The Constitution of India seeks to secure for all its citizens, among other things, social and economic justice, equality of status and opportunity and assures the dignity of the individual. Article 46 of the Constitution provides that the State shall promote with special care the educational and economic interests of the weaker sections of the society and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation. Several provisions have been incorporated in the Constitution for safeguarding and promoting the interests of the Scheduled Tribes in various spheres so as to enable them to join the national mainstream. To ensure effective implementation of various safeguards provided in the Constitution for the SCs & STs and, various other protective legislations a Special Officer, designated as Commissioner for Scheduled Castes and Scheduled Tribes, under Article 338 of the Constitution was appointed in the year 1950 to investigate all matters relating to these safeguards and to report to the President on their working. In order to facilitate effective functioning of the Office of the Commissioner for SCs & STs 17 regional offices of the Commissioner were set up in different parts of the country. 

2. With the passage of time it was felt by the Government that the Office of Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards and accordingly a multi-Member Commission called Commission for Scheduled Castes and Scheduled Tribes was set up through an administrative order issued on 21st July, 1978. It was re-named as National Commission for SCs & STs vide the then Ministry of Welfare's Notification dated 1 September, 1987. The said notification also modified the functions of the National Commission for SCs & STs to avoid any overlapping with the functions of the Special Officer. It was decided that the National Commission for SCs & STs will be a National Level Advisory body to advice on broad issues on policies and levels of development of the SCs & STs and that it would submit its report to the Central Government. The National Commission for Scheduled Castes and Scheduled Tribes was given Constitutional status on 12th March, 1992 as per the Constitution (65th Amendment) Act, 1990 and the Office of the Commissioner for SCs & STs were abolished.
3. As noticed by the Government that geographically and culturally, the Scheduled Tribes were different from the Scheduled Castes and their problems were also different from those of the Scheduled Castes and thus considering different approach to the issues involved, a separate Ministry of Tribal Affairs was created in October, 1999. It was considered necessary that the Ministry of Tribal Affairs should coordinate all activities relating to the Scheduled Tribes. It was also felt necessary that a separate National Commission for Scheduled Tribes too needed to be set up to safeguard the interests of Scheduled Tribes. Accordingly National Commission for Scheduled Tribes has been set up with effect from 19th February, 2004 after amending Article 338 and by inserting a new Article 338A in the Constitution through the Constitution (Eighty-ninth Amendment) Act, 2003 which, inter-alia, enjoins upon the NCST to monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law or under any order of the Government, and to participate and advise on the planning process of socio-economic development of the Scheduled Tribes, and to evaluate the progress of their development under the Union and any State, and to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.

4. Clause (4) of Article 338A of the Constitution provides that the Commission shall have the power to regulate its own procedure. The Commission accordingly notified the Rules of Procedure for the first time on 17 September, 2004. These Rules define the responsibilities of the Chairperson, Vice-Chairperson and Members, and Secretary to the Commission and that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission. These Rules also contain detailed information about (i) the procedure of investigation and enquiry by the Commission, (ii) meetings of the Commission and frequency of the meetings, (iii) duties of its Regional Offices, (iv) the advisory role of the Commission, and (v) its monitoring functions.

5. In order to create awareness among various Institutions/ Organisations and general public about the duties, functions, powers and role of the Commission a HANDBOOK was published in the year, 2005. Website of the Commission was also launched in February, 2007. In the meanwhile, some additional functions have been assigned to the Commission and Rules of Procedure of the Commission have also been amended. Initially constituted in February, 2004, the Commission has also been reconstituted in the year, 2007, 2010 and lastly in 2013. Promotion of all round development of tribals, inhabiting the length and breadth of our country, has received priority attention of the Government. There are numerous government policies for ensuring the welfare and development of tribals. As a result of implementation of the various safeguards provided in the Constitution and development and welfare programmes, undertaken by the Central Government and the State Governments, there has been considerable improvement in the socio-
economic conditions of Scheduled Tribes in the Country. There is, however, a long way ahead for achieving complete socio-economic equality and social integration of these communities with general population.

6. It is essential to ensure that the programmes for development and empowerment of Scheduled Tribes are more vigorously pursued and the Government organizations, voluntary organizations and other concerned public and private agencies are more closely involved in bringing about social integration and economic development of Scheduled Tribes in a time bound manner. There is also need on the part of the implementing agencies at the cutting edge level, to address the sensitivities and concerns of the tribals and involve them at the implementation stage, to make the welfare programmes more effective. The Commission hopes that concerted efforts on the part of all concerned will go a long way for all round upliftment of our tribal brethren.

7. I am glad to present the revised edition of the HANDBOOK with the hope that it will serve as a useful information aid for providing better services to the noble cause of social and economic development of the Scheduled Tribes.

(Rameshwar Oraon)
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2. INTRODUCTION

2.1
The framers of the Constitution took note of the fact that certain communities in the country were suffering from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of the primitive agricultural practices, lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes and Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution respectively.

2.2
With a view to provide safeguards against the exploitation of SCs & STs and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance. For effective implementation of various safeguards provided in the Constitution for the SCs & STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer who was designated as Commissioner for SCs & STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes and to report to the President upon the working of these safeguards. The first Commissioner for SCs & STs was appointed on 18 November, 1950. In order to facilitate effective functioning of the office of the Commissioner for Scheduled Castes and Scheduled Tribes, 17 regional offices of the Commissioner were set up in different parts of the country. In June, 1967, the 17 Regional Offices were re-organized into five Zonal Offices and placed under the control of a newly created Directorate General of Backward Classes Welfare in the Department of Social Welfare, Ministry of Education and Social Welfare. Each Zonal Offices was headed by a Zonal Director, Backward Classes Welfare.

2.3
On persistent demand from the Members of Parliament and other quarters that the Office of the Commissioner for SCs & STs alone was not enough to monitor the implementation of Constitutional safeguards, a proposal was moved for amendment of Article 338 of the Constitution for replacing the arrangement of one Member system with a multi-member system. While the amendment to Article 338 was still under consideration, the Government decided to set up a multi-member Commission through an administrative decision vide Ministry of Home Affairs’ Resolution No.13013/9/77-SCT(1) dated 21.7.1978. The first Commission for SCs & STs was set up in August, 1978 with Shri Bhola Paswan Shastri as Chairman and other four Members. The field offices of the erstwhile Commissioner for Scheduled Castes and Scheduled Tribes which were transferred under the control of DG Backward Classes Welfare in 1967 were brought back under the control of the Commission.

2.4
Vide Ministry of Welfare’s Resolution No. BC-13015/12/86-SCD VI dated 1.9.87 the Commission for Scheduled Castes & Scheduled Tribes was renamed as the National Commission for Scheduled Castes and Scheduled Tribes, consisting of a Chairperson and not more than 11 other Members. This Resolution also demarcated the functions of the Commissioner for SCs & STs, and the National Commission for SCs & STs. It was decided that only the Commissioner for SCs & STs would be submitting the Report to the President and that the National Commission for Scheduled Castes and Scheduled Tribes would conduct studies and would function as a National Level Advisory Body to advise the Government on broad policy issues and levels of development of Scheduled Castes and Scheduled Tribes and would submit its Report to the Central Government.

2.5
The National Commission for Scheduled Castes and Scheduled Tribes was conferred Constitutional status consequent upon passing of the Constitution (Sixty-fifth Amendment) Act, 1990 which was notified on 8-6-1990 (ANNEXURE-I) and the Rules relating to appointment of Chairman, Vice-Chairman and Members of NCSCST and condition of their service were notified on 3-11-1990. The first statutory Commission under the Constitution (Sixty-fifth Amendment) Act was constituted on 12-3-1992 and from the same date the Office of Commissioner for Scheduled Castes and Scheduled Tribes was abolished. Article 338 as amended by the Constitution (Sixty-fifth Amendment) Act, 1990, inter-alia, provided that the Commission would consist of a Chairperson, Vice-Chairperson and five other Members and that their conditions of service and tenure of Office will be such as the President may, by rule, determine. The Act further provided that the Chairperson, Vice-Chairperson and other Members of the
Commission shall be appointed by the President by warrant under his hand and seal and that the Commission will have the power to regulate its own procedure.

2.6
The first National Commission for SCs & STs (constitutional) constituted on 12/03/1992 consisted of Shri Ram Dhan as the Chairman, Shri Bandi Oraon as the Vice-Chairman and Shri B. Sammaiah, Dr. Sarojini Mahishi, Choudhary Hari Singh, Shri N. Brahma and Shri Jina Bhai Darjee as Members.

2.7
The second National Commission for SCs & STs was constituted on 5-10-1995 with Shri H. Hanumanthappa as Chairman and Smt. Omem Moyong Deori as Vice-Chairperson. Other Members of the Commission were Shri N.C. Chaturvedi, Shri Anand Mohan Biswas, Ven. Lama Lobzang, Shri Nar Singh Baita and Shri B. Yadaiah.

2.8
The third National Commission for SCs & STs was constituted in December, 1998 vide Ministry of Social Justice and Empowerment's Notification No.5035(E) dated 27 January,1999 consisting of Shri Dileep Singh Bhuria as the Chairman, Shri Kameshwar Paswan as the Vice-Chairman and Shri Harinder Singh Khalsa, Ven. Lama Lobzang, Shri Chhotray Majhi and Shri M. Kannan as Members. Smt. Veena Nayyar, was also appointed as a Member vide Ministry of Social Justice & Empowerment's Notification No. S.O. 529 (E) dated 30 June, 1999. On the resignation of Shri M. Kannan, Shri C. Chellappan was appointed as Member vide Ministry of Social Justice & Empowerment's Notification No. S.O. 722 (E) dated 3-7-2000.

