

AGENDA NOTE-IV

Subject : Comments on the draft Rehabilitation and Resettlement Bill, 2007

In the 19th meeting of the Commission held on 06.05.2010 for finalization of the chapter on 'Resettlement and Rehabilitation of displaced tribals' for the Annual Report for the year 2008-09 it was decided that detailed comments of the Commission on the Rehabilitation and Resettlement Bill, 2007 will separately be drafted and put to the Commission for consideration so that NCST's concerns regarding displacement of tribals are incorporated into the proposed legislation at an appropriate juncture. The provisions of the draft Bill and draft comments of the Commission are enclosed as **Annexure**. Following are the considerations for drafting the comments on the Rehabilitation and Resettlement Bill, 2007 (R&R Bill).

2. Since independence, as the need for accelerating the pace of planned development in various sectors of the economy started gaining momentum, the pressure to acquire land at various places for construction of dams, hydel projects, industries, mines etc. also started building up. The tribal people had to provide the land for the major part for the simple reason that, through a natural co-incidence, the tribal habitats contained reservoirs of mineral resources and the catchments of streams and rivers possessing enormous irrigation and power potential. Development-induced displacement in the country has brought severe economic, social and environmental problems to the displaced people. Its most important serious consequence for the tribal people has been the dispossession of land, both agricultural and homestead, along with the loss of their traditional occupation, besides traumatic psychological and socio-cultural problems. It is estimated that more than 2 crore people have so far been displaced on account of development projects in the country. Further, it has also been revealed that

majority of the people displaced on account of development projects have invariably failed to restore and regain their former standards of livelihood.

3. The exercise of the principle of eminent domain for acquisition of private land has been leading to involuntary displacement of people, depriving them of their land, livelihood and shelter; restricting their access to traditional resource base, and uprooting them from their socio-culture environment. This has resulted in an imperative need to recognize resettlement and rehabilitation issues as intrinsic to the development process formulated with the active participation of the affected persons, rather than as externally-imposed requirements. The socio-economic impact of displacement has also called for a broader concerted effort on the part of the planners to include in the displacement, resettlement and rehabilitation process framework not only those who directly lose land and other assets but also those who are affected by such acquisition of assets.

4. The National Policy of Resettlement and Rehabilitation, which was formulated in 2003 for Project Affected Families, and came into force w.e.f. Feb, 2004, had many issues which needed to be reviewed. These include a clear perception, through a quantification of the costs and the benefits that will accrue to society at large, of the desirability and justifiability of the project and economic, environmental, social and cultural impact on affected families. In the context of new emerging requirements of infrastructure and development projects, which very often require large scale of land, the need to minimize (i) the total area required for a project , (ii) acquisition of agriculture land for non-agriculture use and; (iii) the displacement of people due to acquisition of land also emerged. In respect of the projects, where large number of families are affected, it is essentially desirable to conduct Social Impact Assessment (SIA) and provide all required infrastructural facilities and amenities in the resettlement areas. More particularly, where the Scheduled Tribes are being displaced in sizeable numbers, the need for a well thought out tribal development plan becomes essential. These requirements were taken care in the National Rehabilitation and Resettlement Policy, 2007, which was notified in October 2007.

5. The key features of the National Rehabilitation and Resettlement Policy, 2007 (“NRRP, 2007”) are:

- Coverage of all cases of involuntary displacement.
- Social Impact assessment (SIA) introduced for displacement of 400/200 or more families in plain/tribal, hilly, Scheduled areas, etc;
- Consultations with Gram Sabhas or public hearing made compulsory;
- Principle of rehabilitation before displacement;
- If possible, land for land as compensation;
- Skill development support and preference in project jobs (one person per nuclear family);
- Rehabilitation Grant in lieu of land/job;
- Option for shares in companies implementing projects to affected families;
- Housing benefits to all affected families including the landless;
- Monthly pension to the vulnerable, such as disabled, destitute, orphans, widows, unmarried girls, etc;
- Monetary benefits linked to the Consumer Price Index; also to be revised suitably at periodic intervals;
- Necessary infrastructural facilities and amenities at resettlement areas;
- Periphery development by project authorities;
- Committees for each project, to be headed by Administrator for relief and rehabilitation.
- Ombudsman for grievance redressal;
- National Rehabilitation Commission for external oversight.

6. The Govt. has taken further measures in this regard through introduction of the Rehabilitation and Resettlement Bill, 2007 in the Parliament and formulation of a ‘National Tribal Policy’, which is at the draft stage. The provision for relief & rehabilitation in a special law will help to avoid litigation and consequent delays and prevent cost overrun of the projects. Once the R&R

package is provided in the law, there will be uniformity in dealing with the cases by the Courts.

7. The Rehabilitation and Resettlement Bill, 2007 was introduced in the Lok Sabha on 6 December 2007 and was referred to the Standing Committee on Rural Development by the Speaker. The Bill was passed by the Lok Sabha, but could not be tabled in Rajya Sabha; therefore, lapsed. The key provisions of the Bill are:

- Provision for benefits and compensation to people displaced by land acquisition, purchases or any other involuntary displacement. The Bill creates project-specific, state and national authorities to formulate, implement, and monitor the rehabilitation and resettlement process.
- For large scale displacement, the government shall conduct a social impact assessment. It shall appoint an Administrator for Rehabilitation and Resettlement who is responsible for formulating, executing, and monitoring the rehabilitation and resettlement plan.
- Outlining of minimum benefits for displaced families and the criteria for eligibility. Benefits may include land, house, monetary compensation, skills training and preference for jobs.
- Establishment of the post of Ombudsman to address any grievances from the rehabilitation and resettlement process. Civil courts are barred from entertaining any suits related to this matter.
- Creation of monitoring mechanism for Rehabilitation and Resettlement of affected families/persons at project level through R & R Committee, at district level through standing R & R Committee, Oversight Committees at Ministry/Departmental level, at State level through Commissioner for R & R and at national level by constituting a National Monitoring Committee.
- Set up of a National Rehabilitation Commission by Central Government to supervise and exercise general oversight over rehabilitation and resettlement of the affected families covered under this Act.
- Special provisions for rehabilitation and resettlement of members of the STs by preparing a Tribal Development Plan.

- Indexation of rehabilitation grant and other monetary benefits to the Consumer Price Index with reference to the date to be notified.

Even though the R&R Bill, 2007 incorporated special provisions for rehabilitation and resettlement of Scheduled Tribes, NCST was not consulted for its views/comments at any stage.

8. The key recommendations of the Standing Committee of 14th Lok Sabha for the Ministry of Rural Development in its 40th Report on the various issues related to the 'The Rehabilitation and Resettlement Bill, 2007' are as under:

- (i) The Land Acquisition (Amendment) Bill, 2007 and The Rehabilitation and Resettlement Bill, 2007 should be studied in detail and it should be ensured that wherever the issues have been duplicated, the language is the same so as to avoid contradictions and legal complications.
- (ii) The nature of involuntary displacement that the Government intend to cover for the purpose of providing Rehabilitation and Resettlement benefits through this legislation should be clearly indicated in the legislation itself.
- (iii) The involuntary displacement due to insurgency-like conditions should also be included for providing rehabilitation and resettlement benefits through the proposed legislation
- (iv) There is an urgent need to have centralized data of land records as well as data base of families in each village/city at taluka and district level.
- (v) The residency period of five years should be reduced to three years to make the provisions proposed in the 'The Rehabilitation and Resettlement Bill, 2007' in line with the Rehabilitation and Resettlement Policy being implemented
- (vi) Minor daughters should also be included in the definition of family to address the gender concerns. The words 'other relatives residing with him or her and dependant on him or her for their livelihood' should be dropped from the definition. Further, widowed/ divorced/abandoned/separated

sisters/sister-in-law, daughter/daughter-in-law and the physically handicapped family members need to be covered by the definition of family.

