

**Recommendations of National Workshop on
“Land Acquisition For Development Projects In Scheduled Areas, Increasing Land
Alienation Among Tribals And Pesa”**

The group wise policy recommendations on the basis of different themes related to the workshop are as follows:

Group 1: is on the theme of “Settlement of tribals and their traditional rights over natural resources in the context of PESA vis-à-vis Land Acquisition Act”. The members in the group are B. K. Sinha, Premananda Panda, Chiranjiv Choudhary, Pradeep Prabhu, Vasudha Dhagamwar.

Group Recommendations

1. The History of Land Acquisition can be seen into three phases- Phase I (1894-1947), Phase II (1947-1990), Phase III (1990-2008). Phase III is the Era of Debate, Reconsideration, strife and agitation.
2. The govt. must take cognizance of the changes that has been occurred in the approach of land Acquisition.
3. There is a great need to look at the issues in an Institutional Frame Work of Land Acquisition Act.
4. Need to enhance the public investment in irrigation because the great water crises occasioned by thoughtless exploitation of the subterranean water resources.
5. The factors responsible for the growth of commercial agriculture cannot be overlooked; have to taken cognizance of.
6. There is a need to solve the distress in the tribal areas as-
 - 95 % in agriculture sector; not occupation shift perceptible in other societies;
 - Rise in Poverty; high poverty level of 55 % [Sundaram & Tendulkar]
 - Starvation and malnutrition; [NFHS; 2004]
 - Lagging in literacy; school drop out etc;
 - Declining per capita availability of land;
8. The Panchayat (Extension to the Rural Areas) Act 1996 is the Most Revolutionary legislation. Powers vested in the Gram Sabhas but the definition of Gram Sabhas is different and based on localities. Consultation with the Gram Sabhas at the appropriate levels before making acquisition for development projects should be necessary.
9. Amendment to the Land Acquisition Act in the following areas is important-
 - Most significant amendment to LA Act is doing away with Schedule II of the Act; land acquisition for the private companies will not be possible in the same manner as earlier;
 - Public Purpose defined; exclusive and inclusive definition;
 - Consultation with GS mandatory before acquisition;
 - Power of restoration of the alienated land very significant;

10. The Forest Rights Bill is based upon PESA and its basic powers vested in the GS. GS to appoint a Committee and the Committee to entertain claims; define the parameters and adjudicate upon disputes.
11. R& R Bill, 2007 is a very comprehensive policy and it needs to be worked
 - Based upon the provisions of PESA;
 - the MoPR was consulted; this principle enunciated;
 - Bill referred to the Standing Committee; deposition by the Ministry;
 - habitation the basis U/S 4(1), 9(1), 20(1)
 - The GS the basic authority; others implement;
 - Provision of Ombudsman [S. 14(1)];
 - Broad modicum of agreement over the Policy itself; minor differences left to the local initiatives;
12. National Tribal Policy, 2008 is lacking the political power and the essence of the thing is that without political power no rights are functional.
14. Implementation of PESA is required as -
 - It is not complete in any of the States so this issue needs to be looked upon;
 - There should be realignment of the administrative structure and laws of the State;
 - To ensure the restoration of the alienated tribal lands;
 - Need for the civil society to support these initiatives;

Group-II is on the issue of **Rehabilitation and Resettlement**. The group members are Balbir Singh Rajewal, Muzaffar Assadi, Ganesha Somayaji, Ritu Dewan and Hari Charan Behera.

The following are the group recommendations:

1. Societal Cost Benefit Analysis of Project should be undertaken before expressing the intent of any project, and the result should be widely circulated in local language to affected families and general public.
2. The formation of all evaluating committees should comprise of stakeholders, academia, civil society, and government representatives
3. Notification should be widely circulated and publicized in local and language of the ethnic/tribal groups
4. Compulsory Social Impact Assessment with respect to Cultivation and CPR Rights should be undertaken
5. Compulsory Pre and Post - Environmental Impact Assessment with reference to Tribal Rights , CPR and Carrying Capacity should be undertaken
6. Resettlement/Rehabilitation area should be identified in consultation with and with the participation of would -be affected parties
7. Gender participation should be integrated fully in all the processes, consultation, design, and implementation
8. All the relocation should be in similar geographical terrain ,without the loss of cultural and communitarian identity
9. No minimum number of households should be laid down for qualification for compensation and R&R

