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**Rehabilitation & Resettlement Issue in India”**  
**7<sup>th</sup> -8<sup>th</sup> August, 2008**

**GROUP RECOMMENDATIONS**

**GROUP – I**

**Land Acquisition Areas Requiring Amendments**

1. Lacunae in LA Bill: Sec 3(ccc) defines cost of acquisition to include ‘additional cost of resettlement as may be required after admissible adjustment of R & R Cost against compensation awarded to affected persons’. This provision is not correct and R & R entitlements should be over and above the LA compensation and no adjustment should be permitted.
2. Lacunae in LA Bill: Section 3 (f) defines requisitioning person very loosely and includes any company or association or body of individuals, whether incorporated or not. There is a need to restrict it to public limited companies, registered societies or registered Trusts, including appropriate Government.
3. Lacunae in LA Bill: Direct purchase of 70% of land as per 3 (f) would be hit by land ceiling provisions, provisions on restricting conversion of agricultural land to non-agricultural purpose, land alienation laws on transfer of SC/ST land. Therefore, there should be provisions overriding operation of other Acts, if this direct purchase has to be legally valid.
4. Lacunae in LA Bill: In order to avoid acquisition of land without proper need, it is suggested to incorporate a new section 3 (c) which will read as follows: “The requiring body should give in their requisition, detailed land use plan preliminary R&R Plan, commitment indemnifying the Government for the costs to be incurred. After the requisition is received, the Government must conduct a scrutiny of proposed land use, consult the stakeholders including local bodies and statutory authorities like pollution control board, land use board etc. They should also conduct a public hearing through gram sabha.”
5. Lacunae in LA Bill: It is noticed that several tenancies are not recorded and are not legally valid. However, it is necessary to recognize the rights of such tenants. It is therefore suggested that at the end of Section 29, the following may be added: “Provided the appropriate Government may frame Rules regarding the manner and the principles of apportionment among the interested persons.”
6. Lacunae in LA Bill: Section 3 (f) (iii) provides for 70% of land be purchased by direct purchase, on a ‘willing buyer, willing seller at a mutually accepted price’ concept. Even in such cases, the R & R benefits must accrue fully, as it is a single integrated appropriation of land.

7. Lacunae in LA Bill: Section 3(ff) (iv) gives omnibus powers of declaring 'public purpose' to the Central Government. Land being a State subject, this omnibus power needs to be given to the appropriate government. This can take care of relocation of victims of conflicts, disasters etc.
8. Lacunae in LA Bill: At present there are other central acts involved in land acquisition. In order to bring uniformity, the Acts like Railways Act, Coal Bearing Areas (A & D) Act, National Highways Act etc should be amended and brought in conformity with this LA Act and the R & R Bill.
9. Lacunae in LA Bill: It is seen that in some cases the organizations, after several years of acquisition of land, are not putting the land to the purpose for which it was originally intended. It is therefore suggested that Section 17 A may be amended, authorizing the LACDS Authority, to oversee and ensure a mechanism, with due notice to the organization concerned, for resumption of land by the State Government.
10. Lacunae in LA Bill: In Section 11 (b) after (3), the following may be added: "Where the Collector feels that the market value of the land determined on the basis of clauses 1, 2 and 3 above, is low on account of either the intended land use in future or on account of under-valuations of land transactions in the vicinity, the Collector shall pay an additional 50 % of the market value so determined." Therefore 3 (a) and (b) may be deleted.
11. Under New R&R Policy: In the Project which involves physical displacement of 400 or more families in the plains to 200 families in tribal and hilly areas and border areas requiring land for border fencing or border roads, social impact assement study along with the current norms of environmental impact assement to be made