- (vii) The language of the clauses 3(b)(iii),3(d),3(n) pertaining to Agricultural and non-agricultural labourer should be re-examined thoroughly and brought in consonance so as to avoid any confusion and misinterpretation
- (viii) The words 'preceding the date of declaration of the affected area' may be changed by the words 'immediately before the declaration of the affected area' so as to avoid any confusion or misinterpretation. The above recommendations should be read along with recommendation to change the provision of the five year continuous residence to three years.
- (ix) As per existing Clause 3 (c) read with Clauses 20(1) and 34 indicates that rehabilitation and resettlement benefits would be applicable only when the number of displaced families is more than 400 in plains and more than 200 in hilly, tribal areas etc. Clauses 20(1) and 34 should be suitably modified so that it is absolutely clear that rehabilitation and resettlement benefits would be applicable to each and every affected family irrespective of the total number of families affected.

9. The displacement of tribals from their habitats raises issues not just of monetary compensation but other related issues too which pertain to their sustainable livelihood, preservation of the traditional sense of community, trauma of dislocation and alienation, deforestation and its related social and psychological impacts. Such adverse effects on tribals, as a result of loss of their land and consequent collateral damages are not exclusive to the nature/type of displacement viz. voluntary or involuntary or even to the existing land use, viz agriculture or forest. Further, potential risks of landlessness, joblessness, homelessness, marginalisation, increasing morbidity and mortality, loss of access to common services and social (community) disarticulation are also invariably associated with both voluntary and involuntary displacements. In this connection, it is highlighted that the present scope/ applicability of the R&R Bill, 2007 is

limited to involuntary displacements from privately owned lands only. Thus, the voluntary displacements of tribals as a result of the contractual purchase of their land is not covered under the present scope of the Bill - which is essential, especially because the conjunctive acquisition of land together with negotiated purchases may become default practice if the provisions of the LA (Amendment) Bill, 2007 are enacted into law. *Therefore, it is suggested that besides land acquired by the appropriate Govt., all other land transfers or change in land use of agricultural / forest land for a different purpose which will result in displacement of tribal owners / occupiers should also be brought within the scope of the legislation. Involuntary displacement of permanent nature due to disasters/natural calamity, external/internal and conflicts should explicitly be covered under the R & R legislation. The legislation should also specify that in case of displacement due to disasters/natural calamity and conflicts, the responsibility for resettlement and rehabilitation lies on the appropriate Government, while in the case of displacement occasioned by development projects, this responsibility should be of the requiring body (individual/ corporate house/Govt.). In the case of displacement arising from projects implemented by non-government / corporate bodies, the entire onus of implementing rehabilitation and resettlement plans should be that of the requiring body (individual/ corporate house) to avoid fragmentation / dereliction of responsibility. Only in default, the appropriate Govt. may undertake rehabilitation / resettlement (as for Govt. investments) at their cost.*

10. The need for diversion of forest area for non-forest use for development and infrastructural projects like mining, construction of hydro power projects, highways, SEZ etc, involving displacement of tribals will continue as in the past. The adverse effects on tribals, as a result of loss of their land and consequent collateral damages, as well as potential risks arising from diversion of forest area for non-forest use for development and infrastructural projects will be in no way different from displacement of tribals from CWH. In all such cases, it is also necessary that rights of the tribal people should be settled as per the provisions

of the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act before implementation of the project. It is suggested that the Commission, therefore, may recommend that:

- (i) *the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act should have provision for re-settlement of rights of the tribals in cases of involuntary displacement in and around forests.*
- (ii) *rights of the affected tribal people should be settled as per the provisions of the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act before implementation of any developmental / infrastructural project.*
- (iii) *the aforesaid Act should have a comprehensive provision for resettlement and rehabilitation of tribals consistent with the spirit/provision of the RR Bill, 2007 (and not only for Critical Wildlife Habitat).*

11. The Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Rights) Act 2006, has no provision regarding resettlement and rehabilitation of tribals displaced due to diversion of forest land for non-forest purpose in the event of the extinguishment of existing rights of the tribals in the forest area. In this connection, it is relevant to mention here that National Mineral Policy, 2008 states that Project Affected Persons will be protected through comprehensive relief and rehabilitation packages in line with the National Rehabilitation and Resettlement Policy. Therefore, it is suggested that **the Commission may recommend that a standard rehabilitation procedure should be drawn for diversion of forest land for mining and other such purposes; and the provisions of National Rehabilitation and Resettlement Policy should be made applicable for tribals displaced due to diversion of forest land for non-forest purpose in the event of the extinguishment of existing rights of the tribals in the forest area under the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act. 2006.**

12. In accordance with Clause 4(1) of the R&R Bill, Social Impact Assessment (SIA) has to be made where “there is likely to be displacement of 400 or more families *en masse* in plain areas and or 200 or more families *en masse*” in the hills, scheduled areas or desert development blocks. A large number of projects displace fewer than 400 families, while others displace them in stages too. Since the tribal way of life has close attachment with the environment, habitat and traditional occupation, assessment of social impact on tribals due to their displacement from scheduled areas, irrespective of the number of the displaced families, is essential.

13. The Rehabilitation and Resettlement Bill treats land as a mere tradable commodity, whereas in practice people’s attachment to land goes beyond its commercial value. The marginalization of tribals owing to displacement from their traditional habitat has also led to deterioration not merely in economic condition but also in their social status and psychological attitudes. Apart from depriving them of their material resources, the changes also deprive them of the motivation they require to improve their socio-economic status. When pushed into the powerful external world without adequate preparation, the tribals internalize the value system of the dominant society and begin to consider their own society and culture of little value and incapable of developing themselves. Such internalization makes it impossible for them to rebuild their lives, leave alone improve their lifestyle. So their material standard, social status and psychological attitudes deteriorate. Social Impact Assessment (SIA) should, therefore, include emotional impacts including loss of identity, the disappearance of a whole way of life, the dispersal of close-knit communities, the loss of a centuries-old relationship with nature, the loss of roots etc.

14. It would be quite evident that it *will not be possible to estimate the number of affected persons without a detailed assessment. Therefore, SIA should:*

(i) be mandatory for all projects / land transfers / change in land use of agricultural / forest land for a different purpose which will result in the displacement of tribal owners / occupiers, irrespective of the number of families it displaces (or at least where the number of displaced families exceeds 25) or the voluntary / involuntary nature of the displacement.

(ii) be conducted by multi-disciplinary teams considering the impact that the project will have in terms of Landlessness, Joblessness, homelessness, Marginalization, increased morbidity and mortality, food insecurity, loss of access to common resources and services and social disarticulation.

(iii) identify affected areas (including contiguous forest lands, water bodies, wherein tribals have rights) and enumerate all affected (interested) persons to facilitate enquiry into objections and subsequent determination of 'public purpose' under concerned LA Act.

(iv) SIA/EIA should identify collateral effects and remedial measures, which should be undertaken in the short, medium and long-term by the requiring body.

(v) focus first on measures to prevent the adverse social and environmental impacts of the project, then measures to minimize, mitigate or compensate for them.

(vi) include action plan to implement mitigation measures, corrective actions and monitoring measures necessary to manage the identified impacts and risks of the project.

(vii) incorporate views of the concerned elected local bodies in the scheduled areas.

14(b) Further, land acquisition under urgency provisions of the LA Act, 1894 should not be confused with emergency occupation of land in times of conflict, calamity, etc., since the former only permits occupation of the land without prior payment of compensation but does not dispense with the need to survey the land and make declaration of public purpose, etc. SIAs / EIAs are necessary to provide a good substrate for resettlement planning to address / mitigate ensuing problems. Projects involving land proposed to be acquired under urgency provisions of the LA Act will also be accompanied by the same irreversible

adverse effects of environmental degradation / displacement; and should, therefore, not be exempted from the requirements of EIA / SIA or the need to comprehensively weigh public purpose- at the least in cases where the number of displaced tribal families exceeds 25. To be a participatory exercise, the expert group to review the SIA and accord clearance should also include a representative of the displaced families. The implications of the SIA / EIA should also be explained to the persons likely to be displaced in public hearings, besides obtaining the views of the concerned elected local bodies, so that their informed concerns are comprehensively deliberated by the expert group.

