

PROCEEDINGS OF THE MEETING OF THE TRIBES ADVISORY
COUNCIL HELD ON 01.02.2001 AT 11:00 A.M. IN THE 3RD FLOOR
CONFERENCE HALL OF SECRETARIAT BUILDING.

The Hon'ble Chief Minister was in the Chair.

List of participants is given in Annexure-I.

Hon'ble Chief Minister, while welcoming all members of Tribes Advisory Council and the Senior Officials, mentioned that the deliberations in the Council have been extremely rewarding in formulating the policies and programmes relating to tribal development. In the last 10 months of his Government, a few notable initiatives in this direction have been taken in the liberalization of Minor Forest Produce, in handing over the rights of such produce to Gram Panchayats and in removing the royalty on Sal leaves which provides livelihood to tens of thousands of tribal households. The problem relating to Sabai grass has since been addressed by decontrolling and deregulating its production and movement as it would directly benefit more than one lakh tribal households in Mayurbhanj and Keonjhar district. Further, in keeping with the spirit of the 73rd amendment to the Constitution of India, the relevant state laws have already been amended or are in the process of being amended. Regularization of pre-80 forest habitations is a priority for the Government. Because of certain procedural formalities and clearances needed from the Government of India, the State Government has not yet been able to achieve the targets. The proposal for regularization of 200 forest habitations is pending with Government of India for approval as require under the Forest Conservation Act, 1980. During his recent visit to the Similipal bio-reserve, he was immensely pleased to see the involvement of 'Bana Surkhya Samitees' in the protection of forests. It would be the endeavour of Government to involve communities and especially, tribal communities in the preservation of the forest. The mafia elements who were using the poor tribals for smuggling timber from the forests would be dealt with appropriately. The organic relationship among tribal communities, forest, land and water would be strengthened. His Government attaches highest attention to

this bondage. A quarter of the population of the State belongs to tribal communities. The Government has specific development programmes for these communities. The projects like Integrated Tribal Development Agencies, Micro Projects for Primitive Tribal Groups, Cluster and MADA Projects are to be further strengthened to play more meaningful role in the development of tribal areas. He called upon the members to the T.A.C. to suggest ways and means to improve the functioning of these projects.

The social order of tribal communities is based on strong values and innate sense of truth, justice and beauty. The onus is on everybody to protect, preserve and enhance these values.

Agenda No. 1

Proceedings of the meeting of the Tribes Advisory Council held on 26.6.2000 were confirmed,

Agenda No. 2

Action taken note on the proceedings of the T.A.C. held on 26.6.2000 was discussed and the following decisions were taken :-

1. A Task Force has been constituted to look into the agrarian problems faced by the S.T. community. The Task Force has held its meetings and has started deliberations on different aspects of the problem. Proposed amendments to the Orissa Scheduled Areas Transfer of Immovable Properties (by Scheduled Tribes), Regulation, 1956 (Regulation 2 of 1956) inter-alia, in the light of the provisions laid down in the Panchayats (Extension to Scheduled Areas) Act, 1996 (Act 40 of 1996) of Government of India is now awaiting Presidential assent. After the Presidential assent, it would be possible to review all regular transfer since 1956 and to prevent future transfers of land even from tribals to tribals in the Scheduled areas, to prevent the tribals from becoming landless. If needed, Government will go for similar amendment to Sections 22 & 23 of the O.P. Act.

1960 to protect and safeguard the interests of the tribals living outside the Scheduled Areas. In the recent judgement delivered by the Hon'ble Supreme Court of India in Samatha vrs. State of Andhra Pradesh and others, the transfer of tribal land in any form to non-tribal natural persons or a Company, Corporation or Partnership firm etc is unconstitutional, void and inoperative. Such transfers of land in the Tribal Sub-Plan area will be only to the Tribal natural persons or Tribal Cooperatives. Hon'ble President of India in his Republic Day address has also referred to the aforesaid judgement to protect the rights and interests of the tribals. After brief discussion, the Chief Secretary suggested that the applicability of the judgement of the Hon'ble Supreme Court to the tribal areas of Orissa needs examination. Further follow up action may be taken thereafter.