2.9
The fourth National Commission for SCs & STs was constituted in March, 2002 vide Ministry of Social Justice and Empowerment's Notification No. S.O. 351 (E) dated 21-3-2002 consisting of Dr. Bijay Sonkar Shastri as the Chairperson, Ven. Lama Chospel Zotpa, Vice-Chairperson and Shri Vijay Kumar Choudhary, Shri Narayan Singh Kesari and Shri Tapir Gao as Members. Smt. Veena Premkumar Sharma also assumed office on 23-8-2002 as Member. Shri C. Chellappan completed his tenure as Member on 2 July, 2003. Shri Sampath Kumar assumed office on 30-9-2003 in place of Sh. C. Chellappan.

2.10
Article 338 of the Constitution was again amended and a new Article 338A was inserted in the Constitution vide the Constitution (Eighty-Ninth Amendment) Act, 2003 (ANNEXURE-II) which came into force on 19-2-2004 vide Notification of the same date (ANNEXURE-III). Consequent upon amendment of Article 338 the National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions viz; National Commission for Scheduled Castes and National Commission for Scheduled Tribes respectively. The National Commission for Scheduled Tribes has been created by inserting the new Article 338A in the Constitution of India. Article 338A, inter-alia, enjoins upon the NCST to monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law or under any order of the Government, and to participate and advise on the planning process of socio-economic development of the Scheduled Tribes, and to evaluate the progress of their development under the Union and any State, and to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.

2.11
The conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members of the National Commission for Scheduled Tribes are governed by the National Commission for Scheduled Tribes. Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules notified by the Ministry of Tribal Affairs on 20 February 2004. These Rules, inter alia, provide that:

(i) The Chairperson shall be appointed from amongst eminent social-political workers belonging to the Scheduled Tribes, who inspire confidence amongst the Scheduled Tribes by their very personality and record of selfless service;

(ii) The Vice-Chairperson and all other Members out of whom at least two shall be appointed from amongst persons belonging to the Scheduled Tribes;

(iii) At least one other Member shall be appointed from amongst women.

(iv) The Chairperson, the Vice-Chairperson and the other Members shall hold office for a term of three years
from the date on which he/ she assumes such office.[Rule-4(1)]

(v) The Chairperson, the Vice-Chairperson and the other Members shall not be eligible for appointment for more than two terms. [Rule-4(2)]

(vi) The Chairperson shall have the rank of a Cabinet Minister and the Vice-Chairperson that of Minister of State and other Members shall have the rank of a Secretary to the Government of India unless otherwise specified. [Rule-5(1)]

(vii) The Chairperson, the Vice-Chairperson and other Members shall be entitled to such salaries and allowances as admissible to a Secretary to the Government of India.[Rule-5(2)].

Provided that the Chairperson shall be entitled to a rent free accommodation.

2.12

A copy of the National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules notified by the Ministry of Tribal Affairs on 20 February 2004 is placed at ANNEXURE-IV

2.13

The first National Commission for Scheduled Tribes (NCST), constituted in March, 2004, comprised Shri Kunwar Singh, Chairperson (who assumed office on 15.3.2004), Shri Tapir Gao, Vice-Chairperson (who assumed office on 3.3.2004), Shri Lama Lobzang, (who assumed office on 2.3.2004) Smt. Prem Bai Mandavi, (who assumed office on 4.3.2004) and Shri Buduru Srinivasulu, (who assumed office on 11.3.2004) Members. The office of Vice-Chairperson had fallen vacant w.e.f. 31.3.2004 consequent upon resignation of Shri Tapir Gao and was vacant till 29.5.2006 on which date Shri Gajendra Singh Rajukhedi joined the office of Vice-Chairperson. While Shri Kunwar Singh, Chairperson resigned from his office on 14.2.2007 (A/N), the Members of the first Commission i.e. NCST demitted their respective office after completion of their three years tenure in the month of March, 2007. Shri Gajendra Singh Rajukhedi also resigned from the office of Vice-Chairperson on 15.05.2007.

2.14

The second commission comprised of Smt. Urmila Singh, as Chairperson, Shri Maurice Kujur as Vice Chairperson, Shri Tsering Samphel, and Shri Oris Syiem Myriaw, as Members. Smt. Urmila Singh assumed office on 18.06.2007 and resigned on 24.01.2010 consequent upon her appointment as Governor of Himachal Pradesh, Shri Maurice Kujur, Vice Chairperson remained in office from 25.04.2008 to 24.04.2011, Shri Tsering Samphel, Member who assumed office on 14.06.2007 demitted his office on 13.06.2010. Similarly Shri Oris Syiem Myriaw, Member, who assumed office on 17.04.2008 demitted his office on 16.04.2011 after completion of three year term.

2.15

In the third Commission, Dr. Rameshwar Oraon, assumed office of Chairperson on 28.10.2010, Smt. K. Kamala Kumari, assumed office of Member on 21.07.2010 while Shri Bheru Lal Meena, assumed office of Member on 28.10.2010. The posts of Vice chairperson and one Member in the Commission remained vacant. Smt. K. Kamla Kumari demitted Office after completion of her three-year tenure on 20/07/2013. Similarly, after completion of their respective three year terms Dr. Rameshwar Oraon, Chairperson demitted his office on 27/10/2013 and Shri Bheru Lal Meena, Member demitted his Office on 28/10/2013 (FN).

2.16

Dr. Rameshwar Oraon has been re-appointed with 2nd term of three years as Chairperson, National Commission for Scheduled Tribes. Similarly Smt. K. Kamla Kumari and Shri Bheru Lal Meena, were also re-appointed with 2nd term of three years as Members of the Commission. All of them assumed the respective Offices on 01/11/2013. Shri Ravi Thakur, MLA in Himachal Pradesh Assembly has been appointed as Vice-Chairperson of the Commission. Shri Ravi Thakur has assumed the office on 13/11/2013. Due to sudden demise of Smt K.Kamla Kumari on 17/07/2014 and Shri Bheru Lal Meena on 19/08/2014, the posts of Members fall vacant.

3 CONSTITUTIONAL SAFEGUARDS

3.1

Considering the problems and needs of the weaker sections of the society which have suffered for centuries due to discrimination and geographical isolation, the framers of the Constitution made specific provisions in the Constitution for identification and categorization of those weaker sections and safeguarding their rights, protection
from exploitation and development of those weaker sections. These safeguards are spelt out in brief in the next para

### 3.1 COMPREHENSIVE ENABLING PROVISION

#### 3.1.1

Article 341 and Article 342 provide identification of weaker section of the society and specifying them as Scheduled Castes and Scheduled Tribes respectively by the President of India.

#### 3.1.2

Article 46 is a comprehensive provision comprising both the developmental and regulatory aspects. It provides that “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”. In terms of these enabling provisions, various safeguards have been provided for socio-economic and educational development of Scheduled Castes and Scheduled Tribes in the Constitution of India.

### 3.2 SOCIAL SAFEGUARDS

#### 3.2.1

Article 23 prohibits traffic in human beings and beggar and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law. It does not specifically mention STs but since majority of bounded labour belong to STs, this Article has a special significance for members of Scheduled Tribes. In pursuance of this Article, Parliament has enacted the Bonded Labour System (Abolition) Act, 1976. For effective implementation of this Act, the Ministry of Labour is running a Centrally Sponsored Scheme for identification, liberation and rehabilitation of bonded labour.

#### 3.2.2

Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. There are Central and State laws to prevent child labour. This Article is also significant for STs (as also of SCs) as a substantial portion of child labour engaged in hazardous jobs belong to these groups.

### 3.3 SPECIAL ECONOMIC SAFEGUARDS FOR SCHEDULED TRIBES

#### 3.3.1

The provisions of Articles 23, 24 and 46 mentioned above also form part of the economic safeguards for Scheduled Tribes as also of Scheduled Castes. The specific safeguards provided for the Scheduled Tribes are as mentioned below:

(i) **Article 244:** According to Clause (1), the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Mizoram and Tripura. According to Clause (2), the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Mizoram and Tripura.

(ii) The First Proviso to Article 275(1) of the Constitution of India guarantees grants from the Consolidated Fund of India each year for promoting the welfare of Scheduled Tribes and in pursuance of this Constitutional obligation, the Ministry of Tribal Affairs provides funds through the Central Sector Scheme “Grants under Article 275(1) of the Constitution”. The objective of the scheme is to meet the cost of such projects for tribal development as may be undertaken by the State Governments for raising the level of administration of Scheduled Areas therein to that of the rest of the State. The scheme covers all the 21 Tribal Sub-Plan States and 4 other tribal majority States of the country. The grants are to be used essentially for creation and upgradation of critical infrastructure required to bring the tribal areas with the rest of the country. The basic purpose is to create opportunities conducive to income and employment generation. Due emphasis is given to infrastructure in sectors critical to enhancement of human development indices such as in health, education, income generation etc.