15. *The Bill does not provide any role for the requiring body who will ultimately have to grapple with the problems faced by displaced persons. It is also doubtful whether the proposed administrative structure can undertake turnkey execution of all the regulatory, planning, brick and mortar tasks envisaged in the Act. The responsibility for SIA, preparation of RR plans and implementation should be that of the requiring body which may do the job itself or outsource it to other agencies (NGOs). The RR plan should be approved by the RR Committee constituted as per Clause 12. Baseline survey should essentially aim to enumerate all the affected persons, nature of rights affected by displacement and resettlement requirements which could form the basis of the R & R plan. Even urban areas/population may require to be relocated on occasion. The components of the R & R plan should take into account such contingencies also. The Administrator should be responsible for ensuring the observance of regulatory / development norms and processes prescribed in the R&R law. Since the Bill only prescribes a minimum framework of resettlement, the responsibility of preparation and execution of R&R scheme / plan should actually be that of requiring body or its agency, which should seek the approval of the regulatory bodies, the appropriate Govt. and the informal consent of the displaced persons.*

16(a). The Rehabilitation Scheme under the legislation should spell out a minimum framework of resettlement to be followed by all displacers. *Benefits*

under the act should be applicable to all cases of involuntary and voluntary displacement, by every project owned by Govt. or otherwise. The resettlement site should aim to offer better living conditions to families below the poverty line and should recognize subsequent division of joint families / separation of adult members in the matter of benefits till the RR plan is published under Section 24(3). Forest dwellers affected by diversion of forest land should be resettled in the forest area itself.

16(b) In case of tribals, the policy of land for land should be mandatory. Agricultural land may be purchased and allotted to displaced persons if no Government land is available and Compensation in lieu of land should be discouraged in their case. All factors of production, viz Land, Labour & Capital have to be compensated from the profit. Since land rights are being surrendered in perpetuity, the compensation therefore, should be in the form of sweat equity instead of mere preferential allotment. In cases of land development projects sweat equity @ 50% should be provided to land owners. In case of mining projects, equal royalty should be paid to the land owners in perpetuity as compensation for the surrender of surface rights in land. Displaced ST persons who were in possession of forest land in the affected area prior to 13.12.2005 should be resettled in the forest area and similar rights be granted in resettlement area. Resettled tribals should also continue to enjoy reservation benefits in the resettlement area by concurrent modification of the Scheduled Tribes Reservation Orders.

17. Since R&R provisions are intended to be applicable to all persons affected by acquisition of land under any law, it is all essential to harmonize key stages of the processes involved to ensure successful implementation both in letter as well as spirit. The responsibility for SIA should devolve on the requiring body so that proceedings for acquisition are not initiated without a holistic consideration of the consequences which may ensue therefrom. Preliminary notification for land acquisition should only be issued thereafter; and all the suggestions and objections received in response thereto should also be considered by the expert

group along with the SIA and the views of the concerned local bodies / statutory authorities before a finding on 'public purpose' is arrived and expert clearance accorded. Declaration of public purpose under the concerned land acquisition law should only be made thereafter, which should also be justiciable. Commencement of *R&R proceedings should mark the implementation phase of any project, otherwise the displacement is quite premature and mindless. R&R costs should also be made available by the requiring body in advance, if implementation is the responsibility of the Administrator. In case of tribal people, full payment of compensation and adequate rehabilitation should take place before taking possession of land. Negotiated land transfers / change in land use should be permitted / legally validated by the concerned authority only after the obligations under the R&R law have been discharged to the satisfaction of the R&R Administrator.*

18. The Common Property Resources (CPRs) form the basis of livelihood for tribal communities more than in the case of caste based, settled agricultural societies. CPRs are generally community managed. Tribals, especially marginal farmers and landless, heavily depend on CPRs to enhance their household income and to meet their domestic and livestock needs. The loss of women's autonomy right over CPRs and especially the conversion of collective rights of tribals over land to private property ownership during the process of resettlement results in landlessness and deprivation. Resettlement does not ensure the continuation of the historical primacy of CPRs, particularly for tribals, all the more because resettlement generally takes place in non-forest areas and that too on a land-for-land basis. In this connection, it is mentioned that Clause 49(2) of the RR Bill, 2007 pays limited attention to CPRs by requiring development of fuel, fodder and non-timber forest resources in a period of 5 years within the resettlement area but this may remain only a fond hope, besides being quite inadequate to purpose. It is suggested that *may be more appropriate to mandate diversion of forest areas for the resettlement of displaced tribals who are dependant on forest-based CPRs for their existence.*

19. Proposed comments in respect of various clauses of the bill are annexed for the consideration of the Commission. After approval of the Commission, the comments of the NCST would be forwarded to the Ministry of Rural Development as well as MTA for suitable incorporation in the proposed legislation. It would be useful to address the Ministry of Mines / Environment and Forest also.

RR Bill, 2007

Annexure

Clause	Provision	Comments of NCST
Objective	To provide for the rehabilitation and resettlement of persons affected by the acquisition of land for projects of public purpose or involuntary displacement due to any other reason, and for matters connected therewith or incidental thereto.	Act should also cover voluntary displacement from lands purchased from tribal owners for large projects
1	(1) This Act may be called the Rehabilitation and Resettlement Act, 2007. (2) It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.	No comments
2	The provisions of this Act shall apply to the rehabilitation and resettlement of persons affected by acquisition of land under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force; or involuntary displacement of people due to any other reason.	Rehabilitation and resettlement of tribals should be mandated in all cases of displacement, whether they part with land in voluntary or involuntary fashion. Involuntary displacement of permanent nature due to disasters/natural calamity, external/internal and conflicts should explicitly be covered under the Act. Act should specify that in case of displacement due to disasters/natural calamity and conflicts, the responsibility for resettlement and rehabilitation lies on the appropriate Government, while in the case of displacement occasioned by development projects, this responsibility should be of the requiring body (individual/corporate house/Govt.)
3	In this Act, unless the context otherwise requires,— (a) “Administrator for Rehabilitation and Resettlement” means an officer appointed for the purpose of rehabilitation and resettlement of affected persons under sub-section (1) of section 9.	In the case of displacement arising from projects implemented by non-government / corporate bodies, the entire onus of implementing rehabilitation and resettlement plans should be that of the requiring body (individual/corporate house) to avoid fragmentation dereliction of