2. The issues relating to inclusion of Jhara and Malhar community of Keonjhar district, Dora community of Kalahandi district and Kandha Kumbhar were discussed and the Council requested that Hon'ble Members may submit proposals along with the details like, habitations etc. for survey through SCSRRTI, Bhubaneswar and for submission of proposals to Government of India.

3. The proposal of declaring Bhotara and Bhotoda as synonomous to Bhottada and Dhotada communities respectively (SI No. 5 of the Presidential Order) was discussed. The Council requested the Hon'ble Members to intimate details of their habitations for survey through the SCSTRTI, Bhubaneswar.

4. Problems faced in implementation of educational programme for tribals by the School and Mass Education Department as well as by the S.T. & S.C. Development Department were discussed.

The Council urged that the proposals for creation of teaching posts for the upgraded schools and filling up of the existing vacancies should be cleared by the Govt. in the interest of education of the tribal communities.

Hon'ble Chief Minister observed that an exclusive meeting would be taken up shortly to resolve the pending issues for rapid improvement in the educational standards of the tribals.

Agenda No. 3

(a) The question of regularization of pre-80 forest habitations of tribals was discussed at length. It was stated that out of 120 families identified in the Similipal forest area, 23 families volunteered to shift out and resettle elsewhere.

Out of 65 villages in Similipal forest area, 4 villages are in the core area, and need to be shifted. The villagers are required to be resettled elsewhere. Survey in the Satkoshia area is yet to be completed. The Council suggested that survey and resettlement operations of the scattered core village inhabited by tribals in the sanctuaries should be completed at the earliest.

200 cases of tribal settlement within forest areas have been sent to Government of India and another 484 cases are still pending. Hon'ble Chief Minister expressed concern over the tardy progress in spite of announcement made by him for final settlement of all pre-1980 cases within a definite time frame. The Council recommended to the Principal Chief Conservator of Forests, Orissa to complete detection of all pre-1980 cases within a month, so as to send the consolidated proposal to Government of India. Principal Secretary to Government, Revenue Department mentioned that nearly one thousand pre-1980 forest habitations of tribal communities are needed to be settled quickly. The Council urged the Govt. to decide the cases quickly, as these settlements are deprived of even basic minimum services.

(b) Performance of key Departments relevant to tribal development was exhibited in the Draft Annual Administration Reports. The Report contained information relating to funds provided in the State Budget/received from

Government of India under different programmes, and status of their utilisation. The Report was discussed and clarifications were furnished.

(c) The question of improvement of tribal schools located in TSP areas as regards increasing enrolment and reducing dropouts were discussed at length.

Agenda No. 4

(a) Since the issues relating to acquisition of land for Alumina Plant in Kashipur are under judicial enquiry the Council agreed to the suggestion of the Chief Secretary to defer discussion.

(b) After discussing at length, the Council also agreed to the suggestion of the Chief Secretary that the Secretary Panchayati Raj Department and the Advocate General, Orissa would find out ways and means for maintaining harmony and coherence between the Central and State Administrative Acts by consulting and obtaining the advice of the Attorney General of India on the subject.

Agenda No. 5

(a) As per the suggestion of the Chief Secretary, the Council observed that the adaptability of the Maharashtra Model of Single Line Command in the State should be further reviewed and thereafter it should be placed in the next meeting of the Council along with necessary suggestions.

(b) The Principal Secretary Revenue Department mentioned that the Orissa Government Land Settlement Act provides for priority-based settlement of 'Government Land' with the Scheduled Tribes throughout the State. The Council recommended that the Revenue Department should review the position and find out subsisting constraints if any in protecting the interests of Scheduled Tribes of

Scheduled Areas in the matter of alienation of Government land. If so, the Revenue Department may conceive of a separate legislation in addition to the existing Regulation 2 of 1956, to complement the efforts.

The Council appreciated and noted that the Task Force constituted for the purpose of examining the agrarian problems between the Pano-Christians and Scheduled Tribes of Gajapati, Kalahandi and Rayagada districts, under the Chairmanship of RDC (SD) is already examining the issues. Further the amendments of Orissa Scheduled Areas Transfer of Immovable Properties (by Scheduled Tribes) Regulation, 1956 (Regulation 2 of 1956), which is now awaiting Presidential assent would address the problem adequately.