(iii) Fifth Schedule to the Constitution contains provisions regarding the administration and control of the Scheduled Areas and Scheduled Tribes. There are nine States having Scheduled Areas, viz., Andhra Pradesh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Chhattisgarh and Jharkhand. The Governors of these States have special responsibilities and powers. These States have Tribe Advisory Councils (TACs). In addition, Tamil Nadu and West Bengal, which do not have any Scheduled Areas, also have statutory TACs. The Governors of these States have the power to make regulations for the peace and good government of any Scheduled Area particularly for the following purposes:-
(a) to prohibit or restrict the transfer or land by or among members of the Scheduled Tribes in such areas,
(b) to regulate the allotment of land to members of the Scheduled Tribes in such area,
(c) to regulate the carrying on of business as money lender by persons who lend money to members of the Scheduled Tribes in such area.

3.3.2
The following Orders are in operation at present in their original or amended form in respect of the Scheduled Areas under Fifth Schedule:-

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Order</th>
<th>Date of Notification</th>
<th>Name of State(s) for which applicable</th>
</tr>
</thead>
</table>

Source: Ministry of Tribal Affairs

3.3.3
Sixth Schedule to the Constitution contains provisions relating to the administration of the Tribal Areas in the States of Assam, Meghalaya, Mizoram and Tripura. The Tribal Areas notified in respect of these States are given below:

| (a) Assam | (i) The North Cachar Hills District  
(ii) The Karbi Anglong District  
(iii) The Bodoland Territorial Areas District |
|-----------|------------------------------------------------------------------------------------------|
| (b) Meghalaya | (i) Khasi Hills District  
(ii) Jaintia Hills District  
(iii) The Garo Hills District |
| (c) Mizoram | (i) The Chakma District.  
(ii) The Mara District.  
(iii) The Lai District |
| (d) Tripura | Tripura Tribal Areas District |

3.3.4
There are Autonomous District Councils and Autonomous Regional Councils in these Tribal Areas which have a long tradition of self-management systems. These Autonomous Councils not only administer the various Departments and developmental programmes but they also have powers to make laws on a variety of subjects, e.g., land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance of property, marriage and divorce and social customs.
3.4 EDUCATIONAL AND CULTURAL SAFEGUARDS

3.4.1 Article 15(4) empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for SCs and STs. This provision was added to the Constitution through the Constitution (First Amendment) Act, 1951, which amended several Articles. This provision has enabled the State to reserve seats for SCs and STs in educational institutions including technical, engineering and medical colleges and in Scientific & Specialized Courses. In this Article as well as in Article 16(4), the term ‘backward classes’ is used as a generic term and comprises various categories of backward classes, viz., Scheduled Castes, Scheduled Tribes, Other Backward Classes, De-notified Communities (Vimukta Jatiyan) and Nomadic/Semi-nomadic communities.

3.4.2 Article 29(1) provides that “any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture to its own shall have the right to conserve the same”. This Article has special significance for all the Scheduled Tribes. Santhals have a script of their own, viz., Olchiki. But this provision needs not be understood to educate Tribals only in their language and thereby making them isolated. Tribals should be educated in the language of the State as well as National Language to expose them to the outside knowledge.

3.4.3 Article 350A provides that “It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instructions in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups, and the president may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities”. Most of the tribal communities have their own languages or dialects, which usually belong to a different family of languages than the one to which the State’s official language belongs.

3.5 POLITICAL SAFEGUARDS

3.5.1 Article 164(1) provides that in the States of Bihar, Madhya Pradesh and Orissa there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

3.5.2 Article 243D Reservation of Seats in Panchayats: It, inter-alia, provides that:

(i) The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(ii) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(iii) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(iv) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(v) Extension of the 73rd and 74th Amendments of the Constitution to the scheduled areas through the Panchayats (Extension to the Scheduled Areas) Act, 1996 to ensure effective participation of the tribals in the process of planning and decision making.
3.5.3
Article 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People. It, inter-alia, provides that:

(i) Seats shall be reserved in the House of the People for-
(a) the Scheduled Castes;
(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
(c) the Scheduled Tribes in the autonomous districts of Assam.

(ii) The number of seats reserved in any State for Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

(iii) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.

3.5.4
Article 332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. It, inter-alia, provides that:

(i) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(ii) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

3.5.5
Article 334 originally laid down that the provisions relating to the reservation of seats for SCs/STs in the Lok Sabha and State Vidhan Sabhas (and the representation of the Anglo-Indian community in the Lok Sabha and the State Vidhan Sabhas by nomination) would cease to have effect on the expiration of a period of ten years from the commencement of the Constitution. This Article has been amended five times, extending the said period by ten years on each occasion. This provision will now expire in January, 2020.

3.5.6
Article 371A Special provisions with respect to the State of Nagaland. It provides that notwithstanding anything in this Constitution, no Act of Parliament in respect of:

(i) religious or social practices of the Nagas,
(ii) Naga customary law and procedure,
(iii) Administration of civil and criminal justice involving decisions according to the Naga customary law.
(iv) Ownership and transfer of land and its resources,
shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.

3.5.7
Article 371B Special provisions with respect to the State of Assam provides that “notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Assam, provide for the Constitution and functions of a committee of the Legislative Assembly of the State consisting of a member of that Assembly elected from the tribal areas specified in Part I of the table appended to paragraph 20 of the Sixth Schedule and such number of other members of that Assembly as may be specified in the order and for the modification to be made in the rules of procedure of that Assembly for the constitution and proper functioning of such committee.”
3.5.8
Article 371C Special provisions with respect to the State of Manipur. It provides that:
(i) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the Constitution and functions of a committee of the Legislative Assembly of the State consisting of the members of that Assembly elected from the Hill Areas of that State, for the modification to be made in the rules of business of the Government and in the rules of procedure of the Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.
(ii) The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

3.5.9
Article 371F contains Special provisions with respect to Sikkim—Notwithstanding anything in this Constitution

(f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;

(g) the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion;

3.6 SERVICE SAFEGUARDS

3.6.1
The main objective for providing reservations for Scheduled Tribes (as also for SCs & OBCs) in civil posts and services of the Government is not just to give jobs to some persons belonging to these communities and thereby increase their representation in the services but to uplift these people socially and educationally with a view to empower them to join the national mainstream. The relevant Articles of the Constitution which govern the entire reservation set-up are mentioned in next para.

3.6.2
Article 16(4) : This Article provides that “Nothing in this Article shall prevent the State from making any provision for the reservation in appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State”.

3.6.3
Article 16(4A) : This Article was added in the year 1995 to provide for that “Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in this services under the State in favour of the Scheduled Castes & Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State”. [Constitution (Seventy-seventh Amendment) Act, 1995]

3.6.4
Amended Article 16(4A) : Article 16(4A), inserted by the Constitution (77th Amendment) Act, 1995, was further amended in the year 2001 to substitute the words “in matters of promotion to any class” by words “in matters of promotions, with consequential seniority, to any class” vide the Constitution (Eighty-fifth Amendment) Act, 2001. This amendment was made operative retrospectively from 17 June 1995, i.e. the date of addition of this Article vide the Constitution (Seventy- seventh Amendment) Act, 1995.
3.6.5

Article 16(4B): This Article provides that “Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year”. [Constitution (Eighty-first Amendment) Act, 2000].

3.6.6

Article 335: This Article provides that “The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State”. The following proviso was added to this Article by the Constitution (Eighty-second Amendment) Act, 2000.

“Provided that nothing in this article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State”.

3.6.7

Article 320 (4): Clause (3) of Article 320 of the Constitution, inter alia, provides that the Union Public Service Commission or the State Service Public Commission, as the case may be, shall be consulted on all matters relating to methods of recruitment to civil services and for civil posts, and on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. Clause (4) of this Article, however, provides that “Nothing in clause (3) shall require a Public Service Commission to be consulted as respects the manner in which any provision referred to in clause (4) of article 16 may be made or as respects the manner in which effect may be given to the provisions of article 335”.

3.7 CONSTITUTIONAL SAFEGUARDS

3.7.1

For effective implementation of various safeguards provided in the Constitution for the SCs & STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer who was designated as Commissioner for SCs & STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes and to report to the President upon the working of these safeguards. The first Commissioner for SCs & STs was appointed on 18 November, 1950. The Article 338 was amended vide the Constitution (65th) Amendment Act, 1990 and as per the amended provision the Commissioner for Scheduled Castes and Scheduled Tribes was replaced by the National Commission for Scheduled Castes and Scheduled Tribes on 12/03/1992. The Article 338 was further amended and a new Article 338A was inserted vide the Constitution (89th) Amendment Act, 2003. Accordingly, the National Commission for Scheduled Castes and Scheduled Tribes was replaced on 19/02/2004 by two separate Commissions viz; National Commission for Scheduled Tribes and National Commission for Scheduled Castes respectively.

4. FUNCTIONS AND DUTIES OF NATIONAL COMMISSION FOR SCHEDULED TRIBES

4.1

The functions and duties of the National Commission for Scheduled Tribes have been laid down in Clause (5) of the Article 338A of the Constitution. Clause (5) states that it shall be the duty of the Commission:

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

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(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule, specify.

4.2

The Commission has been assigned the following additional functions vide the Ministry of Tribal Affairs’ Notification dated 23 August, 2005 (attached at ANNEXURE-V) in relation to the protection welfare and development and advancement of the Scheduled Tribes:--

(i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.

(ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.

(iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.

(iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.

(v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.

(vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.