	<p>(b) “affected family” means—</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(c) “affected area” means area of village or locality notified by the appropriate Government under sub-section (1) of section 20;</p> <p>(d) “agricultural labourer” means a person primarily resident in the affected area for a period of not less than five years immediately before the declaration of the affected area, who does not hold any land in the affected area but who earns his livelihood mainly by manual labour on agricultural land therein immediately before such declaration and who has been deprived of his livelihood;</p> <p>(e) “agricultural land” means lands being used for the purpose of—</p> <p>(i) agriculture or horticulture;</p> <p>(ii) dairy farming, poultry farming, pisciculture, sericulture, breeding of livestock or nursery growing medicinal herbs;</p> <p>(iii) raising of crops, grass or garden produce; and</p> <p>(iv) land used by an agriculturist for the grazing of cattle, but does not include land used for cutting of wood only;</p> <p>(f) “appropriate Government” means—</p>	<p>responsibility. In default, the appropriate Govt. may undertake rehabilitation / resettlement (as for Govt. investments) at their cost. Displacement involves permanent separation from land holdings, livelihood as well as residential habitat. The affected persons may possible include all current residents of the affected area; and, therefore, resident pastoralists and herders also. The prescribed period of continuous residence needs to be reduced for such itinerant persons. As far as tribals are concerned, since they are traditional owners of land, a longer residence period of 5 years will not significantly increase the errors of exclusion.</p> <p>Affected area should cover even the surrounding area of 5-8 Km including pasture lands, forests and water bodies, because displacement would induce extinguishment of such rights also.</p> <p>For the same reason, agricultural land should also include forests, water bodies, etc.</p>
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<p>(i) in relation to acquisition of land for the purposes of the Union, the Central Government;</p> <p>(ii) in relation to a project which is executed by a Central Government agency or undertaking or by any other agency on the orders or directions of the Central Government, the Central Government;</p> <p>(iii) in relation to acquisition of land for purposes other than (i) and (ii) above, the State Government; and</p> <p>(iv) in relation to rehabilitation of persons displaced due to any other reason, the State Government;</p> <p>(g) "below poverty line or BPL Family" means below poverty line families as defined by the Planning Commission of India, from time to time, and those included in a BPL list for the time-being in force;</p> <p>(h) "Commissioner for Rehabilitation and Resettlement" means the Commissioner for Rehabilitation and Resettlement appointed by the State Government under sub-section (1) of section II;</p> <p>(i) "DDP block" means a block identified under the Desert Development Programme of the Government of India;</p> <p>(j) "family" includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes "nuclear family" consisting of a person, his or her spouse and minor children;</p> <p>(k) "holding" means the total land held by a person as an occupant or tenant or as both;</p> <p>(l) "land acquisition" or "acquisition of land" means acquisition of land under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force;</p> <p>(m) "marginal farmer" means a cultivator with an un-irrigated land holding up to one hectare or irrigated land holding up to half hectare;</p> <p>(n) "non-agricultural labourer" means a person who is not an agricultural labourer but is primarily residing in the affected area for a period of not less than five years immediately before the declaration of the affected area and who does not hold any land under the affected area but who earns his livelihood mainly by manual labour or as a rural artisan immediately before such declaration and who has been deprived of earning his livelihood mainly by manual labour or as such artisan in the affected area;</p>	<p>The requiring body may possibly obtain some portion of its total land requirement through direct negotiation with the owners. Therefore, besides land acquired by the appropriate Govt., all other land transfers or change in land use of agricultural / forest land for a different purpose which will result in displacement of tribal owners / occupiers should also be brought within the scope of the legislation. Negotiated land transfers / change in land use should be permitted / legally validated by the concerned authority only after the obligations under the R&R laws have been discharged to the satisfaction of the R&R Administrator.</p>
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	<p>(o) "notification" means a notification published in the Gazette of India, or as the case may be, the Gazette of a State;</p> <p>(p) "occupier" means a member of a Scheduled Tribes community in possession of forest land prior to the 13th day of December, 2005;</p> <p>(q) "Ombudsman" means the person appointed under section 14 for redressal of grievances;</p> <p>(r) "prescribed" means prescribed by rules made under this Act;</p> <p>(s) "project" means a project involving involuntary displacement of people, irrespective of the number of persons affected;</p> <p>(t) "requiring body" means a company, a body corporate, an institution, or any other organisation for whom land is to be acquired by the appropriate Government, and includes the appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land in public interest to a company, body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;</p> <p>(u) "resettlement area" means an area so declared under section 25 by the appropriate Government;</p> <p>(v) "small farmer" means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.</p>	
4	<p>(1) Whenever, it is desired to undertake a new project or expansion of an existing project, which involves involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall ensure that a social impact assessment study is carried out in the proposed affected areas in the manner as may be prescribed.</p> <p>(2) While undertaking a social impact assessment under sub-section (1), the appropriate Government shall, inter alia, take into consideration the impact that the project will have on public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of</p>	<p>It will not be possible to estimate the number of affected persons without a detailed assessment. Therefore, SIA should:</p> <p>(i) be mandatory for all projects / land transfers / change in land use of agricultural / forest land for a different purpose which will result in the displacement of tribal owners / occupiers, irrespective of the number of families it displaces or the voluntary / involuntary nature of the displacement.</p> <p>(ii) be conducted by multi-disciplinary teams considering the impact that the project will have in terms of Landlessness, Joblessness, homelessness, Marginalization, increased morbidity and mortality, food insecurity, loss of access to common resources and services and social disarticulation.</p> <p>(iii) identify affected areas (including contiguous forest lands</p>

	<p>worship, land for traditional tribal institutions, burial and cremation grounds.</p> <p>(3) The appropriate Government may specify that the ameliorative measures, which will need to be undertaken for addressing the said impact for a specific component, may not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be the State Government.</p>	<p>wherein tribals have rights) and enumerate all affected (interested) persons to facilitate enquiry into objections and subsequent determination of 'public purpose' under concerned LA Act.</p> <p>(iv) focus first on measures to prevent the adverse social and environmental impacts of the project, then measures to minimize, mitigate or compensate for them.</p> <p>(v) include action plan to implement mitigation measures, corrective actions and monitoring measures necessary to manage the identified impacts and risks of the project.</p> <p>(vi) incorporate views of the concerned elected local bodies in the scheduled areas.</p>
5	<p>(1) The social impact assessment report shall be submitted to the appropriate Government for its examination by an independent multi-disciplinary expert group, as may be notified by the appropriate Government.</p> <p>(2) The expert group shall consist of the following persons, namely—</p> <p>(a) two non-official social scientist and rehabilitation experts, to be nominated by the appropriate Government;</p> <p>(b) the Secretary of the departments of the appropriate Government concerned with the welfare of the Scheduled Castes and the Scheduled Tribes or his nominee, ex officio; and</p> <p>(c) a representative of the requiring body, to be nominated by the appropriate Government.</p>	<p>The expert group should also include a representative of the displaced families.</p> <p>The implications of the SIA / EIA should also be explained to the persons likely to be displaced in public hearings, besides obtaining the views of the concerned elected local bodies, so that their informed concerns are comprehensively deliberated by the expert group.</p>
6	<p>(1) Wherever it is required, as per the provisions of any law, rules and guidelines issued thereunder, to undertake environmental impact assessment, the social impact assessment study shall be carried out simultaneously with the Environmental Impact Assessment study.</p> <p>(2) The public hearing undertaken in the project affected area for the environmental impact assessment shall also cover issues relating to social impact assessment.</p> <p>(3) A copy of the social impact assessment report shall be made available to the Impact Assessment Agency authorised in respect of environmental impact assessment by the Central Government in the Ministry of Environment and Forests, and a copy of the environmental impact assessment report shall</p>	<p>No Comments</p>

	be shared with the expert group notified under section 5.	
7	<p>(1) The social impact assessment clearance shall be granted in such manner and within such time as may be prescribed.</p> <p>(2) The conditions laid down in the social impact assessment clearance shall be followed by all concerned, including the Administrator for Rehabilitation and Resettlement while preparing and implementing the rehabilitation and resettlement plan.</p> <p>(3) The concealment of any factual data or submission of false or misleading data or reports, may lead to the social impact assessment clearance being rejected and clearance, if any granted on the basis of data which subsequently found to be false, may be revoked.</p>	SIA clearance should specifically address the question whether the displacement is warranted by overriding public interest, which should then form the basis of subsequent declarations of 'public purpose'.
8	The projects involving emergency acquisition of minimum area of land by the Central Government in for the purpose of defence or national security shall be exempted from the provisions of this Chapter, subject to such institutional safeguards as may be prescribed for protecting the interests of the affected families.	<p>Land acquisition under urgency provisions should not be confused with emergency occupation of land in times of conflict, calamity, etc., since the former only permits occupation of the land without prior payment of compensation but does not dispense with the need to survey the land and make declaration of public purpose, etc.</p> <p>SIA / EIAs are necessary to provide a good substrate for resettlement planning to address / mitigate ensuing problems. Projects involving land proposed to be acquired under urgency provisions of the LA Act will also be accompanied by the same irreversible adverse effects of environmental degradation / displacement; and should, therefore, not be exempted from the requirements of EIA / SIA or the need to comprehensively weigh public purpose.</p>
9	<p>(1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of large number of persons due to acquisition of land for any project or due to any other reason, and where there is likely to be displacement of—</p> <p>(a) four hundred or more families en masse in plain areas; or</p> <p>(b) two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, then the State</p>	<p>The Bill does not provide any role for the requiring body who will ultimately have to grapple with the problems faced by displaced persons.</p> <p>It is also doubtful whether the proposed administrative structure can undertake turnkey execution of all the regulatory, planning, brick and mortar tasks envisaged in the Act.</p>