Agenda No. 6

The proposal for inclusion of Rajgands, Durigands and Jarasabars as S.T.s was discussed. The Council requested that Members may furnish proposals with details of habitations and other cognate matters of such tribes for formulation of proposals for their inclusion in the Presidential list.

Agenda No. 7

The Council approved the Draft Annual Report on Administration on Scheduled Areas for 1999-2000 after detailed deliberations.

Agenda No. 8

- The problems relating to vacancies of doctors in Scheduled areas came up for discussion. The Principal Secretary, H & F.W. Department explained the position and assured that all the vacancies of doctors in KBK districts

and other difficult areas including Scheduled areas can be filled up soon after the panel of names of doctors recommended by the OPSC is cleared.

- The question of getting approval from the Grampanchayats of Scheduled areas by force or pressure for liquor licenses were discussed at length. It was observed that if complaints regarding use of force or pressure for obtaining approval of Grampanchayats would come to the notice of the Collector/Government, action as per law will be taken.
- The up-to-date progress of establishment of Model Schools for the Tribal Students was reviewed. The Council was apprised that 4 Model Schools, one each in Mayurbhanj, Sundargarh, Rayagada and Koraput district have started functioning. The construction of school Complexes would be done after competent technical and administrative sanction.
- Complaints were received that one Sri Surendra Naik, belonging to S.C. community, ex-teacher Basini village under Nawrangpur Block, assaulted two S.T. persons, namely, Sri Harihar Bhatra and another on 01.01.2001. A complaint was lodged with the local police and S.P. After that, Sri Naik was simply taken to custody and was released immediately. It has fanned communal tension in the locality. The Council recommended that appropriate action as per law may be taken without delay.

The Meeting ended with a vote of thanks to the Chair.

Sd/-

Commissioner-cum-Secretary to Govt.

MEMBERS PRESENT IN THE T.A.C. MEETING HELD ON 1.02.2001

1.	Chief Minister		Chairman
2.	Minister (ST & SC Development)		Deputy Chairman
3.	Smt. Draupadi Murmu	Minister, Commerce &Transport	Member
4.	Golak Nayak	Minister (S) P & C	Member
5.	Niladri Nayak	MLA	Member
6.	Sri Shankar Oram	MLA	Member
7.	Sri Shaluga Pradhan	MLA	Member
8.	Sri Bhujabal Majhi	MLA	Member
9.	Sri Lal Bihari Himirika	MLA	Member
10.	Sri Sadan Nayak	MLA	Member
11.	Sri Balabhadra Majhi	MLA	Member
12.	Commisioner-cum-Secretary , S.T. & S.C. Development Department		Secretary

OFFICERS PRESENT

1. Chief Secretary, Orissa
2. Addl. Development Commissioner and Principal Secretary to Govt. Revenue Department
3. Agriculture Production Commissioner
4. Principal Secretary to Govt., Health & F.W. Department
5. Chairperson-cum-M.D., Orissa S.C. S.T. Development Finance Coop. Corpn.
6. Commissioner-cum-Secretary, F. S & C.W. Department
7. Commissioner-cum-Secretary; Panchayati Raj Department
8. Commissioner-cum-Secretary, Water Resources
9. Commissioner-cum-Secretary, Agriculture Department
10. Commissioner-cum-Secretary, Excise Department and Special Secy., G.A. Department
11. Commissioner-cum-Secretary, Steel & Mines Department
12. Commissioner-cum-Secretary, School & Mass Education
13. Special Secretary, Forest & Environment Department
14. Special Secretary, Home Department
15. Add. Secretary, Rural Development Department
16. Director (ST/SC) and Ex-Officio Addl. Secy
17. Joint Secretary, Works Department
18. General manager, TRIFED
19. Director, S.T. S.C. R & T.I.
20. Managing Director, TDCCOL
21. Director, A.T.D.C.

Details of the district-wise proposals submitted to the Government of India for regularisation of Pre- 1980 Forest Encroachments.