(vii) Measures to be taken to ensure full implementation of the provisions of Panchayat (Extension to Scheduled Areas) Act, 1996

(viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

5. RULES OF PROCEDURE

5.1

Clause (4) of Article 338A of the Constitution provides that the Commission shall have the power to regulate its own procedure. The Commission accordingly notified the Rules of Procedure for the first time on 17 September, 2004. These Rules define the responsibilities of the Chairperson, Vice-Chairperson and Members, and Secretary to the Commission and that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission. These Rules also contain detailed information about (i) the procedure of investigation and enquiry by the Commission, (ii) frequency of meetings of the Commission, (iii) the duties of its Regional Offices, (iv) the advisory role of the Commission, and (v) its monitoring functions. Rule 46 of the Rules of Procedure relating to quorum for holding a meeting of the Commission has been amended vide Corrigendum notified on 20-08-2014 as G.S.R.605(E). A copy each of the original Rules of Procedure and the Corrigendum is placed at ANNEXURE-VI and ANNEXURE-VII respectively.

6. POWERS OF THE COMMISSION

6.1 Clause (8) of Article 338A provides that the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of Clause (5) have all the powers of a civil court trying a suit and in particular in respect of the matters, namely:-(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath; (b) requiring the discovery and production of any documents;(c) receiving evidence on affidavits;(d) requisitioning any public record or copy thereof from any court or office; (e) issuing commissions for the examination of witnesses and documents; (f) any other matter which the President may by rule, determine.
7. ADVISORY ROLE OF THE COMMISSION AND CONSULTATION WITH THE COMMISSION

7.1 Section (9) of Article 338A of the Constitution provides that “The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes”. This is one of the very important functions assigned to the Commission, which enjoins upon all the Central Ministries/Departments/Organizations and the State Governments to seek the comments of the National Commission for Scheduled Tribes on all important policy matters which affect the interests of Scheduled Tribes. This function helps the Commission to keep track of all the major policy decisions, and legislative and executive actions taken by the Govt. of India or any State Govt. in relation to Scheduled Tribes. In view of the mandatory nature of this provision, the Commission solicits the support of all concerned to bring to its notice new policies and changes in existing policies, which have bearing on the interests of Scheduled Tribes.

7.2 The policy matters referred to the Commission are discussed in detail in the meetings of the Commission on the basis of the views expressed by the Members and the notes on the subject matter, indicating historical background, current status and relevant Rules etc., prepared by the Commission’s Secretariat; and the views of the Commission are communicated in substantive fashion, also seeking feedback regarding the outcome of such consideration. Proceedings of the meetings of the Commission, containing views of the Commission are also available under the link “Meetings of Commission” on the website of the Commission (http://ncst.nic.in).

7.3 All Ministries/Departments and the State Governments did not refer the policy matters for advice of the Commission from the feedback received in the Commission, it was noted that the views of the Commission/advice rendered by it was not placed by the Ministry of Tribal Affairs or the sponsoring Ministry before the Apex Committees considering the matter; and consequently the views of this Constitutional Commission vested with the duty to safeguard the rights of the Scheduled Tribes could not be reflected while finalising the views by the Apex Committees. Even in the matters, in which comments were sought from the NCST regarding problems being faced in relation to efficient functioning and performance of the Commission, the views of the Commission were not placed before the Apex Committee in-extenso. Consequently, the factual position on the subject got suppressed and the concerned Apex Committee left to arrive at a decision on the basis of the perception of the Ministry of Tribal Affairs. Similar was the position with regard to process for drafting of legislative Bills by the Government. It is necessary to ensure that the views of this Constitutional Commission receive proper attention at the highest decision-making levels of the Govt. and are not neglected in the maelstrom of the Government’s internal processes.

7.4 Most of the projects infrastructural, industrial, mining, hydle and power projects need vast lands and the same are
available in forest, hills and other areas, all of which are habitated by the Tribal Population. Acquisition of such lands thus largely affects the tribals and their displacement to other areas. During the process of enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 several obstacles were faced by this Commission in ensuring that the Ministry of Rural Development consults the Commission (as mandated under Article 338A(9) of the Constitution) while framing the draft Bill and provide a separate chapter in the Bill as also in the Act regarding acquisition of Lands belonging to Scheduled Tribes. Finally special provisions relating to acquisition of lands belong to Scheduled Castes and Scheduled Tribes was incorporated in Section 41 of the Act passed by the Parliament. The National Commission for Scheduled Tribes is concerned about the projects being taken up by the Government by acquiring the lands belonging to Scheduled Tribes without ensuring implementation of the special provisions made in Section 41 of the Act. Relevant extracts from the above Act are placed at ANNEXURE—IX.

7.5

Faced with various problems relating to the Bill relating to Land Acquisition a detailed note on the subject matter was also forwarded to the Cabinet Secretary for a discussion regarding the action taken by the Government in the matter. The Commission was informed that after receipt of the NCST communication, the concern raised by the Commission was duly considered in the Cabinet Secretariat and in order to ensure that all Ministries strictly follow the provisions laid down in said Article 338A(9) of the Constitution, the Cabinet Secretary, vide his D.O. letter No. 703/1/1/2011-CA.V dated 04/01/2012, addressed to the Secretaries of all the Ministries and Departments has requested them to strictly follow the provisions of Article 338A(9) of the Constitution.

7.6

The Commission further requested the Cabinet Secretariat to review the position in the matter and inform the Commission. The Cabinet Secretariat issued revised instructions vide OM dated 16/2/2012 (ANNEXURE-X), in which the sponsoring Ministries/ Departments were advised to ensure that the National Commission for the Scheduled Castes, and the National Commission for the Scheduled Tribes, as the case may be, shall mandatorily be consulted by them through the Ministry/Department administratively concerned with the Commission before finalization of such notes for consideration of the Cabinet/ Cabinet Committees. In all such cases, the administrative Ministry/Department concerned will place the views of the concerned National Commission, as the case may be, as received by them, before the Minister-in-charge of the Ministry/ Department concerned before their final views/ comments on such issues were communicated to the sponsoring Ministry/ Department. Further, the unabridged/ unedited views of the concerned Commission along with the views of the Ministry/ Department administratively concerned with the Commission be included in/ enclosed with the note for consideration of the Cabinet/ Cabinet Committees along with responses thereon by the sponsoring Ministry/ Department.

7.7

The above instructions have since been incorporated as instructions No. 42 in section 3 of the Handbook of Instructions of the Cabinet Secretariat.

7.8

The Commission, in terms of Clause 5 (c) of Article 338A is required to participate and advise on the planning process of socio-economic development of STs and evaluate the progress of the development under Union or any State. The role of the Commission in these areas involves interaction at various levels, i.e. with the Planning Commission with the Central Ministries and with the State Government.

7.9

The Commission and its officers participate in formulation of policies and in the developmental programmes for Scheduled Tribes including Tribal Sub-Plan.

8. PROCEDURE FOR INQUIRY

8.1

The Commission is required to inquire into specific complaints with respect to the deprivation of rights and violation of safeguards of Scheduled Tribes. In order to enable the Commission to perform this function within manageable limits, the Commission would like to appeal to members of Scheduled Tribes that before submitting any specific complaint to the Commission for redress of their grievances they should clearly state if and how there has been a violation of their rights and safeguards. The Commission would not like to be burdened with flimsy or irrelevant complaints. A large number of representations are regularly received from ST employees working in Government Departments, public sector undertakings and autonomous bodies. The Commission would like them to know that it will be in a position to inquire into their service grievances only if there has been a violation of any provision of the Acts governing reservation in services and posts for Scheduled Tribes (wherever there are such Acts in position) or the orders contained in the brochures relating to reservation matters issued by the Department of
Personnel & Training, Department of Public Enterprises in relation to the public sector undertakings, the Banking Division of the Department of Economic Affairs (Ministry of Finance) with reference to the financial institutions, Ministry of Railways etc.

8.2

The following aspects are required to be kept in mind while filing complaints before the Commission:-

(a) The complaint should be directly addressed to the Chairman/Vice-Chairman/Secretary, National Commission for Scheduled Tribes, New Delhi. No action will be taken on petitions/representations, which are addressed to other authorities with only an endorsement to the National Commission for Scheduled Tribes.

(b) The complainants should disclose their full identity and give full address and should sign the representation. No action will be taken on an unsigned complaint.

(c) Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.

(d) No action will be taken in cases which are subjudice or in which a court has already given its final verdict and, therefore, such cases need not be referred to the Commission.

(e) The Commission will also not intervene in vigilance and disciplinary cases as no safeguards have been provided to the employees belonging to Scheduled Tribes in such matters and also that the Commission is not an appellate authority in such cases and that there is an elaborate well-defined procedure prescribed in respective service rules for making an appeal for reconsideration by the competent authorities. If the Commission, however, finds that the prescribed procedure in disciplinary/ vigilance matters has not been followed and the petitioner, on that count, has been put to disadvantage or that the quantum of punishment is disproportionate to the gravity of the offence or that the petitioner has been put to harassment on account of his belonging to Scheduled Tribe etc., the Commission may entertain the petitions from the aggrieved ST officers and take up the matter with the concerned organization.

(f) The Commission will also not generally intervene in matters pertaining to merits of adverse remarks in the Annual Confidential Reports of the officers/officials as no safeguards have been provided to the employees belonging to Scheduled Tribes in the assessment of their performance and also that there is a prescribed procedure to represent against the adverse remarks to the competent authorities.