	<p>Government shall, by notification, appoint in respect of that project, an officer not below the rank of District Collector to be the Administrator for Rehabilitation and Resettlement: Provided that if the appropriate Government in respect of such project is the Central Government, the appointment shall be made in consultation with the Central Government: Provided further that in case of projects involving displacement of less than four hundred families en masse in plain areas, or less than two hundred families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the State Government may, by notification, appoint in respect of that project, an officer not below the rank of Deputy Collector or Sub-Divisional Officer to be the Administrator for Rehabilitation and Resettlement.</p> <p>(2) The Administrator for Rehabilitation and Resettlement shall be assisted by such officers and employees as the State Government may decide.</p>	
10	<p>(1) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the Administrator for Rehabilitation and Resettlement shall take all measures for the rehabilitation and resettlement of the affected families.</p> <p>(2) The formulation, execution and monitoring of the rehabilitation and resettlement plan shall vest in the Administrator for Rehabilitation and Resettlement.</p> <p>(3) Subject to any general or special order of the appropriate Government, the Administrator for Rehabilitation and Resettlement shall perform the following functions, namely:—</p> <ul style="list-style-type: none"> (i) minimise displacement of persons and to identify non-displacing or least displacing alternatives in consultation with the requiring body; (ii) hold consultation with the affected persons while formulating a rehabilitation and resettlement scheme or plan; (iii) ensure that the interests of the adversely affected persons of the Scheduled Tribes and weaker sections are protected while formulating the rehabilitation and resettlement scheme or plan; (iv) prepare a scheme or plan of rehabilitation and resettlement as required under Chapter V; (v) prepare a budget including estimated expenditure of various components of acquisition of land, rehabilitation and 	<p>The responsibility for SIA, preparation of RR plans and implementation should be that of the requiring body which may do the job itself or outsource it to other agencies (NGOs). The RR plan should be approved by the RR Committee constituted as per Clause 12.</p>

	<p>resettlement activities or programmes in consultation with representatives of the affected families and the requiring body;</p> <p>(vi) arrange land for rehabilitation and resettlement of the affected families;</p> <p>(vii) allot land and ensure providing of benefits to the affected families; and</p> <p>(viii) perform such other functions as the appropriate Government may, from time to time, by order in writing, assign.</p> <p>(4) The Administrator for Rehabilitation and Resettlement may, by order in writing, delegate such of the functions conferred on him by or under this Act to any officer not below the rank of Tehsildar or equivalent as he may consider appropriate for smooth implementation of the rehabilitation and resettlement scheme or plan.</p> <p>(5) All officers and staff appointed by the State Government under this Chapter to assist the Administrator for Rehabilitation and Resettlement shall be subordinate to him.</p>	
11	<p>(1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.</p> <p>(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.</p>	No comments
12	<p>(1) For each project which involves involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall constitute a Committee under the chairpersonship of the Administrator for Rehabilitation and Resettlement, to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of scheme or plan of rehabilitation and resettlement of the affected families, and to carry out post-implementation social audits.</p> <p>(2) The Rehabilitation and Resettlement Committee constituted under sub-section (1) shall include, apart from officers of the appropriate Government, the following members, namely:—</p> <p>(i) a representative of women residing in the affected area;</p> <p>(ii) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;</p>	No comments

	<p>(iii) a representative of a voluntary organisation working in the area;</p> <p>(iv) a representative of a nationalised bank;</p> <p>(v) the Land Acquisition Officer of the project;</p> <p>(vi) the Chairpersons of the panchayats or municipalities located in the affected area, or their nominees;</p> <p>(vii) the Member of Parliament and Member of the Legislative Assembly of the concerned area; and</p> <p>(viii) a representative of the requiring body.</p> <p>(3) The procedure regulating the business of the Rehabilitation and Resettlement Committee, its meetings and other matters connected thereto shall be such as may be prescribed.</p>	
13	<p>(1) The State Government shall in every district constitute a standing Rehabilitation and Resettlement Committee under the chairpersonship of the District Collector or, as the case may be, Deputy Commissioner of the district, to monitor and review the progress of rehabilitation and resettlement of the affected families in the district excluding those covered by the Rehabilitation and Resettlement Committee at the project level as specified in section 12.</p> <p>(2) The composition, powers, functions and other matters relating to the functioning of the Rehabilitation and Resettlement Committee at the district level shall be such as may be prescribed by the State Government.</p>	No comments
14	<p>(1) The appropriate Government shall appoint, in such manner as may be prescribed, an ombudsman for time-bound disposal of the grievances arising out of the matters covered under this Act.</p> <p>(2) Any affected person, if aggrieved, for not being offered the benefits admissible, may move a petition for redressal of his grievances to the ombudsman.</p> <p>(3) The form and manner in which and the time within which petitions under subsection (2) may be made to the ombudsman and be disposed of in such manner as may be prescribed.</p> <p>(4) The ombudsman shall have the power to consider and dispose of all petitions relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the requiring body, the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the districts, as he may deem proper for the redressal of such grievances.</p>	No comments

15	<p>(1) In case a project covers an area in more than one State or Union territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union territories, appoint the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, a common Rehabilitation and Resettlement Committee, and the Ombudsman for the purposes of this Act.</p> <p>(2) The method of implementation of the schemes or plans for rehabilitation and resettlement shall be discussed by the State Governments and the Union territory Administrations, and a common scheme or plan agreed to by them shall be notified by the Administrator for Rehabilitation and Resettlement in the States or Union territories in accordance with the procedure laid down in this Act.</p> <p>(3) If any difficulty arises in the implementation of the schemes or plans, the matter shall be referred to the Central Government for its decision.</p>	No comments
16	<p>(1) The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.</p> <p>(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.</p> <p>(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.</p> <p>(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.</p>	No comments
17	The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.	No comments
18	<p>(1) For every major project covered under this Act, there shall be an Oversight Committee for Rehabilitation and Resettlement in the Ministry or the Department of the appropriate Government.</p> <p>(2) The composition, functions and procedures of the Committee referred to in subsection (1) shall be such as may be prescribed.</p>	Major project should be defined as resulting in displacement of four hundred or more families en masse in plain areas, or one hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the the Fifth Schedule or Sixth Schedule to the Constitution.

		These Oversight Committees may only be formed for projects undertaken on behalf of the appropriate Government.
19	<p>(1) A National Rehabilitation Commission shall be set up by the Central Government with the power to supervise and exercise general oversight over rehabilitation and resettlement of the affected families covered under this Act.</p> <p>(2) The terms and conditions of appointment of the Chairperson and Members and the composition, powers and the procedure for transaction of business of the National Rehabilitation Commission shall be such as may be prescribed.</p>	No comments
20	<p>(1) Where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area.</p> <p>(2) Every declaration made under sub-section (1) shall be published in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in villages or areas which are likely to be affected, and also by affixing a copy of the notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the affected area as well as the resettlement area, or by any other method as may be prescribed in this regard by the appropriate Government.</p>	<p>The affected area should also include land purchased through negotiation in order to address the total consequences of involuntary/voluntary displacement of tribals. The identification of affected areas should be made during the SIA and made known in public hearings.</p> <p>Land requirements would have to be notified separately in accordance with concerned laws. Cumbersome processes like gazette notification may not be necessary to commence R & R planning since no similar adjudication is involved.</p>
21	<p>(1) Upon publication of a declaration under sub-section (1) of Section 20, the Administrator for Rehabilitation and Resettlement shall undertake a baseline survey and census for identification of the persons and families likely to be affected.</p> <p>(2) Every survey under sub-section (1) shall contain the following village-wise information of the affected families, namely:—</p> <p>(i) members of the family who are permanently residing, engaged in any trade, business, occupation or vocation in the affected areas;</p> <p>(ii) families who are likely to lose, or have lost, their house, agricultural land, employment or are alienated wholly or substantially from the main source of their trade, business, occupation or vocation;</p> <p>(iii) agricultural labourers and non-agricultural</p>	<p>Affected area may include urban pockets also.</p> <p>Baseline survey should essentially aim to enumerate all the affected persons, nature of rights affected by displacement and resettlement requirements which could form the basis of the R & R plan.</p>