Name of the Districts	No. of habitats	Area involved (in ha.)	No. of families to be benefited				Total Population
			SC	ST	Others	Total Families	
1	2	3	4	5	6	7	8
I. PROPOSALS SUBMITTED TO THE GOVT. OF INDIA							
1. Balasohandi	29	775.154	74	252	34	360	1672
2. Balarangpur	21	679.608	24	424	56	504	2704
3. Boudh	05	5.028	70	42	68	180	813
4. Nayagada	13	14.340	1	218	4	223	954
5. Koraput	25	446.995	0	380	131	511	2123
Total	93	1921.125	169	1316	293	1778	8266
6. Cuttack	05	65.241	0	133	0	133	620
7. Dhenkanal	11	214.112	46	154	14	214	1267
8. Gajapati	30	183.285	0	215	55	270	1599
9. Jajpur	10	385.530	5	548	13	566	2773
10. Kandhamal	20	438.317	29	227	9	265	1217
11. Khurda	03	74.120	0	54	0	54	221
12. Sundargarh	10	296.117	9	239	16	264	1398
13. Angul	08	230.989	59	63	104	226	1267
14. Boudh	04	87.955	2	65	7	74	300
15. Mayurbhanj	04	10.666	0	65	30	95	429
16. Nayagarh	03	29.3208	79	0	65	144	603
17. Ganjam	31	492.598	1	461	14	476	2360
18. Baragarh	04	172.6904	1	100	45	146	2000
19. Sambalpur	06	2.75	8	7	1	16	422
20. Jharsuguda	11	52.36	63	171	59	293	1358
21. Deogarh	2	45.3869	0	43	0	43	267
Total	162	2781.4381	302	2545	432	3279	18341
Grand Total	255	4702.5631	471	3861	725	5057	24941

Receipt and utilisation of Share Capital by Orissa SC & ST Development Finance Corporation (OSFDC) by end of 1999-2000

The Position of receipt and utilisation of Share Capital for payment of Margin Money Loan to the Scheduled Tribe beneficiaries year-wise since 1983-84 to 1999-2000 is given in the table below: -

Year	Amount of share capital received from State Government	Amount of share capital received from Government of India	Total	Amount of share capital released for payment to ST Beneficiaries	Amount of subsidy released	Amount of Bank loan disbursed	No of beneficiaries covered	Remarks
1	2	3	4	5	6	7	8	9
83-84	--	25.00	25.00	13.91	46.36	32.46	2931	Subsidy for I.T.D.A., DRDA, Mada areas not covered by Corporation.
84-85		25.00	25.00	31.03	72.41	103.43	8546	
85-86				13.81	46.03	32.23	3198	
86-87	12.50	50.00	62.50	17.14	57.15	39.97	4408	
87-88		10.00	10.00	45.61	152.05	106.44	10575	
88-89	10.00	20.00	30.00	34.52	114.98	80.46	7414	
89-90	12.00	11.50	23.50	22.98	101.20	79.07	4703	
90-91	10.00		10.00	35.23	137.04	102.87	5417	
91-92	13.96	9.80	23.76	38.52	139.89	104.11	5290	
92-93	10.00	9.60	19.60	2.06	56.74	57.19	2104	
93-94	4.00		4.00		93.51	93.92	3122	
94-95	4.00		4.00		73.22	75.33	2470	
95-96	4.00		4.00		165.52	171.28	4293	
96-97				15.58	141.13	133.62	3200	
97-98				42.01	213.37	185.28	4527	
98-99				65.43	273.10	233.69	5594	
99-2000	4.00		4.00	16.94	234.79	237.54	4776	
TOTAL	84.46	160.90	245.36	394.77	2118.49	1868.89	82568	



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 24th December, 1996/Pausa 3, 1918 (Saka)

The following Act of Parliament received the assent of the President on the 24th December, 1996 and hereby published for general information:—

THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996

No. 40 of 1996

[24th December, 1996]

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. Short title.

2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in clause (i) of article 244 of the Constitution. Definition.