(g) No concessions in the matter of transfer and postings have been provided to the ST officers holding Group A and Group B posts and, therefore, the Commission will not entertain the petitions relating to grievances arising from transfer of such officers from one office to another office of the same organization in the same city or from one station to another station. However, if the Commission finds that the transfer of the said ST officer has been made in clear violation of the transfer policy (if there is any in that organization) or it has been made with a view to harass the officer only on the ground that he belongs to a weaker section like Scheduled Tribe, it may entertain the petitions from the aggrieved ST officers and take up the matter with the concerned organization.

(h) Commission has No direct role in the case of inclusion or exclusion of a community as a scheduled tribe under the Article 342. The Government had in June 1999 approved, and revised on 25/06/2002, the Modalities for deciding the claims for inclusion in, exclusion from and other modifications in the Scheduled Tribe list. According to this modality the NCST has no direct role on the proposals or representations for inclusion into/ exclusion of a community from the list of Scheduled Tribes. Proposals received in the Ministry of Tribal Affairs, and concurred by the Registrar General of India, only are received in the Commission for comments. The views/ comments of the Commission, on the RGI concurred proposals, arrived after detailed examination are forwarded to the Ministry of Tribal Affairs for further necessary actions. Hence there is no need for submitting proposals/ representations in this regard to the Commission.

(i) As the per the judgment of the Hon’ble Supreme court dated 02/09/1994 in the case of Kumari Madhuri Patil V/s Additional Commissioner Tribal Development Department, Govt. of Maharashtra, the State Level Scrutiny Committee/ District Level Scrutiny Committee is the only competent authority to investigate and validate a Scheduled Tribe Caste Certificate. Hence no action will normally be taken in the Commission on complaints/applications relating to false ST caste certificate.

9. Approach and Methodology adopted by the Commission

9.1

The Commission receives a large number of representations from individual members of Scheduled Tribes or their associations etc. These representations/petitions either pertain to the violation of the reservation instructions in services, (ii) problems relating to the socio-economic development of Scheduled Tribes such as admission in educational institutions, land alienation matters etc. and (iii) atrocities on members of Scheduled Tribes by non-
Scheduled Tribe persons. These representations are referred to the concerned organizations of the Central Govt. or the State Governments by the Commission requesting them to furnish full facts within a given timeframe. The facts furnished by the concerned organization are examined by the Commission and in case the Commission feels that there has been violation of the safeguards provided to the members of Scheduled Tribes either in the Constitution or under any other law or order of the Government, it advises the concerned organization to take corrective measures. The concerned organizations are advised to take follow up action on the Commission’s recommendations/observations within a given timeframe and apprise the Commission of the action taken position.

In case there is no response to the Commission’s letter within a reasonable period of time, the Commission calls the senior executive(s) of the concerned organization to appear before the Commission and explain their position with reference to the points raised in the petitions. The minutes of these hearings are recorded after the conclusion of the discussions either on the same day or within a week’s time thereafter and a copy thereof sent to them for taking appropriate action and to inform the Commission of the action taken by them on its advice within a given timeframe.

9.2
Whenever information is received in the Commission about any incident of atrocity against a person belonging to Scheduled Tribes, the Commission immediately gets in touch with the law enforcing and administrative machinery of the concerned State and the district to ascertain the details of incident and the action taken by the district administration. The Commission ensures the following while by monitoring and issuing instructions to the concerned authorities:

(i) Whether the scene of occurrence of the crime has been visited immediately by Collector and Supdt. of Police of the district on receipt of information.
(ii) Whether proper FIR is registered in local Police Station.
(iii) Whether names of all the persons involved/cited by the complainant has been included in the FIR.
(iv) Whether investigation has been taken up by a Senior Police Officer as per provisions of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.
(v) Whether culprit has been apprehended and booked without loss of time.
(vi) Whether proper charge sheet has been filed mentioning the relevant sections of IPC together with the SCs & STs (POA) Act, 1989 in the Court.
(vii) Whether the cases are tried by the Special Courts.
(viii) Whether Special Public Prosecutors have been appointed to handle these cases.
(ix) Whether Police assists the courts in bringing forward witnesses and see that the culprits are suitably punished by the courts.

9.3
The Commission, wherever possible and depending upon the gravity and circumstances of the case, also visit the place of incident to oversee the arrangements, in particular the action taken by the State Govt. to provide the necessary relief and rehabilitation to the victims of the atrocities or their family members and also the arrangements made by the State Govt. for treatment of the injured and infuse confidence among the victims. The Commission also monitors to ensure that:

(i) the victims are provided with suitable medical assistance and on time;
(ii) adequate protection is arranged for the victims of such incidents by providing police protection by stationing a police party, by patrolling, etc;
(iii) proper compensation is paid to the victims as per provisions of law.

9.4
In order to monitor and evaluate the implementation status of various development schemes, and investigation and disposal of the cases of atrocities on the members of Scheduled Tribes by the police authorities and the courts, the Commission interacts with the State/UT Governments by holding detailed State level review meetings with the Chief Secretaries and other senior officers through visits to the States and UTs. These meetings are
generally preceded with visits to the tribal Bastis, hostels, Ashram Schools etc. and interactions with them on the impact of the developmental projects. The Commission has noticed that these visits and meetings have been greatly instrumental in enhancing the interests and involvement of the State/UT Governments in better understanding of the genuine problems of the Scheduled Tribes and accordingly, in advising them to take suitable initiatives in working out remedial measures and adopting appropriate and relevant strategies. The State level review meetings with the senior officers of the State Govts. including Chief Secretaries are generally taken by the full Commission or by its Chairman accompanied by Member/Members.

9.5
The Commission also undertake review meetings with the district level officers to assess the impact of the developmental schemes, and investigation of the cases of atrocities on members of Scheduled Tribes and advises them to take a series of remedial action for better and more effective implementation of the projects with a view to ensure the flow of benefits to all the tribals including those living in inaccessible areas and also to expedite the investigation and disposal of the atrocity cases and the cases relating to land alienation etc. pending either with the district administration or in the courts. The Commission also interacts with the leaders of tribals or the members of tribal associations to ascertain the ground realities and the implementation status of various projects and schemes before having review meetings with the district administration.

9.6
The Commission also undertakes review meetings with the organizations/offices functioning under the administrative control of the Central Government, and the various Central Public Sector Undertakings including the financial institutions to ascertain the implementation of the reservation instructions in appointment of different categories of posts as also the assessment of the implementation status of the development projects for socio-economic advancement of Scheduled Tribes. These review meetings by the Commission are generally preceded by meetings with the representatives of SC/ST Employees’ Welfare Associations operating in those organizations which are meant at understanding the actual grievances of the ST employees working in these organizations.

10. STATUTES AND LEGISLATIONS

10.1
There are a number of other special laws, both Central and State, which provide for safeguards to Scheduled Tribes. Some of these emanate from the various Constitutional provisions. An illustrative list of such laws is given below:

(i) Minimum Wages Act, 1948 (in respect of Scheduled Tribes)
(iii) Bonded Labour System (Abolition) Act, 1976 (in respect of Scheduled Tribes).
(v) State Acts and Regulations concerning alienation and restoration of land belonging to Scheduled Tribes
(vi) The Panchayat (Extension to the Scheduled Areas) Act, 1996.
(vii) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

10.2
Various Acts and regulations are in force in different States to prevent alienation of land belonging to STs. In some States, such provisions exist in the Land Revenue Code.

11. ALLOCATION OF WORK AMONG THE MEMBERS OF THE COMMISSION

11.1
Rule (6) of the Rules of Procedure of the Commission notified on 17 September, 2004 provide that the Chairperson shall allocate subjects and responsibilities among the Members of the Commission and that the Order in this regard shall be circulated to all concerned by the Secretariat of the Commission.

12. ORGANIZATIONAL SET-UP OF THE SECRETARIAT OF THE COMMISSION

12.1
The National Commission for Scheduled Tribes functions from the Headquarters located at New Delhi. Till July,
2006 the representations/petitions received in the Commission at the Headquarters were being dealt with in three different functional Wings called (i) Economic and Social Development Wing, (ii) Service Safeguard Wing, and (iii) Atrocities Wing. It was observed that this was not a very rational and balanced system of distribution as it suffered from several shortcomings including the following:-

(i) Under this system of distribution, the work relating to developmental matters in respect of Scheduled Tribes was being handled by only 1/3rd of the staff and officers (i.e. by the Economic and Social Development Wing) while the other 2/3rd staff and officers had been looking after the work relating to service, and atrocity related matters. The Commission, therefore, felt very strongly in favour of creating a system under which all the officers and staff of the Commission would be equally involved in dealing with the developmental issues related to Scheduled Tribes which was the basic mandate of the Commission.

(ii) Under this system while the Service Safeguard Wing was overburdened on account of most of the petitions being received in the Commission related to service matters, the other two Wings i.e. Economic and Social Development Wing, and Atrocities Wing were comparatively less burdened. Almost 95% of the hearings organized in the Commission related to service matters, and it threw up a lot of work in relation to preparation of briefs for these hearings and minutes on their conclusion and this phenomenon used to further contribute to the burden and pressure on the Service Safeguard Wing.

(iii) The matters relating to (a) socio-economic development, (b) reservation in services and posts, and (c) atrocities, in relation to Scheduled Tribes were being dealt with in three different files in respect of a particular State or Union Territory opened in the three functional Wings i.e. SSW, ESDW and Atrocity Wing and this position created a lot of coordination problems whenever the Commission needed information or it was asked to furnish information with respect to all these areas and, therefore, the Commission in its wisdom thought of the need of restructuring the functional Wings in such a way that each Wing/Unit was required to deal with all the matters respecting Scheduled Tribes.