	<p>labourers;</p> <p>(iv) families belonging to the Scheduled Caste or Scheduled Tribe categories;</p> <p>(v) vulnerable persons such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family;</p> <p>(vi) families that are landless (not having homestead land, agricultural land, or either homestead or agricultural land) and below poverty line, but residing continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area; and</p> <p>(vii) the Scheduled Tribes families who are or were in possession of forest lands in the affected area prior to the 13th day of December, 2005.</p> <p>(3) Every survey undertaken under sub-section (1) shall be completed within a period of ninety days from the date of declaration made under sub-section (1) of Section 20.</p> <p>(4) On completion of the survey under sub-section (3) , or on expiry or a period of ninety days, whichever is earlier, the Administrator for Rehabilitation and Resettlement shall, by notification, publish a draft containing details of the findings of the survey conducted under sub-section (1), in such manner as may be prescribed, and invite objections and suggestions from all persons likely to be affected thereby.</p> <p>(5) On the expiry of a period of thirty days from the date of publication of the draft containing details of survey and after considering the objections and suggestions received under sub-section (4), the Administrator for Rehabilitation and Resettlement shall submit his recommendations thereon along with the details of the survey to the appropriate Government.</p> <p>(6) Within a period of forty-five days from the date of receipt of the details of the survey and recommendations of the Administrator for Rehabilitation and Resettlement, the appropriate Government shall publish the final details of survey in the Official Gazette.</p>	<p>Publication of survey information need not await the adjudication of the claims of the informants at higher levels.</p>
22	<p>(1) The Administrator for Rehabilitation and Resettlement shall draw up a list of lands that may be available for rehabilitation and resettlement of the affected families.</p> <p>(2) The list of lands drawn up under sub-section (1) shall consist of—</p>	<p>No comments</p>

	<p>(a) land available or acquired for the project and earmarked for the purpose;</p> <p>(b) Government wastelands and any other Government land available for allotment to the affected families;</p> <p>(c) lands that may be available for purchase or acquisition for the purposes of rehabilitation and resettlement scheme or plan; or</p> <p>(d) a combination of one or more of the above.</p>	
23	<p>(1) After completion of baseline survey and census of the affected families under section 21, and assessment of the requirement of land for resettlement under section 22, the Administrator for Rehabilitation and Resettlement shall prepare a draft scheme or plan for the rehabilitation and resettlement of the affected families after consultation with the representatives of the affected families including women and the representative of the requiring body.</p> <p>(2) The draft rehabilitation and resettlement scheme or plan shall be made known locally by wide publicity in the affected area and the resettlement area in such manner as may be prescribed by the appropriate Government which shall also be discussed in the concerned gram sabhas and in public hearings in urban and rural areas where gram sabhas do not exist: Provided that the consultation with the Gram Sabha or the Panchayats at the appropriate level in Scheduled Areas under the Vth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996: Provided further that, in cases of involuntary displacement of two hundred or more Scheduled Tribes families from the Scheduled Areas, the concerned Tribes Advisory Councils shall also be consulted.</p> <p>(3) The draft rehabilitation and resettlement scheme or plan shall contain the following particulars, namely:—</p> <p>(a) the extent of land to be acquired for the project or lost otherwise and the names of the affected villages;</p> <p>(b) a village-wise list of the affected persons, family-wise, the extent and nature of land and immovable property owned or held in their possession in the affected area, and the extent and nature of such land and immovable property which they are likely to lose or have lost, indicating the survey numbers thereof;</p> <p>(c) a list of agricultural labourers in such area and the names of such persons whose livelihood depends on agricultural activities;</p>	<p>The RR plan/scheme should be drawn up by the requiring body or its agency, which should also be responsible for seeking approval of concerned regulatory bodies as well as obtaining informal consent of the displaced persons. The Administrator should be responsible for ensuring the observance of regulatory / development norms and processes prescribed in the Act.</p> <p>The Tribal Advisory Committee's mandate extends largely to policy issues, also its meetings are very irregular and it may not be feasible to organize timely and effective consultation regarding project specific R & R issues.</p> <p>Even urban areas/population may require to be relocated on occasion. The components of the R & R plan should take into account such contingencies also.</p>

<p>(d) a list of persons who have lost or are likely to lose their employment or livelihood or who have been or likely to be alienated wholly or substantially from their main sources of trade, business, occupation or vocation consequent to the acquisition of land for the project or involuntary displacement due to any other cause;</p> <p>(e) a list of non-agricultural labourers, including artisans in such area;</p> <p>(f) a list of affected landless families, including those without homestead land and below poverty line families;</p> <p>(g) a list of vulnerable affected persons, as specified in clause (v) of sub-section (2) of section 21;</p> <p>(h) a list of occupiers, if any;</p> <p>(i) a list of public utilities and government buildings which are affected or likely to be affected;</p> <p>(j) details of public and community properties, assets and infrastructure;</p> <p>(k) a list of benefits and packages which are to be provided to the affected families;</p> <p>(l) details of the extent of land available in the resettlement area for resettling and for allotment of land to the affected families;</p> <p>(m) details of the amenities and infrastructural facilities which are to be provided for resettlement;</p> <p>(n) the time schedule for shifting and resettling the displaced families in the resettlement area; and</p> <p>(o) such other particulars as the Administrator for Rehabilitation and Resettlement may consider necessary.</p> <p>(4) While preparing a draft scheme or plan in case of a project involving land acquisition on behalf of a requiring body, the Administrator for Rehabilitation and Resettlement shall ensure that the entire estimated cost of rehabilitation and resettlement scheme or plan is included in the cost of the project for which the land is being acquired on behalf of the requiring body; and the entire expenditure of rehabilitation and resettlement benefits including the expenditure incurred on rehabilitation and resettlement of the affected families are borne by the requiring body.</p> <p>(5) The Administrator for Rehabilitation and Resettlement shall communicate to the requiring body for incorporation in the project cost, the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families.</p>	<p>This assumes that the project is still in the planning stage. Logically, however, the commencement of R&R proceedings should mark the implementation phase of any project, otherwise the displacement is quite premature and mindless. R&R costs should also be made available by the requiring body in advance, if implementation is the responsibility of the Administrator.</p>
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24	<p>(1) The Administrator for Rehabilitation and Resettlement shall submit the draft scheme or plan for rehabilitation and resettlement to the appropriate Government for its approval.</p> <p>(2) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the appropriate Government to obtain the consent of the requiring body, to ensure that the necessary approvals as required under this Act have been obtained, and to make sure that the requiring body has agreed to bear the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families as communicated by the Administrator for Rehabilitation and Resettlement, before approving it.</p> <p>(3) The approved scheme or plan for rehabilitation and resettlement shall be published in the Official Gazette by the appropriate Government.</p> <p>(4) On the final publication of notification of the rehabilitation and resettlement scheme or plan, it shall come into force.</p>	<p>Since the Act only prescribes a minimum framework of resettlement, the responsibility of preparation and execution of R&R scheme should be that of requiring body or its agency, which should seek the approval of the regulatory bodies, the appropriate Govt. and the consent of the displaced persons.</p>
25	<p>The appropriate Government may, by notification, declare any area or areas as a resettlement area or areas for the purposes of rehabilitation and resettlement of the affected families.</p>	<p>There is an urgent need to have centralized data of land acquired as well as data base of displaced families in each village/city at taluka /district level.</p>
26	<p>(1) The affected families may, wherever possible, be settled in a group or groups.</p> <p>(2) In case the entire population of the village or area to be shifted belongs to a particular community, such population or the families may, wherever possible, be resettled en masse in the resettlement area.</p> <p>(3) In the case of resettlement of the Scheduled Castes affected families, such families may, wherever possible, be resettled in the areas close to the villages.</p>	<p>No Comments</p>
27	<p>The Administrator for Rehabilitation and Resettlement may, on behalf of the appropriate Government, and subject to such rules as may be prescribed, enter into an agreement with any person for the purchase or exchange of any land required for the purposes of the rehabilitation and resettlement scheme or plan.</p>	<p>No Comments</p>
28	<p>(1) In case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the requiring body to provide requisite funds to the administrator for Rehabilitation and Resettlement for proper implementation of the rehabilitation and resettlement scheme or plan for the affected families.</p>	<p>The execution of RR plan should be the responsibility of the requiring authority.</p>