3. The provisions of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4. Extension of Part IX of the Constitution.

Exceptions and
modifications
to Part IX of
the Constitu-
tion

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:—

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall—

(i) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

(ii) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution:

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats:

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

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

(j) planning and management of minor ^(small) water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

(k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

(l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with—

(i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

(ii) the ownership of minor forest produce;

(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

(iv) the power to manage village markets by whatever name called;

(v) the power to exercise control over money lending to the Scheduled Tribes;

(vi) the power to exercise control over institutions and functionaries in all social sectors;

(vii) the power to control over local plans and resources for such plans including tribal sub-plans;

(n) the State legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas immediately before the date on which this Act receives the assent of the President which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President:

Continuance of existing laws and Panchayats.

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,
Secy. to the Govt. of India,

GOVERNMENT OF ORISSA
REVENUE DEPARTMENT

NO. _____ / R Date

M E M O R A N D U M

Sub:- Land acquisition in scheduled areas -
Mandatory consultation with Grama Sabhas/
Panchayats.

1. Central Government has enacted an Act to provide for extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas titled "provisions of the Panchayats (Extensions to the Scheduled Areas) Act, 1996. A copy of the Act is attached as Annexure-A.

2. The Act, inter-alia, provides under sub-section (1) of Section-4 that "The Grama Sabha or the Panchayats at the appropriate level, shall be consulted before making the acquisition of land in the scheduled areas for development projects and before resettling or rehabilitating persons affected by such projects in the scheduled areas; the actual planning and implementation of the projects in the scheduled areas shall be coordinated at the State level".

3. The Ministry of Rural Areas and Employment Deptt. or Rural Development, Government of India have advised us to issue necessary executive instructions to describe the modalities of consultation with the Grama Sabhas or with the Panchayats, where more than one Gram Sabha is involved. The Ministry has advised us to bring

the procedure to the notice of all Land Acquisition Officers and Collectors for strict compliance. The procedure to be followed for such consultation in connection with acquisition of land in Scheduled areas, is indicated in Annexure-'B'.

4. In this connection, it may be pointed out that if the guide-lines as formulated by the Government of India are circulated as they are, there would be inordinate delay in acquiring land under Land Acquisition Act in Scheduled Areas. The consequence would be that, major projects which may includes industries, irrigation works, power station, major roads etc. would have a tendency to gravitate towards non-scheduled areas, there by, adversely affecting the development of the scheduled areas. The issues with regard to the procedures as prescribed by the Government of India, for acquisition of land in scheduled areas, which need attention, have been indicated in Annexure 'C' for perusal. The following two options may kindly be considered.

(i) To circulate the guidelines as they are, while simultaneously making a reference to Government of India on issues raised in Annexure-'C'. Or

(ii) To make a reference to Government of India, mentioning that the guide-lines, issued by the Government of India, have not been circulated pending clarification on the issues to be raised.

5. Since the matter relates to issue of guide-lines in the matter of acquisition of land in scheduled areas as per

: 3 :

the instructions of Government of India, this may kindly be placed in the meeting of the Tribes Advisory Council, scheduled to be held on 26.6.2000.



PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT.

PROCEDURE TO BE FOLLOWED FOR ACQUISITION OF LAND IN SCHEDULE V AREAS

The Panchayats (Extension to Scheduled Areas) Act, 1996 vide Section 4 Clause 1 lays down that in all Schedule V Areas, consultation with the Gram Sabha is mandatory before any land acquisition proceedings can be undertaken. The following paras prescribe the procedure to be followed for such mandatory consultation with Gram Sabhas in Schedule V Areas before land acquisition proceedings are initiated.

All Gram Sabhas in which even if one person is affected by a proposed project would have to be consulted before acquisition proceedings are initiated, by the procedure prescribed below. A project-affected person is defined as any person whose livelihood or habitat is expected to be extinguished or adversely affected by the proposed project, notwithstanding the legal status enjoyed by them in relation to the concerned resource base for their livelihood or subsistence.