## GROUP – II

### Reappraisal of National Rehabilitation and Resettlement Policy

#### 1. Reappraisal

- This national policy should be aimed at developing core infrastructure and bringing out development in the area. Last Para of the line 1.3 of the preamble should be verified on the above presumption.
- There should be separate policy for development induced displacement and also a separate policy for other kinds of displacement like natural disasters, conflict induced displacement, drought and famine, etc.
- The “public facility” having not been defined properly in the R&R policy, 2007 need to be clearly defined.
- The policy does not cover the category of encroachers therefore the policy should suggest to create separate policy suited to individual state conditions.
- Regarding Para 1.4 looking to the decrease in area of cultivation in the country and increasing food insecurity, acquisition of multi- crop land including irrigated land for any other purpose should be banned.
- \* Para 1.4 it appears that no mechanism to operationalize the objectives regarding options assessment regarding minimizing displacement/land area/agricultural land have been spelt out in the policy which should be done.
- In Para 1.7 instead of the words “basic minimum requirements” should be replaced with “broad guiding principles”. The last line in Para 1.7 should be deleted and specific policy for other category of people should be formulated.
- There should be a separate mechanism for the people who voluntarily want to surrender their land or gifting land for public purpose.
- In definition-j of family unmarried major daughter, unmarried major sister and separate/widowed female members, major son should also be treated as separate family and should be extended R&R benefit.
- In definition-q “occupier” it should be clarified this definition should be confined to scheduled tribes only.
- In definition t the definition of project should be indicated as concerning projects for development.
- In definition-u “requiring body” should be defined in the light of comments made earlier.
- In chapter 5.2 in the line 3 “any other reason” should be deleted.
- In chapter-6 while SIA under R&R plan have to be prepared having more than 400 families in plain areas and 200 in tribal areas, the state government or central Govt. should be required to put in place mechanism for adequate R&R in other cases as well.
- The Govt. shall take appropriate measures to ensure that no new construction takes place with a view to claim unauthorized compensation (Para 6.1).
- Para 6.3 after the word “census”, videography of the area should be included.
- In case any violation of Para 6.1 is found, the administrator shall make a separate list of such structures.
- The selection of R&R site should be in consultation with the host and the displaced communities.

- In Para 6.15.1 the public hearing in urban areas should be replaced with ward committee hearings.
- In Para 6.17 the specific time period should be mentioned for clearance by the higher authorities.
- In Para 6.22.b the recommendation regarding compensation at market value should find place in the relevant section of LA act.
- In Para 6.24.2 if the land remains unutilized for the purpose it is acquired and comes back to government, the first claim on such land shall be that of the land-owner subject to the refund of compensation.
- Para 6.25 should be deleted being impractical.
- In Para 7.3, the entitlement of the carpet area should be governed through relevant RD scheme in rural areas and Urban housing scheme in urban areas.
- In Para 7.3 instead of making available a ready-built house in rural areas better option would be to allot a plot and give cash compensation towards construction of the house.
- Para 7.4.3 (a) addition. The draw-down land available from a dam can be made available to the original landowners after working out a procedure for this.

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### **Group III**

#### **Reappraisal of National Rehabilitation and Resettlement Policy**

**Section 4.1:** Talks about number of families which should be made state specific.

**Section 5.2:** Representatives from the Panchayats should also be included in the expert group.

**Section 6.2:** The executive summary and EIA as well as STA to be published in local vernacular news paper and also should be pasted on the notice board of the Panchayats.

**Section 8:** Talks about the emergency acquisition of minimum area of land by the central government for the purpose of defense or national security. It's a blanket kind of relaxation given by the central government. In this case separate notification should be issued and it should also be made case specific.

**Section 9.1B:** In small cases officers below the rank of Deputy Collector level can be appointed as administrator only in the major cases the name of the District Collector can be there.

**Section 11.1:** Major departments like PWD, Irrigation etc. should be empowered and engaged in land acquisition. Therefore the respective department secretaries may be appointed as commissioners otherwise regional commissioners can be appointed as commissioners.

**Section 12.1:** Talks about 'Affected Area' and this should be treated as 'Affected families'. In case of nationalized banks as mentioned is not appropriate the more appropriate term should be used i.e. 'Lease Banks' and Panchayat members can also be engaged.

**Section 24.1:** Publication of notification is not mentioned so it can be published in the regional news papers and also on Panchayat Notice boards.

**Section 36:** Non alienation clause can be included in this section otherwise the person who has allotted land can again go to a situation of landlessness. If displaced family is allotted a land and the family is not willing to shift to that area then he may be given equal amount to the land which is allotted.