	<p>(2) In case of a project involving land acquisition on behalf of a requiring body, as soon as the rehabilitation and resettlement scheme or plan is finalised, the requiring body shall deposit one-third cost of the rehabilitation and resettlement scheme or plan with the Administrator for Rehabilitation and Resettlement.</p> <p>(3) The Administrator for Rehabilitation and Resettlement shall keep proper books of accounts and maintain records of the funds placed at his disposal, in such manner as may be prescribed, and submit periodical returns to the appropriate Government in this behalf.</p>	
29	<p>In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families.</p>	<p>The scope of this section should be extended to cover projects implemented by the Government, since their projects will also be accompanied by the same irreversible adverse effects of displacement.</p> <p>The word adequate progress should be replaced by adequate progress as per Rehabilitation and Resettlement Scheme/Plan.</p>
30	<p>(1) In case of involuntary displacement of four hundred families or more en masse in plain areas, or two hundred families or more en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, comprehensive infrastructural facilities and amenities notified by the appropriate Government shall be provided in the resettlement area.</p> <p>(2) If relocation takes place in an existing settlement area, the same infrastructure shall also be extended to the host community.</p> <p>(3) In case of involuntary displacement of less than four hundred families en masse in plain areas, or less than two hundred families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, all affected families shall be provided basic infrastructural facilities and amenities at the resettlement area as per the norms specified by the appropriate Government.</p>	<p>It should be applicable to all cases of involuntary and voluntary displacement.</p>
31	<p>The appropriate Government shall ensure that the resettlement area forms part of a Panchayat or a municipality.</p>	<p>Forest dwellers affected by diversion of forest land should be resettled in the forest area itself.</p>
32	<p>If land is acquired in cases of urgency, under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force, each affected family shall be provided with transit and temporary accommodation, pending</p>	<p>No comments</p>

	rehabilitation and resettlement scheme or plan, in addition to the payment of monthly subsistence allowance and other rehabilitation and resettlement benefits due to them under this Act.	
33	In case of a project involving land acquisition on behalf of a requiring body— (i) the requiring body shall contribute to the socio-economic development of such geographic area on the periphery of the project site as may be defined by the appropriate; (ii) the requiring body shall earmark a percentage of its net profit or, in case no profit is declared by the requiring body in a particular year, for that year, such minimum alternative amount as may be determined by the appropriate Government after consultation with the requiring body, to be spent for the purpose and within the area referred to in sub-section (1); and (3) the requiring body shall coordinate with the Commissioner for Rehabilitation and Resettlement while carrying out the developmental activity under this section.	SIA/EIA should identify collateral effects and remedial measures, which should be undertaken in the short, medium and long-term by the requiring body.
34	The rehabilitation and resettlement benefits shall be extended to the affected families who are eligible as affected families on the date of publication of the declaration under subsection (1) of section 20, and any division of assets in the family after the said date shall not be taken into account.	The resettlement site should aim to offer better living conditions to families below the poverty line and should recognize subsequent division of joint families / separation of adult members in the matter of benefits till the RR plan is published under Clause 24(3).
35	(1) Any affected family owning house and whose house has been acquired or lost, shall be allotted land for house, without requiring him to pay the price for such land, to the extent of two hundred and fifty square metres of land in rural areas or, as the case may be, one hundred and fifty square metres of land in urban areas to each family within the affected family, subject to the actual area acquired or lost: Provided that, in urban areas, a house of up to one hundred square metres carpet area may be provided in lieu thereof. (2) Each below poverty line affected family which is without homestead land and which has been residing in the affected area continuously for a period of not less than five years preceding the date of declaration of the affected area and which has been involuntarily displaced from such area, shall be provided with a house having at least fifty square metres carpet area in rural areas or, as the case may be, twenty-five square metres carpet area in urban areas, in the resettlement area:	No comments

	<p>Provided that any such family which opts not to take the house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.</p> <p>Explanation.—The houses in urban areas may, if necessary, be provided in multistoried building complexes.</p>	
36	<p>(1) Each affected family owning agricultural land in the affected area and whose entire land has been acquired or lost, or who has, as a land consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, agricultural land or cultivable wasteland to the extent of actual land loss by the affected family subject to a ceiling of one hectare of irrigated land or two hectares of un-irrigated land or cultivable wasteland, if Government land is available in the resettlement area.</p> <p>(2) In the case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of the project: Provided that such lands may be consolidated and plots of suitable sizes allotted to the affected families, who could be settled there in groups: Provided further that, in case an affected family cannot be given land in the command area of the project or the family opts not to take land there, such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere.</p> <p>(3) In case of allotment of agricultural land in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of ten thousand rupees.</p> <p>(4) In case of allotment of wasteland in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of fifteen thousand rupees per hectare of land allotted.</p>	<p>In case of tribals, the policy of land for land should be mandatory. Agricultural land may be purchased and allotted to displaced persons if no Government land is available.</p>
37	<p>(1) In case of a project involving land acquisition on behalf of a requiring body, the</p>	<p>No comments</p>

	<p>stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.</p> <p>(2) The land or house allotted to the affected families shall be free from all encumbrances.</p> <p>(3) The land or house allotted may be in the joint names of wife and husband of the affected family.</p>	
38	Each displaced affected family having cattle shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of fifteen thousand rupees for construction of cattle shed.	No comments
39	Each affected family which is displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of ten thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.	No comments
40	Each affected person who is a rural artisan, small trader or self-employed person and who has been displaced shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to a minimum of twenty-five thousand rupees for construction of working shed or shop.	No comments
41	<p>In case of a project involving land acquisition on behalf of a requiring body—</p> <p>(i) the requiring body shall give preference to the affected families in providing employment in the project, at least one person per family, subject to the availability of vacancies and suitability of the affected person for the employment;</p> <p>(ii) wherever necessary, the requiring body shall arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;</p> <p>(iii) the requiring body shall give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site;</p> <p>(iv) the requiring body shall give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase;</p> <p>(v) the requiring body shall offer the affected persons the necessary training facilities for development of entrepreneurship, technical and professional skills for self-employment;</p> <p>(vi) the requiring body shall offer scholarships and other skill development opportunities to</p>	Projects implemented under Government aegis should also bear the responsibility of arranging training of affected persons who are deprived of their means of livelihood.