Alongwith a request to commence acquisition proceedings under the LAA, the requiring authority would have to prepare and submit to the Collector, the following information: 1. Full details of land proposed to be acquired alongwith khasra numbers and other details; 2. Full details of land expected to be affected by the project but which is not being acquired; 3. Purpose for which acquisition is proposed with full details including the specific use to which each segment of land is expected to be put; 4. Reasons why the extent of land proposed to be acquired is necessary and justified in relation to the purpose of the project; 5. Reasons why the proposed acquisition is the least displacing alternative available; 6. Full details including khasra numbers of land-for-land and resettlement sites, capacity building and employment and phasing of the rehabilitation plan in consonance with the State or national rehabilitation policy; 7. Full details of the expected environmental impacts – both short and long-term especially its impact on public health and on the forests, water, air and mineral resources.

The Collector will ensure that the information indicated in the previous paragraph is communicated in a manner fully understood by the affected individuals and Gram Sabha, to those affected individuals and Gram Sabha, by a variety of methods which should also include: (a) publication in two local newspapers in the local language; (b) beat of drum; (c) pasting on the

notice board of the Gram Panchayat; and (d) individual notices to all PAPs. The Collector should also take help from the elected representatives, especially of the district, block and village Panchayats, social activists and local NGOs in communicating this information to the affected individuals and Gram Sabha.

Affected individuals and Gram Sabha would be given sufficient time after such publication to submit their queries, requests for further information and objections. On a date duly publicised in advance, a Gram Sabha meeting would be organized in each affected Gram Sabha. All written requests for clarifications and further information would necessarily be met prior to this meeting. The Collector and the requiring authority would both necessarily attend this meeting. In the Gram Sabha meeting, the Collector and requiring authority would again present and elaborate details regarding all the information referred to above. All objections obtained in advance, as well as verbally during the consultation, would be dealt with one-by-one. The members of the Gram Sabha would be given the opportunity to explain the reasons for her or his objections and the requiring authority would be free to respond. In case of a consensus, this would be duly recorded. However, in case of a disagreement, the Collector would record a synopsis presenting the arguments of both sides and his decision in a Speaking Order. A copy of this order in case of disagreement, will be sent to the State Government and to the Secretary, Department of Rural Development, Government of India, Krishi Bhawan, New Delhi.

It is clarified that even if urgency clauses are invoked, the procedure of consultation defined above cannot be abbreviated or circumvented in any way under any circumstances. It is also clarified that the right of a Gram Sabha to be consulted does not abbreviate the right of an individual interested person to be heard before and during proceedings under the LAA.

Wherever more than one Gram Sabha is involved in land acquisition, in addition to consulting all the Gram Sabhas, the intermediate or the district level Panchayat should also be consulted following similar procedure as laid down above in this order.

ISSUES REQUIRING ATTENTION OF GOVERNMENT OF INDIA
ON THE PROCEDURE PRESCRIBED FOR LAND ACQUISITION IN
SCHEDULED AREAS.

Under the Central law (Act 40 of 1996) it is the Gram Sabha or the Panchayats at the appropriate level which need to be consulted before acquiring land in the scheduled areas. The requirement of this law would be complied with if either the Gram Sabha or the Panchayats at the appropriate level is consulted. Consultation with both is so far not mandatory. For large projects involving acquisition of land situated in more than one Gram Panchayats, the option of consulting the Panchayats at the district level is available under the present law which is now proposed to be taken away through this executive instruction and the process of consultation has been made time taking and some what dilatory.

2. The time taken for completing all consultations would provide scope for pushing up the cost of the land acquisition since not even the preliminary notification U/s 4(1) of the Land Acquisition Act can be issued before mandatory consultation is complete. The executive instructions provide that all Gram Sabhas in which even one person is affected by the proposed project resides would have to be consulted before acquisition proceedings are initiated. This, in our considered view is not correct interpretation of section 4 (i) of the Central Act No.40 of 1996. It is our understanding that

a Gram Sabha has to be consulted if any land located within its territorial jurisdiction is proposed to be acquired. Therefore the crucial question is whether any part of the land proposed to be acquired is located within the Gram of a scheduled area and not whether a single member of the Gram Sabha is affected. The words "persons affected by the proposed project" convey a different connotation from the words "Persons affected by acquisition of their land". The definition of a project affected person does not seem to have any co-relation with, nor it can be derived reasonably from the provisions of the principal Act referred to above.