12.2

In view of the above-mentioned drawbacks in the work distribution system in the Commission which was in position prior to 20 July, 2006, the Commission in its meeting held on 20 July, 2006 decided to do away with the existing system of distribution of work and to create, after merging the existing Wings, four Research Units namely-Research Unit I, II, III and IV and each Unit to deal with all matters relating to services, development and atrocities with a view to improve the functioning of the Commission. The objective behind the restructuring was to ensure that each staff member of the Commission was conversant with all the three areas of work related to Scheduled Tribes so that the work of the Commission in respect of all the areas was carried out without any obstruction on account of a number of officials proceeding on leave or training or otherwise.

12.3

In pursuance of this decision of the Commission, four Research Units were created in place of the then existing three operational Wings by Office Order dated 26 July, 2006 to deal with all matters pertaining to socio-economic and educational development, services and atrocities in relation to Ministries/ Departments along with CPSEs and other Organizations under their administrative control and the States/UTs allotted to them, as given below para 2 of the said Office Order. These Research Units each are to be under the control of a Director level officer. Apart from these four Research Units, there is an Administration & Establishment Unit and a separate Coordination Unit. While the Administration/ Establishment Unit provides administrative support to the Commission, the Coordination Unit deals with the various activities relating to making arrangements for holding internal meetings of the Commission, issuing communications to the State Governments regarding visits of the Chairman, Vice-Chairman or Members of the Commission, Parliamentary and court matters and any other matter not connected with the four functional Research Units, and the Administration and Establishment Unit.

12.4

All those matters/ representations in which action is to be taken by the State Government or the District Administration are dealt in the Regional Office having jurisdiction over the State. Therefore, such representation received in the Headquarter office of the Commission are transferred to the concerned Regional Office for taking up the matter with the concerned authorities. In case the matter is not resolved through the Regional Office, that office may refer the matter to the Headquarter office for holding a Sitting with the concerned authorities. The Member of the Commission, having charge over the subject matter or the State may take a decision to hold the Sitting in Headquarter office or in the Regional Office or any other place suitable for the purpose
13. FUNCTIONS OF REGIONAL OFFICES OF THE COMMISSION

13.1
The Regional Offices of the Commission work as ‘eyes and ears’ of the Commission. They keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Tribes in the respective States/UTs under their jurisdiction and keep the Commission Headquarters informed about the developments periodically. Policy decisions taken by any State Government/UT Administration affecting the interests of the Scheduled Tribes are brought to the notice of the concerned authorities for necessary modifications. The Regional offices are required to liaise with the State Governments and UT Administrations for taking up evaluation and other studies in the concerned States/UTs to assess the working of various development programmes implemented for the welfare of the Scheduled Tribes and their impact on ameliorating the socio-economic conditions of the target groups. The findings of the studies are brought to the notice of the concerned State Government for taking remedial measures. The main observations are highlighted in the Commission’s Report.

13.2
The Regional Offices of the Commission are required to interact with the State Administrations and guide them with a view to see that the interests of the Scheduled Tribes are protected and promoted while in formulating plans and policies. The Regional Offices also monitor the utilization of funds earmarked for plans pertaining to Scheduled Tribes including keeping a watch on diversion of funds from Tribal Sub-Plan.

13.3
All those matters/ representations in which action is to be taken by the State Government or the District Administration are dealt in the Regional Office having jurisdiction over the State. Petitioners having grievance relating to Scheduled Tribes in a State, in which action has to be taken by the State Government or the District administration may directly represent to the Head of the Regional Office of the Commission having jurisdiction over the State. Similar representations, received in the Headquarter office of the Commission, are therefore, transferred to the concerned Regional Office for taking up the matter with the concerned authorities. In case the matter is not resolved through the Regional Office, that office may refer the matter to the Headquarter office for holding a Sitting with the concerned authorities. The Member of the Commission, having charge over the subject matter or the State may take a decision to hold the Sitting in Headquarter office or in the Regional Office or any other place suitable for the purpose.

13.4
Each of the Regional Offices sends periodic Reports to the Commission Hqrs. on the activities undertaken by them highlighting major issues relating to welfare of Scheduled Tribes in each States/UT under their jurisdiction. These reports contain useful information about the developments in a State and enable the Commission to have an overall view in respect of various States as well as national situation for recommending suitable suggestions to the Government for taking appropriate action.

14. ANNUAL REPORTS OF COMMISSION

14.1
As per provision of Clause 5(d) of 338A of the Constitute it is the duty of the Commission to present annually a report upon the working of Constitutional safeguards and measures taken by the Union and the States for the protection and welfare of the Scheduled Tribes. In this series the National Commission for Scheduled Tribes has presented Six Annual Reports to the President of India. 1st report relating to the period 2004-05 & 2005-06 was submitted on 08 August 2006, the 2nd Report for 2006-07 has been submitted on 3rd September, 2008 while 3rd Report for 2007-08 has been submitted on 29th March, 2010 and Fourth Report for 2008-09 was submitted to the President on 27th August 2010. Fifth Report for 2009-10 was submitted on 13th July, 2011. Thereafter, the Commission has submitted on 18-06-2012 a Special Report titled “Good Governance for Tribal Development and Administration”. The Commission has also submitted its Sixth Report for 2010-11 to the President on 25th October, 2013 and Seventh Report for 2011-12 on 20/02/2015. In fulfillment of the provision under Clause 6 of Article 338A of the Constitution Government has so far laid in both Houses of Parliament, only three Reports, viz; First, Second and Special Report of the Commission. All these three Reports are available on the Website of the National Commission for Scheduled Tribes (http://ncst.nic.in). These three reports are also available on the Website of the Ministry of Tribal Affairs (http://tribal.gov.in). Those reports, which have not been laid in both
Houses of Parliament, cannot be made public.

15. **Contact details**

15.1

The names and contact numbers of the Chairperson, Vice-Chairperson, Members and officers of the Commission in the Headquarter Office as well as the officers in the Regional Offices of the Commission, their location and jurisdiction is given at ANNEXURE-XI.

16. **Programmes and important aspects related to Scheduled Tribes**

16.1 **Tribal Sub-Plan (TSP)**

16.1.1

Since the beginning of the Planning process, efforts have been made to ensure that the tribal people were included in the growth process. However, the strategy changed with each Five Year Plan as new lessons were learnt from various developmental efforts. The first Five Year Plan emphasized the provision of additional financial resources through a community development approach to address the problems of tribal people rather than evolving a clear cut tribal development strategy. Towards the end of the Plan (1954), 43 Special Multipurpose Tribal Development Projects (MTDPs) were created. These MTDPs could not fully serve the interest of the tribal people since the schemes were numerous and of a general nature. This approach continued during the second Five Year Plan. In the third Plan, a different strategy for tribal development was evolved by converting the Community Development Blocks, where the concentration of tribal population was 66 % and above, into Tribal Development Blocks (TDBs). By the end of the fourth Five Year Plan, the number of Tribal Development Blocks in the country rose to 504. The strategy of development through Tribal Development Blocks had its limitations as well, as it failed to address the cause of the tribal population of the country living outside the Tribal Development Blocks, which comprised more than 60% of the total tribal population. During the 5th Five Year Plan period, the exercise of identification of tribal majority blocks was undertaken. These were later constituted into 194 ITDAs/ITDPs in the country.

16.1.2

The present Tribal Sub Plan (TSP) strategy was initially developed by an Expert Committee set up by the Ministry of Education and Social Welfare in 1972 under the Chairmanship of Prof. S.C. Dube for the rapid socio-economic development of tribal people and was adopted for the first time in the Fifth Five Year Plan. The TSP strategy, with some modifications, continues till this day and the salient features with respect to TSP for States, are given below:

i) The funds provided under the Tribal Sub Plan of the State have to be at least equal in proportion to the ST population of each State or UT;

ii) Tribals and tribal areas of a State or UT are given benefits under the TSP, in addition to what percolates from the overall Plan of a State/UT;

iii) The Sub-Plan should;

a) Identify the problems and need of tribal people and critical gaps in their development.

b) Identify all available resources for TSP

c) Prepare a broad policy framework for development,

d) Prepare a detailed department wise plan

e) Define a suitable administrative strategy for its implementation.

f) Specify the mechanism for monitoring and evaluation.

(iv) The TSP strategy has been in operation in 22 States and 2 UTs. However, funds meant for UTs are being provided for in the budget of Ministry of Home Affairs since 2003-04 and therefore, the Ministry of Tribal Affairs is not concerned in the administration of TSP funds in the UTs.

(v) TSP concept is not applicable to the tribal majority States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland and in the UTs of Lakshadweep and Dadra & Nagar Haveli where tribals represent more than 60 % of the population, since the Annual Plan in these States/UTs is itself a Tribal Plan. A statement showing State-wise
16.2 Funding of Tribal Development Programmes under TSP

16.2.1 Funds for tribal development under TSP are sourced from:
  i) State Plans;
  ii) The Special area programmes of Special Central Assistance (SCA) to Tribal Sub Plan (TSP) and Grant under Article 275 (1) of the Constitution, as also the funds under the other Schemes of the Ministry;
  iii) Sectoral programmes of Central Ministries/ Departments; and
  iv) Institutional Finance.