	eligible persons from the affected families, as per such criteria as may be fixed by the appropriate Government.	
42	In case of a project involving land acquisition on behalf of a requiring body, the affected families which have not been provided agricultural land or employment shall be entitled to a rehabilitation grant equivalent to seven hundred and fifty days minimum agricultural wages: Provided that if the requiring body is a company authorised to issue shares and debentures, then, it shall give an option to the affected families of taking up to fifty per cent., but in any case not less than twenty per cent., of their rehabilitation grant amount in the form of shares or debentures, in such manner as may be prescribed.	These provisions should extend to other projects implemented by Govt. agencies also. All factors of production, viz Land, Labour & Capital have to be compensated from the profit. Since land rights are being surrendered in perpetuity, the compensation should be in the form of sweat equity instead of mere preferential allotment.
43	In cases involving land acquisition for land development projects, in lieu of land for-land or employment, the affected families shall be given developed land or built-up space within the development project, in proportion to the land acquired, but subject to limits as may be prescribed.	In such cases sweat equity @ 50% should be provided to land owners.
44	In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.	In case of mining projects equal royalty should be paid to the land owners in perpetuity as compensation for the surrender of surface rights in land.
45	In case of a project involving land acquisition on behalf of a requiring body, each affected family which is involuntarily displaced shall get a monthly subsistence allowance equivalent to twenty-five days minimum agricultural wages per month for a period of one year from the date of displacement.	It should be applicable to all cases of involuntary and voluntary displacement, by every project owned by Govt. or otherwise.
46	The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons as specified in clause (v) of sub-section (2) of section 21, of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month	No Comments
47	In case of linear acquisitions, in projects relating to railway lines, highways, transmission lines, laying of pipelines and such other projects wherein only a narrow stretch of land is acquired for the purpose of the project or is utilised for right of way, each person whose name is included in the records of rights with regard to the affected family shall be offered by the requiring body an ex-gratia grant of such amount as may be prescribed by the appropriate Government subject to a minimum	No Comments

	<p>of twenty thousand rupees, in addition to the compensation and any other benefits due under the Act or programme or scheme under which the land, house or other property is acquired: Provided that, if as a result of such land acquisition, the land-holder becomes landless or is reduced to the status of a small or marginal farmer, other rehabilitation and resettlement benefits available under this Act shall also be extended to such affected family.</p>	
48	<p>The affected families shall have the option to take a lump-sum amount, in lieu of one or more of the benefits specified in sections 35 to 47 (both inclusive), as may be determined by the appropriate Government in consultation with the requiring body.</p>	<p>Compensation in lieu of land should be discouraged in case of tribals.</p>
49	<p>(1) In case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of two hundred or more Scheduled Tribes families, a Tribal Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.</p> <p>(2) The Tribal Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities who are denied access to forests.</p> <p>(3) The concerned Grams Sabhas or the Panchayats at the appropriate level in the Scheduled Areas under the Fifth Schedule or, as the case may be, Councils in the Sixth Schedule Areas shall be consulted in all cases of land acquisition in such areas, including acquisition under the urgency clause, before issue of a notification under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force as per the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996 and other relevant laws.</p> <p>(4) Each affected family of Scheduled Tribe followed by Scheduled Caste categories shall be given preference in allotment of land-for-land, if Government land is available in the resettlement area.</p> <p>(5) In case of land being acquired from members of the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first installment and the rest at the time of taking</p>	<p>The adverse consequences are the same. Hence R&R requirements/benefits should not be different in the case of Govt./requiring body.</p> <p>If the Govt. land is not available in the resettlement area, private land may be purchased and made available to tribal agriculturists.</p> <p>Clause 29 is a better formulation since it mandates full payment of compensation and adequate rehabilitation before taking possession of land.</p>

	<p>over the possession of the land.</p> <p>(6) In case of a project involving land acquisition on behalf of a requiring body, each Scheduled Tribes affected family shall get an additional one-time financial assistance equivalent to five hundred days minimum agricultural wages for loss of customary rights or usages of forest produce.</p> <p>(7) The Scheduled Tribes affected families shall be resettled preferably in the same Schedule Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.</p> <p>(8) The resettlement areas predominantly inhabited by the Scheduled Tribes shall getland, to such extent as may be decided by the appropriate Government, free of cost for community and social gatherings.</p> <p>(9) In case of a project involving land acquisition on behalf of a requiring body, the Scheduled Tribes affected families resettled out of the district will get twenty-five per cent. higher rehabilitation and resettlement benefits in monetary terms in respect of the benefits specified in sub-sections (3) and (4) of section 36, sections 38, 39, and 40.</p> <p>(10) Any alienation of tribal lands in disregard of the laws and regulations for the time being in force shall be treated as null and void; and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be available to the original tribal landowners.</p> <p>(11) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.</p> <p>(12) All benefits available to the affected families in the affected areas, shall continue in the resettlement area.</p>	<p>Displaced persons should also be resettled in the forest area and similar rights be granted in resettlement area.</p> <p>Resettled tribals should also continue to enjoy reservation benefits in the resettlement area by concurrent modification of the Scheduled Tribes Reservation Orders.</p>
50	The affected Scheduled Tribes families, who were in possession of forest lands in the affected area prior to the 13th day of December, 2005, shall be eligible for the benefits of rehabilitation and resettlement under this Act.	
51	The rehabilitation grant and other benefits expressed in monetary terms in this Act shall be indexed to the Consumer Price Index with reference to the date to be notified, and the same shall also be revised by the appropriate Government from time to time.	No Comments
52	If a person, in connection with a requirement or	No comments

	direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both.	
53	The officers of the Central Government, State Governments or Union territory Administrations and the officers or staff of the local bodies or other statutory authorities shall assist the Administrator for Rehabilitation and Resettlement or any other officer duly authorised under this Act, as and when required, for carrying out the purposes of this Act	No comments
54	No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, or the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.	No comments
55	The Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement and the Ombudsman, appointed under this Act shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.	No comments
56	No Suit, prosecution or other legal proceedings shall lie against the appropriate Government, local body or authority or any officer of the appropriate Government or local body or authority acting under this Act for anything which is in good faith done or purported to be done under this Act or the rules, scheme or plan made thereunder.	No comments
57	The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force (except the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996) or in any instrument having effect by virtue of any law other than this Act.	No Comments.
58	(1) The appropriate Government may, after previous publication, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following	No Comments

	<p>matters, namely:—</p> <ul style="list-style-type: none">(a) the manner in which social impact assessment study is to be carried out under sub-section (1) or section (4);(b) the manner of granting social impact assessment clearance under sub-section (1) or section 7;(c) emergency acquisition of land for the purpose of defence or national security, and its institutional safeguards under section 8;(d) rules of procedure regulating the business of the Rehabilitation and Resettlement Committee under sub-section (3) of section 12; and composition, powers and functions relating to the Rehabilitation and Resettlement Committee under subsection (2) of section 13;(e) the manner of appointment of ombudsman, form and manner in which complaints may be made and disposed by the ombudsman under sub-section (1) and (3) of section 14; and(f) procedures to be followed by the National Monitoring Committee under subsection (3) of section 16; and composition powers and procedure of transaction of business of the National Rehabilitation Commission under sub-section (2) of section 19;(g) the method of notifying affected areas under sub-section (2) of section 20;(h) the manner in which the Administrator for Rehabilitation and Resettlement shall publish a draft details of findings of the survey conducted under sub-section (4) of section 21; and the manner of giving publicity to draft rehabilitation and resettlement scheme or plan under sub-section (2) of section 23;(i) the method of entering into an agreement with any persons under rehabilitation and resettlement scheme or plan under section 27;(j) the manner of keeping books of accounts and records of the funds for rehabilitation and resettlement by the Administrator under sub-section (3) of section 28;(k) specify assistant to affected family under sub-section (3) and (4) of section 36;(l) rules for giving financial assistance to construct cattle shed under section 38; transportation cost for shifting of the family under section 39; construction of working shed for shop under section 40 and the manner in which rehabilitation grant shall be provided under section 42;(m) the manner of providing fishing rights of the reservoirs to the affected families under section 44;(n) the amount of pension payable to vulnerable persons under section 46; and the	
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	<p>determination of ex-gratia amount under section 47, the necessary forms for the purposes specified in section 49; and</p> <p>(o) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by the rules.</p> <p>(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p> <p>(4) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State legislature consists of one House, before that House.</p>	
59	<p>Notwithstanding anything contained in this Act, a scheme or plan for rehabilitation or resettlement of affected persons or families formulated by the requiring body, may provide for benefits higher than the extent and the amount of benefit laid down under this Act.</p>	No Comments.
60	<p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, be order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty: Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	No comments.