejasvini 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 XIV

### 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 '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 Tejasvini 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        | — | <i>Additional Secretary</i> |
| 2. Shrimati Sudesh Luthra | — | <i>Director</i>             |
| 3. Shri A.K. Shah         | — | <i>Deputy Secretary II</i>  |
| 4. Shri Hoti Lal          | — | <i>Deputy Secretary II</i>  |

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
9. 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 XV

### 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 '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 Tejasvini 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:

Sl. No.	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 XVI

### 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 '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 Tejasvini 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 & 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 XVII

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

The Committee sat from 1400 hrs. to 1530 hrs. in Committee Room '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 Tejasvini 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 XVIII

### 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 Tejasvini 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      | — | <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 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 XIX

### 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 Tejasvini 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 — *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 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 XX

### 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 XXI

### 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 XXII

### MINUTES OF THE FIRST SITTING OF THE COMMITTEE, HELD ON MONDAY, THE 11TH AUGUST, 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. Shri Sandeep Dikshit
4. Shrimati Kiran Maheshwari
5. Shri Hannan Mollah
6. Shri D. Narbula
7. Shri A.F.G. Osmani
8. Shrimati Tejaswini Gowda
9. Shri Neeraj Shekhar
10. Shrimati Jyotirmoyee Sikdar
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Beni Prasad Verma
14. Shri Dharmendra Yadav

#### *Rajya Sabha*

15. Shrimati T. Ratna Bai
16. Dr. Chandan Mitra
17. Shri P.R. Rajan
18. Shri Bhagwati Singh
19. 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)

**Representatives of the Legislative Department  
(Ministry of Law & Justice)**

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

2. At the outset, the Chairman informed the Committee about the sad demise of Shri D.C. Srikantappa, MP, Lok Sabha and member of the Committee on 4 August, 2008. The Committee then condoled the death of the member by observing two minutes silence as a mark of respect to the departed soul.

3. Thereafter, the Chairman welcomed the members to the sitting of the Committee and congratulated them on being nominated by Hon'ble Speaker, Lok Sabha to serve as members of the Standing Committee on Rural Development for the year 2008-09.

4. Subsequently, the Committee took up for consideration Memorandum No. 1 regarding selection of subjects for examination by the Committee during the year 2008-09. After deliberations the Committee decided to continue with the examination of the following subjects during 2008-09 as were selected by the Standing Committee on Rural Development during 2007-08 from the stage the preceding Committee (2007-08) had left.

- (i) Devolution of functions, functionaries and finances by different State Governments/Union territory Administrations to Panchayati Raj Institutions (PRIs);

- (ii) Drinking water scenario in rural areas in the country;
- (iii) Implementation of National Rural Employment Guarantee Act (NREGA) Act, 2005;
- (iv) Swarnjayanti Gram Swarozagar Yojana (SGSY)
- (v) Pradhan Mantri Gram Sadak Yojna (PMGSY); and
- (vi) Wastelands development in the country under the Centrally Sponsored Schemes of the Department of Land Resources.

5. In addition to the aforesaid subjects, the Committee also decided to examine on priority basis, 'the Land Acquisition (Amendment) Bill, 2007', 'the Rehabilitation and Resettlement Bill, 2007' introduced in Lok Sabha on 6 December, 2007 and referred to the Committee by the Hon'ble Speaker on 7 December, 2007 for examination and report to the Parliament.

*[The representatives of the Ministry of Rural Development (Department of Land Resources) and Ministry of Law & Justice (Legislative Department) were then called in].*

6. The Committee held detailed discussion on the different provisions made under 'the Land Acquisition (Amendment) Bill, 2007'. During deliberations, the Committee noted that the nodal Ministry had referred various questions for legal interpretations to the Ministry of Law & Justice. The representatives of the Legislative Department present at the sitting were asked to clarify the issues referred by the nodal Ministry. To this the representatives clarified that certain issues pertained to their sister Department i.e. the Department of Legal Affairs of the Ministry of Law & Justice. The Committee observed that the Legislative Department might take up the matter with the sister Department and written replies to the various issues on which legal interpretation was required should be submitted expeditiously so as to enable the Committee to finalise the report.

7. The Various issues raised in the List of Points were deliberated issue-wise. The representatives of the Department of Land Resources responded to the queries of the Committee. The representatives were asked to send the written replies to the issues on which the information was not readily available.

8. The Committee decided that the next sitting might be convened on 25th August, 2008 to take oral evidence of the Department of Land Resources (Ministry of Rural Development) on 'the Rehabilitation and Resettlement Bill, 2007'.

9. A verbatim record of proceedings was kept.

*The Committee then adjourned.*

## APPENDIX XXIII

### MINUTES OF THE THIRD SITTING OF THE COMMITTEE, HELD ON WEDNESDAY, THE 3RD SEPTEMBER, 2008.

The Committee sat from 1100 hrs. to 1300 hrs. in Committee Room No. '139', First Floor, Parliament House Annexe, New Delhi.