10. Resettlement areas should cover or include all sources of livelihood- such as agriculture, horticulture, livestock, fishing, forestry, artisans, CPR products, shops, SSIs, OAME-Own Account Manufacturing Enterprises, family enterprises
11. Resettlement sites should be fully developed before any relocation or resettlement including houses, sanitation, schools, drainage, community hall, wells/drinking water, roads, health centres, Ration Shops, Common space- play ground, burial/crematorium ground, spaces for cultural reproduction , green cover
12. While constructing houses size of the family, needs of the family and future expansion of the family should be taken into account. All the houses should be designed in consultation with the affected communities. All houses should be accompanied by homestead land. Ownership right of the house including homestead should be in the names of the husband and wife, and solely in the name of women in the case of female headed house
13. Compensation should include all economic and social aspects, including monetary, land, live stocks, CPRs- both priced and unpriced, equipment, wells, trees , houses etc
14. The resettled area should have full facilities interns of micro finance, SHGs, extension services, with subsidies being provided for all livelihood
15. There should be gender parity with regard to compensation irrespective of age and marital status
16. Single window disbursement of beneficiary scheme should be adopted
17. All self governance institutions such as sabhas should be constituted immediately after the rehabilitation with fifty percent gender representation
18. All the rehabilitated areas should be declared as revenue villages and scheduled areas in respect of tribals
19. Compulsory employment at least one member of the displaced community
20. Free vocational training and skill upgradation must be provided by new project
21. Amount of compensation to landless should be based on man days and prevailing wages

Group-III is again on the issue of **rehabilitation and resettlement**. The group members are T. S. Jawahar, Rajendra Ratnoo, Vanlal Duhsaka, Onkar Singh Agaul, Ranjit Singh Pannu, V. V. Singh. Based on different dimensions such as: the categorize and prioritize, employment related issues, entitlement of house for BPL families, capacity building, and care for the vulnerable.

The following are the categories of displacement:

- Lose house sites only
- Lose both house site and agriculture lands
- Lose of agriculture lands only
- Loss of livelihood
- Consequential loss of livelihood

Based on the employment related issues, the group recommended a few following points:

1. Actual Employment option should be exhausted first

2. Employment Entitlement vs. 750 days' wages (s-7.14) – Delegation to administrator on issues like gender equity, family size and administrator to regulate recruitment

Following things should be ensured for the houses of BPL families who are affected by project:

- Cost of construction as per market rate
- Preservation of neighbourhoods
- Women and Child friendly environment
- Social Costs
- Community Infrastructure

For capacity building following should be the provisions:

- Assistance for Professional Education
- Adequate alternate livelihood (s-7.13.2)
- Collective ownership of reclaimed lands

There should be mechanism to care for the vulnerable that include Senior Citizens, Widows, Destitute Women, Orphans, Physically Challenged, Scheduled Caste/ Scheduled Tribe and Unmarried Girls

Rehabilitation and Resettlement Issues should include following:

1. It should be independent entrusted to an institution.
2. An Appellate Authority for speedy resolution of disputes should be set up.

Group-IV is on the issue of **Alienation of Tribal land**. This comprises group members Dr. K. Gopal Iyer, Dr. N. K. Kumaresan Raja, Shri G. V. V. Sharma, Ramesh Sharma, and Alex Ekka. The group discussed on each question as mentioned below:

1. Is the law actually protecting?
 - By and large the protective legal framework is able to actually protect only where the tribal movements asserting their rights are strong
 - The implementation suffers from problems like lack of monitoring, litigation, oral transfers not being captured by law etc
2. Is it restricting mobility of tribals?
 - In some States like Orissa, mortgage of land by a tribal for any purpose other than agriculture is totally banned. This is leading to criticism in some quarters that the tribals who want to set up business, or industry or a petrol pump and raise loans from banks are being prevented.
 - The practice of 'silent partnership' in some states is leading to a tribal reduced to dummy
 - Gift deeds In areas close to urban centres, tribal land sale should be permitted, by insisting on four times equivalent land in nearby rural areas to be provided
 - Marriage and adoption are common means of frauds in some cases
3. Is there a 'museum' approach?
 - No.

- Identification with 'homeland' and with the cultural milieu of the tribals is very important.
 - Protection is required but at the same time, efforts to provide better education facilities must be made sincerely.
4. Issues relating to ST migrants to urban areas
- ST migrants to urban areas, working in unorganized sector, are extremely vulnerable condition due to lack of land.
 - Require other support systems like education and other skill development programmes
5. Comparison with STs and SCs
- In some States, there are land alienation laws for members of SCs as well. However, the ability of ST to diversify and to take up non-land based activities is still limited.
 - Feeling of oppression is not there so much among STs as in the case of SCs
6. Forest land
- Forest land is integral to tribal life and cannot be treated in isolation.
 - Forest rights protection Act needs sincere implementation
 - Minimum land holding for tribals to be ensured
7. Land acquisition, a means of alienation
- PESA should be amended to introduce 'consent' of Gram Sabha for tribal land to be permitted for acquisition
 - In cases of land acquisition, 'benefit sharing' must be ensured to the tribals