16.3 TSP Components of States and UTs

16.3.1 The Planning Commission had issued guidelines for the States and UTs to earmark funds for TSP to be placed under a separate Budget Head Code 796 from total State/ UT Plan outlay. As per guidelines issued by the Planning Commission, the Tribal Sub Plan funds are to be non-divertible and non-lapsable. The guidelines also provide that the Tribal Welfare Department will be nodal Departments for the formulation and implementation of the Tribal Sub Plan in the States. Though the States are expected to provide under the TSP funds which are at least equal to the percentage of the tribal population to the total population in the State, and though the Ministry of Tribal Affairs and the Planning Commission have repeatedly laid stress on earmarking of adequate resources, some of the States while preparing the Annual Plan for even 2013-14 have continued to allocate fewer than proportional resources to TSP.

16.4 TSP Components of Central Ministries/Departments

16.4.1 The TSP strategy is expected to be followed in the Central Ministries/Departments also so that an adequate flow of funds in the Central Ministries/ Departments is ensured. Ministries/ Departments had earlier been reporting difficulty in implementing TSP citing indivisibility of projects, projects being applicable to all communities, including SCs/STs, etc. The Ministry of Tribal Affairs taking this into account had approached Planning Commission for devising a different strategy for Central Ministries on TSP. The Planning Commission constituted a Task Force in June, 2010 under the chairmanship of Dr. Narendra Jadhav, Member, Planning Commission. It recommended a classification of specific list of Ministries/Departments according to their obligations regarding earmarking of Plan outlays for TSP.

16.5 Special Central Assistance (SCA) to the Tribal Sub- Plan:

16.5.1 This is a major programme administered by the Ministry under which, grant is provided to the State Governments based on annual allocation made by the Planning Commission. This is treated as an additive to the State Plan, for areas where State Plan provisions are not normally forthcoming to bring about economic development to tribals. The programme was launched during 1974-75 and till the end of the IX Five Year Plan, the SCA to TSP was meant for filling up critical gaps in the family-based income-generating activities of TSP. From the Tenth Five Year Plan period, the objective and scope of SCA to TSP, was expanded to cover employment-cum-income generation activities and infrastructure incidental thereto. Beside family-based activities, other activities run by the Self-Help Groups (SHGs)/ Community are also to be taken up. The ultimate objective of extending SCA to TSP is to boost the demand based income-generation programmes and thus raise the economic and social status of tribals. The guidelines for implementation by the States were revised in May, 2003, and were further modified in January 2008. Recently in March 2014, the Ministry of Tribal Affairs has issued operational guidelines for formulation, implementation and monitoring of Tribal Sub-Plan and grants under Article 275(1) which has brought out certain substantive changes in the thrust of these Special Area Programmes, as also some procedural changes.

16.5.2 SCA is provided to 22 Tribal Sub-Plan States including the North Eastern States of Assam, Manipur, Sikkim and Tripura and two Union Territories. Since 2003-04 funds meant for UTs are being provided in the budget of Ministry of Home Affairs and therefore, Ministry of Tribal Affairs is not concerned with the administration of funds in the UTs. Funds under SCA to TSP are released for economic development in the following areas and for the following...
population: -

(i) ITDP/ITDA areas (194 Nos.), which are generally contiguous areas of the size of at least tehsil or block or more in which the ST population is 50% or more of the total population;

(ii) MADA pockets (259 Nos.), which are identified pockets having 50% or more ST population with a minimum population of 10,000;

(iii) Clusters (82 Nos.), which are identified pockets having 50% ST population with a minimum population of 5,000,

(iv) Particularly Vulnerable Tribal Groups (PTGs), characterized by a low rate of growth of population, pre-agricultural level of technology and extremely low level of literacy;

(v) Dispersed tribal population - those tribals who fall outside the categories at Sl No. (i) to (iv) above.

16.5.3

The Ministry provides 100% grant-in-aid to State Governments from the SCA funds made available to the Ministry for the purpose annually by the Planning Commission. Funds to the level of Rs. 15.00 Lakhs per village under the program for Development of Forest Villages were also provided as an extension of the Special Central Assistance to Tribal Sub-Plan (SCA to TSP). Government has decided that an additional funding upto Rs. 15.00 Lakh each would be provided to all those forest villages which have availed the first phase funding during the Xth Plan.

16.6 Grants under the First Proviso to article 275(1) of the Constitution:

16.6.1

The Ministry of Tribal Affairs provide grants to 22 Tribal Sub-Plan and 4 tribal majority States under the First Proviso to article 275(1) of the Constitution to meet the cost of such projects for tribal development as may be undertaken by the State Governments for the promoting the welfare of the Scheduled Tribes in the State and for raising the level of administration of the Scheduled Areas therein to that of the rest of the State. Since 1997-98, it has been decided to utilize a part of the funds under Article 275(1) of the Constitution for setting up 100 Model Residential Schools (named as Eklavya Vidyalaya) from class 6th to 10th in States & UTs for tribal students. For this purpose, Rs.150.00 crores were earmarked during the 9th Five Year Plan out of the funds available under Article 275(1) of the Constitution. The objective of setting up of the Eklavya Vidyalayas is to provide quality education to the tribal students. 164 Eklavya Vidyalayas were sanctioned to 22 States upto 31/03/2014 since the beginning and 120 Schools are reported to be functional.

16.6.2

A fixed grant under the second proviso to Article 275(1) of the Constitution (Non-Plan) is given to the Government of Assam in respect of the administration of tribal areas in the hill districts of North Cachar and Karbi Anglong.

16.7 Centrally Sponsored Schemes:

16.7.1

The following Centrally Sponsored Schemes are presently being run by the Ministry of Tribal Affairs for development of Scheduled Tribes.

(i) Post Matric Scholarship for STs /Book Bank

(ii) Upgradation of Merit of ST Students

(iii) Pre matric scholarship for ST students

(iv) Girls Hostels

(v) Boys Hostels

(vi) Establishment of Ashram Schools

(vii) Research and Training
(viii) Information and Mass Media
(ix) National Tribal Affairs Awards
(x) Centre of Excellence
(xi) Supporting Projects of All-India nature or Inter-State nature for Scheduled Tribes
(xii) Organisation of Tribal Festival
(xiii) Exchange of visits by Tribals
(xiv) Monitoring and Evaluation
(xv) Information Technology
(xvi) Lump-sum Provision for N.E.

16.8 Central Sector Schemes under which 100% Grant is given to States and UTs

16.8.1
The following Central Sector Schemes are presently being run by the Ministry of Tribal Affairs for development of Scheduled Tribes:

(i) Grants-in-Aid to Voluntary Organisations
(ii) Special Incentives to NGOs performing exemplary tasks
(iii) Coaching & Allied Schemes
(iv) Vocational Training in Tribal Areas
(v) Strengthening of Education among ST Girls in Low Literacy Districts
(vi) Market Development of Tribal Products/ Produce (Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED))
(vii) State Tribal Development Cooperative Corporation for Minor Forest Produce
(viii) Development of Particularly Vulnerable Tribal Groups (PVTGs)
(ix) National Scheduled Tribes Finance & Development Corporation
(x) Rajiv Gandhi National Fellowship for ST Students
(xi) Scheme of Institute of Excellence/ Top Class Institute
(xii) National Overseas Scholarship Scheme
(xiii) Mechanism for Marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and Development of value Chain for MFP
(xiv) World Bank Project- Improving Development Programmes in the Tribal Areas

16.9 RECENT INITIATIVES OF MINISTRY OF TRIBAL AFFAIRS

16.9.1
The Ministry of Tribal Affairs committed to overall development of the people belonging to Scheduled Tribes and to project the rights of such people and preserve and promote tribal culture and heritage has recently taken up a number of new initiatives towards their development.

1. Strengthening of Institutions:

16.9.2
The capacity of tribal people to harness the fruits of development and to access various schemes for delivery of
public goods and services has remained limited. The Integrated Tribal Development Agencies were the Institutions assigned with the role to facilitate such access. But over the years, several schemes- specific bodies at District level became stronger whereas ITDAs/ ITDPs have become weak or non-existent in most of the states. Similarly, Tribal Research Institutes have become weak in many states. This has reduced knowledge support to persons in charge of tribal development. Urban areas have seen increasing number of tribal people but there is no agency to look after their special problems. During the year 2014-15, the Ministry has taken up strengthening of these institutions on priority and also to create new ones so that they can deliver goods and services more effectively. Under the existing schemes of SCA to Tribal Sub-Plan, Grants under Article 275(1) of the Constitution and the scheme of ‘Grant-in-Aid to Tribal Research Institutes’, the guidelines have been revised so that these institutions may be equipped with proper infrastructure, manpower and flexibility.

16.9.3
In order to improve literacy amongst STs, Ministry of Tribal Affairs has taken following initiatives during the last one year:

- Campaign for 100% physical enrolment
- Special focus on low literacy tribes and districts for all interventions
- Constructions of Residential Schools & Hostels and upgrade existing facilities
- Development of Primers in Tribal languages along with regional languages
- Academic sessions to be in sync with Tribal Festivals
- Schools Management committee to engage requisite teachers.

2. Umbrella scheme for Education of ST Children:

16.9.4
The following schemes for education have been merged into the umbrella scheme.

a) Establishing and strengthening of Ashram Schools.

b) Establishing and strengthening of Hostels.

c) Vocational training in tribal areas.

d) Post-Matric Scholarship.

e) Pre-Matric Scholarship.