#### PRESENT

Shri Kalyan Singh— *Chairman*

#### MEMBERS

#### *Lok Sabha*

2. Shri Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Hannan Mollah
5. Shri D. Narbula
6. Shri A.F.G.Osmani
7. Shri Neeraj Shekhar
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. Shrimati T. Ratna Bai
15. Shri Prabhat Jha
16. Dr. Chandan Mitra
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*

2. At the outset, the Hon'ble Chairman welcomed the members to 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 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 Land Acquisition (Amendment) Bill, 2007, had already been circulated to the members of the Committee. The aforesaid note contains the details of the deliberation 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. 1-66 of the aforesaid note. The various provisions contained in 'the Land Acquisition (Amendment) Act, 1894' on which the amendments were not proposed in the amending legislation were also considered by the Committee. After exhaustive deliberations, the Committee suggested some amendments to the respective clauses of the Bill and also to some of the Sections of the Principal Act not touched by the aforesaid amending legislation.

4. A Verbatim record of the proceedings was kept.

*The Committee then adjourned to meet again after lunch at 1400 hrs. to consider the remaining clauses of the Bill.*

## APPENDIX XXIV

### MINUTES OF THE FOURTH SITTING OF THE COMMITTEE, HELD ON WEDNESDAY, THE 3RD SEPTEMBER, 2008.

The Committee sat from 1400 hrs. to 1600 hrs. in Committee Room No. '139' First Floor, Parliament House Annexe, New Delhi.

#### PRESENT

Shri Kalyan Singh — *Chairman*

#### MEMBERS

#### *Lok Sabha*

2. Shri Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Hannan Mollah
5. Shri D. Narbula
6. Shri A.F.G.Osmani
7. Shri Neeraj Shekhar
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. Shrimati T. Ratna Bai
15. Shri Prabhat Jha
16. Dr. Chandan Mitra
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*

2. The Committee resumed the clause-by-clause consideration of 'The Land Acquisition (Amendment) 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 Nos. 67 to 116. After detailed deliberations, the Committee suggested some amendments to the respective clauses of the Bill. The Committee could not arrive at definite conclusion with regard to the following issues and decided to defer these issues to the next sitting of the Committee.

- (i) Market value of the acquired land contained in clause 13 of the Bill.
- (ii) The fate of Social Impact Assessment Study when some of the families refuse to cooperate.

3. A verbatim record of proceedings was kept.

*The Committee then adjourned to meet again on Thursday, the 4th September, 2008 to consider the remaining clauses of the Bill.*

## APPENDIX XXV

### MINUTES OF THE FIFTH SETTING OF THE COMMITTEE, HELD ON THURSDAY, THE 4TH 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 Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Zora Singh Mann
5. Shri Hannan Mollah
6. Shri D. Narbula
7. Shri A.F.G.Osmani
8. Shri Neeraj Shekhar
9. Shrimati Jyotirmoyee Sikdar
10. Shri Sita Ram Singh
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Beni Prasad Verma

#### *Rajya Sabha*

14. Shrimati T. Ratna Bai
15. Dr. Chandan Mitra
16. Shri P.R. Rajan
17. 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 II*
5. Shri Hoti Lal — *Deputy Secretary II*

2. At the outset, the Hon'ble Chairman welcomed the members to the sitting of Committee. The Committee, thereafter, resumed the clause-by-clause consideration of 'The Land Acquisition (Amendment) Bill, 2007', The Committee first of all took up the issues on which the Committee could not arrive at the definite conclusion at the previous sitting held on 3 September, 2008. After deliberations, the Committee decided unanimously that the formula of market value of land as given in clause 13 of the Bill be modified. On the other issue viz. fate of Social Impact Assessment Study where some families refuse to cooperate, the Committee deliberated at length but could not decide and again deferred the issue to the next sitting of the Committee.

3. A verbatim record of proceedings was kept.

*The Committee then adjourned to meet again after lunch at 1400 hrs. to consider the remaining clauses of the Bill.*

## APPENDIX XXVI

### MINUTES OF THE SIXTH SITTING OF THE COMMITTEE, HELD ON THURSDAY, THE 4TH SEPTEMBER, 2008.

The Committee sat from 1400 hrs. to 1500 hrs. in Committee Room No. 'G-074', Ground Floor, Parliament Library Building, New Delhi.

#### PRESENT

Shri Kalyan Singh — *Chairman*

#### MEMBERS

#### *Lok Sabha*

2. Shri Mani Charenamei
3. Shri Sandeep Dikshit
4. Shri Zora Singh Mann
5. Shri Hannan Mollah
6. Shri D. Narbula
7. Shri A.F.G.Osmani
8. Shri Neeraj Shekhar
9. Shrimati Jyotirmoyee Sikdar
10. Shri Sita Ram Singh
11. Shri Bagun Sumbrui
12. Shri Tarit Baran Topdar
13. Shri Beni Prasad Verma

#### *Rajya Sabha*

14. Shrimati T. Ratna Bai
15. Dr. Chandan Mitra
16. Shri P.R. Rajan
17. 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 II*
5. Shri Hoti Lal — *Deputy Secretary II*

2. The Committee resumed consideration of the remaining clauses of 'The Land Acquisition (Amendment) Bill, 2007'. The note containing the clause-by-clause analysis of the Bill was read out from para. No. 117 onwards. The Committee considered each clause in detail and after exhaustive deliberations, suggested some modifications to the respective clauses of the Bill.