3. For the meeting of the Gram Sabha, a number of information would have to be submitted by the requiring authority compilation of which will take considerable time it will not be easy to justify an acquisition proposal as the least displacing alternative. Once such reasons are formally required to be given, the validity of the justification could also become justiciable.

4. The procedure for holding the meeting of the Gram Sabha is also rather cumbersome. If there are 20 villages where some land is being acquired for a particular project, meeting of all 20 Gram Sabhas will have to be held, each of which will have to be attended by the Collector and the requiring authority. It may not be possible for the Collectors to attend the meeting of each and every Gram Sabha for this purpose. Furthermore where there is a disagreement between the Gram Sabha and the requiring authority the Collector is required to record a speaking

order and endorse a copy of the same to the State Government as well as to the Secretary, Department of Rural Development, Government of India. It is not quite clear as to what the powers and functions of the Secretary, Rural Development would be. Assuming that submission of a copy of the order of the Collector to the designated authority of Government of India is not ideal formality, it could imply that Government of India in the Ministry of Rural Development would have say in the matter as to whether the State Government should or should not acquire land for the public purpose. The right of the State Government to finally determine whether a particular purpose is a public purpose or not will have to be partially surrendered to the Secretary, Rural Development, Government of India.

5. It may also be noted that the emergency procedure cannot be adopted without going through the consultation procedure suggested by Government of India. What is even more surprising is that while the Central Act only envisages consultation with the Gram Sabha or the Panchayats at the appropriate level, the executive instructions seek to confer upon each individual affected by the acquisition, a right to be heard before and during proceedings under the Land Acquisition Act.

6. When more than one Gram Sabhas are involved in land acquisition, apart from consulting all the Gram Sabhas, Panchayat Samities and Milla Parishads will also have to be consulted following the same procedure as indicated above.

7. One of the possible effects of the rather cumbersome and dilatory procedure of consultation prescribed by the Government of India would be to discourage land acquisition in the scheduled areas. The consequence could be that major projects which may include Industries, Irrigation works, Power station, major roads etc. would have a tendency to gravitate towards non-scheduled areas thereby adversely affecting the development of the scheduled areas. These implications of the executive instructions issued by the Government of India may be carefully evaluated and the executive instructions suitably modified by Government of India so as to ensure that the process of development of the scheduled areas is not undermined un-intentionally.

MEMORANDUM: FOR DISCUSSION IN THE STATE TRIBAL
ADVISORY COMMITTEE

1. Developing a Policy Framework for Language Teaching in schools for Tribal Children in the State.

Two issues have come to fore regarding education of tribal children, particularly in the early stages of schooling:

- (i) Learning of language, and
- (ii) Medium of instruction.

(i) While most of the Scheduled Tribes in Orissa, as elsewhere in the country, have distinct spoken languages and a few like Santhals and Saoras have developed independent scripts for writing, in almost all schools (excluding some special (30) centres at Mayurbhanj district) Oriya is taught as a language-subject to the tribal children.

It is widely recognized that the socio-cultural milieu of the STs has its distinct characteristics including, in many cases, their own spoken languages. With this in view National Policy of Education has underlined the need to develop the curricula and devise instructional materials, including textbooks, in tribal languages at initial stages, with arrangements for switching over to standard language (i.e. Oriya for our State).

(ii) Not only the Language learning but in the classroom transaction of other curricular subjects, the standard Oriya is being used as medium of instruction. As a result, it is widely felt, that the rate of school drop-out among tribal children is very high at early stages of schooling as these children find it difficult to cope with the gap in home and school language.

To tackle this condition, DPEP Orissa has taken the following steps:

- Developed six bilingual primers for Class-I (language, mathematics and environmental studies integrated in one book) in six tribal languages i.e. Saora, Kui, Kuvi, Bonda, Juang and Koya. These books shall replace textbooks in Class-I in those schools where all the children belong to a particular tribe.
- Picture dictionaries (tribal language and Oriya) for children and non-tribal teachers have been developed.