**Section 42:** Agricultural and Industrial wages whichever is higher should be included in this section.



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## **Group –IV**

### **Rehabilitation and Resettlement Issues Aftermath Natural Calamities**

#### **1. Immediate Response**

1. Rescue
2. Relief and
3. First aid
4. Provision of basic needs-drinking water, food and shelter
5. Maintaining sanitation and hygiene

#### **2. Initial Assessment of Damages**

1. Strengthening of rescue and relief
2. Strengthening of medical facilities

#### **Mobilisation of Resources**

1. Men, machine and material

#### **Detailed Assessment**

1. Identification of affected people by enumeration
2. Assessing of common **infra structure damages**

#### **3. Relief Distribution**

Restoration of infrastructure – drinking water, electricity, roads

#### **4. Disaster Management Plan**

##### **Dissemination**

1. Dissemination of post disaster management plan to all stakeholders
2. Disaster management training to all stake holders.
3. Equipping all institutions with materials
4. Regular mock drill to all

##### **Collection of data**

1. Initial damage assessment with remote sensing and GIS.
2. Collection of data using all the relevant existing tools

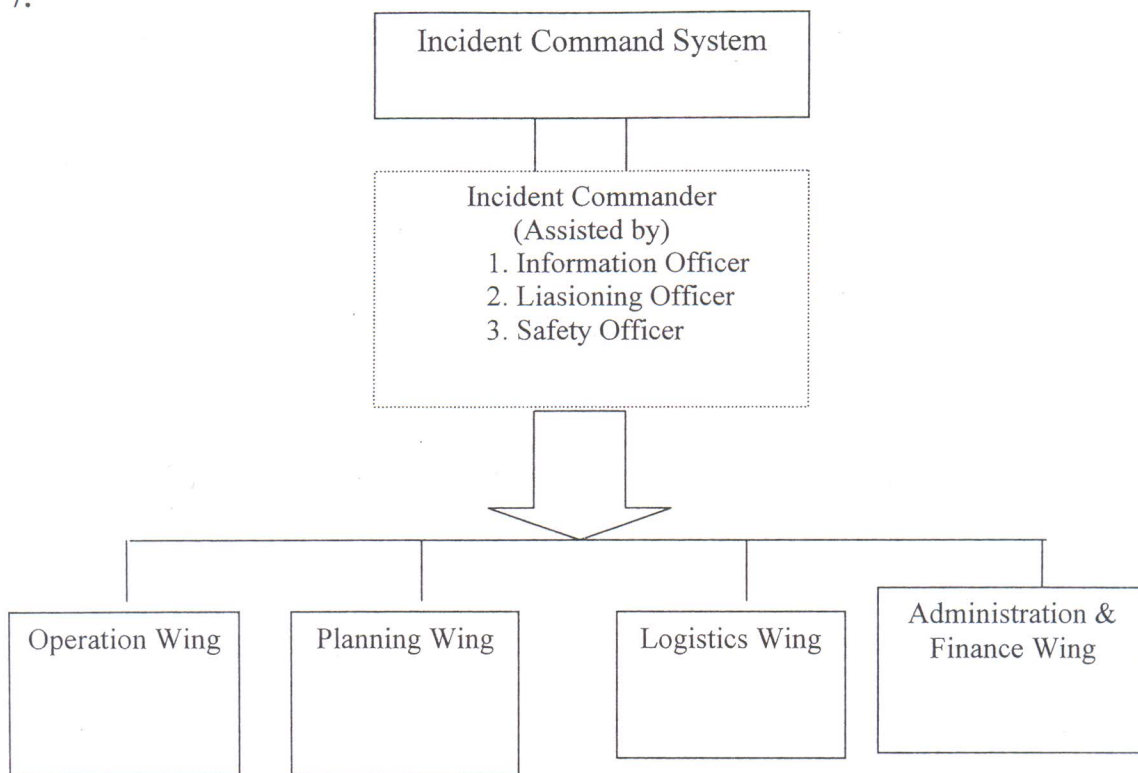
#### **5. Recommendation**

1. Decentralized decision making plan
2. Authorising panchayats to spend for initial requirements

#### **6. Resettlement issues**

1. Damage assessment
2. Basic survey
3. Record keeping
4. Identification of land and allocation
5. Restoration of personal assets and community assets within the time frame

7.



8. **Educating people**

Disaster Management has to be included in the school curriculum.