3. The Committee, thereafter, decided to postpone the next sitting scheduled for 5 September 2008 to 22 September 2008 for the clause-by-clause consideration of 'the Rehabilitation and Resettlement Bill, 2007'.

4. A verbatim record of proceedings was kept.

*The Committee then adjourned.*

## APPENDIX XXVII

### MINUTES OF THE NINTH SITTING OF THE COMMITTEE, HELD ON FRIDAY, THE 3RD OCTOBER, 2008.

The Committee sat from 1200 hrs. to 1345 hrs. in Committee Room No. 'G-074', Ground Floor, Parliament Library Building, New Delhi.

#### PRESENT

Shri Kalyan Singh — *Chairman*

#### MEMBERS

#### *Lok Sabha*

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

#### *Rajya Sabha*

12. Shri Balihari Babu
13. Dr. Chandan Mitra

#### 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 convened for consideration and adoption of the draft Report on 'the Land Acquisition (Amendment) Bill, 2007'. The Committee then took up for consideration the draft Report on 'The Land Acquisition (Amendment) Bill, 2007'. The recommendations/ observations were then read out. The Committee, thereafter, adopted the draft Report with slight modifications.

3. The Committee authorized the Chairman to finalise the aforesaid draft Report on the basis of factual verification from the Department of Land Resources (Ministry of Rural Development) and present the same to both the Houses of Parliament.

4. The Committee, thereafter, decided to hold the next sitting of the Committee on 15 October, 2008 for consideration and adoption of the draft Report on 'The Rehabilitation and Resettlement Bill, 2007'.

5. A verbatim record of proceedings has been kept.

*The Committee then adjourned.*

THIRTY-NINTH REPORT  
STANDING COMMITTEE ON  
RURAL DEVELOPMENT  
(2008-2009)

(FOURTEENTH LOK SABHA)

MINISTRY OF RURAL DEVELOPMENT  
(DEPARTMENT OF LAND RESOURCES)

'THE LAND ACQUISITION (AMENDMENT)  
BILL, 2007'

*Presented to Lok Sabha on 21.10.08*

*Laid in Rajya Sabha on 21.10.08*



सत्यमेव जयते

LOK SABHA SECRETARIAT  
NEW DELHI

*October, 2008/Asvina, 1930 (Saka)*

**C.R.D. No. 045**

*Price : Rs. 210.00*

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Twelfth Edition) and printed by Jainco Art India, New Delhi-110 005.

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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  | — | <i>Joint Secretary</i>    |
| 2. Shri G.R. Juneja | — | <i>Deputy Secretary</i>   |
| 4. Shri C.S. Joon   | — | <i>Assistant Director</i> |

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<sup>§</sup>
14. Shrimati Jyotirmoyee Sikdar
15. Shri Sita Ram Singh
16. Shri D.C. Srikantappa
17. Shri Bagun Sumbrui
18. Shri Tarit Baran Topdar<sup>#</sup>
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*

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\*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 Thirty-ninth Report (14th Lok Sabha) on 'The Land Acquisition (Amendment) Bill, 2007'.

2. 'The Land Acquisition (Amendment) 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 Land Acquisition Act, 1894' has been an affective instrument for the acquisition of land for public purposes and also for companies. The provisions made under 'The Land Acquisition Act, 1894' have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the State for involuntary acquisition of private land and property as acknowledged in the Statement of Objects and Reasons of the aforesaid Bill. As such The Land Acquisition (Amendment) Bill, 2007 seeks to make suitable amendments to The Land Acquisition Act, 1894, so as to align them with the goals and objectives of the National Rehabilitation and Resettlement Policy, 2007 enforced *w.e.f.* 31 October, 2007 as well as to strike a balance between the need for land for development and other public purposes and protecting the interests of the persons whose lands are statutorily acquired.

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 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 associations and individuals (the list indicated at **Appendix-III**) 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 Forests; Panchayati Raj; Agriculture; Commerce and Industry (Department of Commerce and Department of Industrial Promotion and Policy) Urban Development; Social Justice and Empowerment; Railways; Defence; Home Affairs; Communication and Information Tehcnology (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 sittings 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 primary responsibility of the implementation of the provisions made under the Bill is of the respective State Governments/Union Territory Administrations, they 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 at their same sitting took evidence of the representatives of the nodal administrative Department *i.e.* Department of Land Resources (Ministry of Rural Development). 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 sitting held on 3 and 4 September 2008.

9. The Draft Report was adopted by the Committee at their sitting held on 3 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 Land Acquisition (Amendment) 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 LAND ACQUISITION (AMENDMENT)  
BILL, 2007'**

**THIRTY-NINTH REPORT**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**