The committee may, therefore, consider the following issues:

(i) Whether tribal languages should be taught as a separate language subject replacing Oriya in primary classes or should be taught at early stages and shall gradually give way to learning of standard Oriya in later stages, thus becoming a useful vehicle for mainstreaming these children.

(ii) Whether the use of bilingual primers would mitigate the difference between the home language and school language.

(iii) Can the bilingual primers be used in a mixed group of tribal and non-tribal students in a class? What strategies need to be taken in such cases?

(iv) Defining policy regarding the medium of instruction in primary classes.

2 Introduction of Ol-Chiki script in primary schools of Santhali speaking areas of the State.

There has been demands from different sections of Santhali speaking tribes especially from Santhals of Mayurbhanj district for introduction of Ol-Chiki script as a written language in the primary schools where Santhali children are reading. In 1992, Department of School & Mass Education identified 30 schools for introduction of Santhali primer in Ol-Chiki script.

A preliminary report of a pilot study on the impact of introduction of Santhali primers in Ol-Chiki script conducted in January, 2001 by ATDC, Bhubaneswar, revealed, among other things, the following:

- No evaluative study has so far been conducted in these schools to study the effectiveness of the use of Ol-Chiki script.
- Inspecting officers are ignorant of such schools and are not aware of the classroom transaction.
- Introduction of two scripts in classes-I & II creates learning difficulties among the tribal children.

In the seminar on introduction of Ol-Chiki held on 9.1.2001 and subsequent review committee, it was recommended for introducing Ol-Chiki in Class-I and gradually phased introduction of Oriya. It was also proposed that in non-language subjects, Oriya script shall be used.

Another group, mostly young Santhali representatives demands for use of Ol-Chiki in all textbooks for Santhali children up to Class-V.

In this context the practices followed in the neighbouring states of Jharkhand and West Bengal may be seen. In these two states, the

concentration of Santhals is much higher than in Orissa. (Bihar - Jharkhand-18.01 lakhs, West Bengal 13.77 lakhs and Orissa 4.53 lakhs). But as yet, Santhali has not yet been given any special status over other tribal languages and Ol-Chiki has not been favoured for writing in Santhali.

In face of these facts, the committee may consider the following issues and recommend appropriate course of action:

- Whether the present practice of using Oriya script has hindered the growth of education among Santhals as a tribal group? If so, what is the socio-cultural educational position vis-à-vis other tribal groups of the state like Juanga, Saora, Kandha, Paraja, etc.
- It may also be explored whether Ol-Chiki script is being used by the tribal community of Orissa as a means of communication.
- Whether people belonging to Santhal Community who have learned to use Oriya script have felt that they would have performed better, if they would have studied in Ol-Chiki script?
- What would be the mode of introduction of Ol-Chiki in face of varying recommendations of the committees? In this context it may also be considered whether introduction of Ol-Chiki script in primary schools will bring about a change in life styles and socio-economic conditions of Santhals.
- It may be considered whether introduction of Ol-chiki in primary schools may create a problem in the long run unless school education is provided in Ol-Chiki up to a minimum of Class-X.
- Whether teaching in Ol-Chiki script will be possible in view of lack of trained manpower to teach students in these schools?

3. Policy for Teaching of Tribal Languages in the State:

Introduction of Ol-Chiki in teaching and learning Santhali language may open up broader issues of defining strategies for teaching of other tribal languages in the State.

As language is a very sensitive issue, broader vision with long term effects and its sustainability may have to be examined in taking any for reaching decision.

Some of the major issues that may come up if Ol-Chiki is introduced officially in primary schools are:

- Other tribal groups which have written scripts like Saora may demand similar status. Whether State Government can follow the same strategy as applicable in case of Ol-Chiki?

- Should tribal languages (whether with oral or written tradition) be introduced as a subject in lieu of Oriya in primary schools and be treated at par with other linguistic minority groups in the State like Telugu, Bengali, etc.?
- What would be the status of tribal primers in classes higher than class-I for which they have been developed in DPEP?
- Whether tribal primers be used in schools with mixed groups and what would be the strategy.
- What is the strategy is training of non-tribal teachers working in the schools in tribal areas?

The committee may consider on these issues in detail.