16.9.5
The needs vary from State to State and this new scheme gives flexibility to opt for expenditure. This year bulk of the grants have gone for scholarships.

3. Scheduling of Tribes and change of guidelines:

16.9.6
There are several communities which are not included in the list of Scheduled Tribes and who claim the status of Scheduled Tribe on various grounds. The present process for inclusion of community under Scheduled Tribe is non-transparent. Some of these claiming communities were left out because of some historical mistakes like wrongly spelling them or due to phonetic variations mainly because of writing of vernacular names in Roman script. A task force constituted under the chairmanship of Secretary, Ministry of Tribal Affairs examined these issues in detail and submitted their recommendations to the Ministry of Tribal Affairs. All the recommendations of the Task Force have been accepted by the Ministry. One of the key recommendations of the Task Force is that the valid names of communities is that in Devnagri script so that the phonetic variation in English alphabet does not lead to multiple rendering of the names.

4. Institutional mechanisms for promotion of Tribal Products and Marketing:

a) Scheme for Minor Forest Produce:

16.9.7
The price of MFP is very often determined by traders rather than by demand and supply because of skewed
information. The scheme is initially implemented in States having areas under fifth Schedule of the Constitution for 12 MFPs namely (i) Tendu Leaves (ii) Bamboo (iii) Mahua seed (iv) Sal Leaf (v) Sal Seed (vi) Chironje (vii) Wild Honey (ix) Myrobalan (x) Tamarind (xi) Gums (Gum Karaya) and (xii) Karanj. The Ministry’s agency, TRIFED has hosted ‘MFPNET’, a web-based portal through which current price of MFPs can be known across important Mandis of different States.

b) Inauguration of Call Centre and Toll Free Number:

16.9.8

In order to provide real time information, daily prices of Minor Forest Produce in various Mandis across the country can now be obtained through Toll Free Number 1800-180-1551 which was inaugurated by the Hon’ble Minister for Tribal Affairs on 02.09.2014

16.9.9

A portal for direct selling has been launched by TRIFED. In addition, TRIFED has tied up with “snapdeal.com”.

5. Centers of Excellence

16.9.10

The Ministry supports strengthening active research in Universities and reputed institutions in order to involve them in a more focused, long term and policy-oriented work relating to scheduling of Tribes. Currently three institutions are functioning with support from the Ministry:

i) National Institute of Rural Development, Hyderabad in the field of Local Governance and Rural Development.

ii) BAIF Development Research Foundation, Pune in the field of Rural Technologies for Improvement in Livelihood and Quality of Life.

iii) Bhasha Research and Publication Centre, Vadodra in the field of Information, Education and Communication.

16.9.11

The Ministry has recognized the Department of Odia, Vishva Bharati, Shanti Niketan Centre of Excellence in the field of Tribal Language and Literature. Another proposal has been approved by the Ministry to establish a National Research Centre in the Tribal Research Institute, Bhubaneswar to promote research activities on subjects/ issues for socio-economic development and culture of Scheduled Tribes.

6. Implementation of Forest Rights Act:

16.9.12

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a landmark legislation to recognize the pre-existing rights of tribals and other traditional forest dwellers who are in occupation of forest land, but whose rights could not be recorded. A copy of the Act is placed at ANNEXURE-XIII. The Act has come into force w.e.f. 31/12/2007. In exercise of the powers conferred by sub-Sections (1) and (2) of Section 14 of the Act Government of India have also notified the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 and these Rules have become effective from 01/01/2008. A copy of these Rules is placed at ANNEXURE-XIV. As per information made available by the Ministry of Tribal Affairs, by the end of January, 2015, i.e during more than seven years of implementation of the Act, more than 39.61 lakh claims have been filed. Of these, 15.32 lakh Individual Rights and more than 29,800 Community Forest Rights titles have been distributed covering a total area of 72.09 lakh acres of land. So far 83.06 per cent of claim applications filed have been disposed of.

7. Vanbandhu Kalyan Yojana:

16.9.13

In order to achieve comprehensive development of tribals, Vanbandhu Kalyan Yojana (VKY) is being implemented by the Ministry of Tribal Affairs which focuses on convergence of different schemes of development. VKY also envisages a shift in working character and rather than focusing merely on physical and financial achievements. For example, instead of number of schools, it will see the number of students who have passed with distinction. The proposed intervention is aimed at adopting a holistic approach commensurate to the Gujarat Model for overall
development of the tribal people with sustainability.

16.9.14
During 2014-15, budgetary support of Rs.3850 Crores has been made for various plan schemes of the Ministry at RE stage. A Project Appraisal Committee, headed by Secretary, Tribal Affairs, with representatives of State Governments, Financial Advisor Planning Commission, etc. has been constituted to appraise and approve the proposals for allocation under various schemes of the Ministry. This has helped in ensuring consultation with the States, convergence of various schemes of the Ministry and other Centrally Sponsored Schemes, transparency in the process of appraisal and fund releases and ensuring optimal allocation of limited financial resources. The Committee has prioritized on education especially that of girl child and low literacy tribes; health especially Sickle Cell Anemia, Malaria, Malnutrition and Livelihood. Facilities of Toilets with running water and electricity in residential schools has been emphasized. This process has helped in synchronizing national priorities with State priorities.

8. Health and Nutrition Initiatives:

16.9.15
Initiatives taken by the Ministry of Tribal Affairs in relation to Health and Nutrition aspect of Scheduled Tribes are:

a. Sickle Cell Anemia: To eradicate Sickle Cell Anemia, health check-up followed by issue of Health cards of students of tribal department schools/ hostels to identify sickle cell trait (HbAS) (SCT) cases has been undertaken. Parents are to be made aware of the problems and its prevention methods. Health ministry has been requested to include Sickel Cell test for all population groups in malaria-prone areas.

b. Malaria: Composite fish culture for controlling mosquito population and also to provide protein supplement to the people has been advocated and supported.

c. Traditional Corps and Food: Growing and consumption of minor millets, kitchen garden for green leafy vegetable are encouraged in the project approvals to address nutritional issues.

d. Tribal Medicines and Practices: Documentation of Tribal Medicines and practices through Tribal Research Institutes has been initiated. Efforts to mainstream tribal medicines and validated practices for effective health service delivery for Tribal people has been started.


16.9.16
The Ministry of Tribal Affairs organized the National Tribal Festival 'VANAJ' in New Delhi from 13th to 18th February, 2015. The festival provided glimpses of rich cultural heritage of tribal communities across the country through unique forms of folk dances, songs and other traditional practices and focused on developing a sense of appreciation of the cultural diversity of the country. The highlights of the Festival included state specific tribal huts, exhibition of books, art and crafts, tribal cuisine, award winning photographs and demonstration of traditional skill in painting, craft and traditional medical practices. Screening of documentary films and seminars on subject relevant to tribal issues were other attractions of the six days event. The event would be organised from 2nd Friday to 3rd Wednesday of February every year.

16.9.17
Details regarding each Scheme mentioned above and working of these Schemes and other activities of the Ministry of Tribal Affairs are available on the website of the Ministry of Tribal Affairs (http://www.tribal.nic.in )

16.10 SCHEDULED AREAS

16.10.1
The Scheduled Tribes live in contiguous areas unlike other communities. It is, therefore, much simpler to have area approach for development activities and also regulatory provisions to protect their interests. In order to protect the interests of Scheduled Tribes with regard to land alienation and other social factors, provisions of “Fifth Schedule” and “Sixth Schedule” have been enshrined in the Constitution.

16.10.2
The Fifth Schedule under Article 244(1) of Constitution defines “Scheduled Areas” as such areas as the President
may by Order declare to be Scheduled Areas after consultation with the Governor of that State. This schedule contains provisions regarding the administration and control of the Scheduled Areas and Scheduled Tribes. There are nine States having Scheduled Areas, viz., Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, and Rajasthan. The Governors of these States have special responsibilities and powers. These States have Tribes Advisory Councils (TACs). [In addition, Tamil Nadu and West Bengal, which do not have any Scheduled Areas, also have statutory TACs]. List of orders in operation at present in their original or amended form may be seen on the website of the Ministry of Tribal Affairs i.e. (http://www.tribal.nic.in)

16.10.3

The Sixth Schedule under Article 244(2) of the Constitution relates to those areas in the north-east which re-declared as “tribal areas” and provides for an District or Regional Autonomous Councils for such areas. These councils have wide ranging legislative, judicial and executive powers. The Schedule also contains provisions relating to the administration of the areas declared as ‘tribal areas’. The Tribal Areas in relation to this Schedule are in the States of Assam, (North Cochar Hills District and Karbi Anglong District) Meghalaya, Mizoram and Tripura. There are Autonomous District Councils and Autonomous Regional Councils in these areas, which have a long tradition of self-management systems. These Autonomous Councils not only administer various Departments and developmental programmes but they also have powers to make large on a variety of subjects, e.g., land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance of property, marriage and divorce and social systems. These Councils are elected bodies and have powers of legislation, administration of justice apart from executive developmental and financial responsibilities.

16.10.4

The advantages of Scheduled Areas are:

(a) The Governor of a State, which has Scheduled Areas, is empower to make regulations in respect of the following:
   (i) Prohibit or restrict transfer of land from tribals;
   (ii) Regulate the business of money lending to the members of Scheduled Tribes

In making any such regulation, the Governor may repeal or amend any Act of Parliament or of the Legislature of the State, which is applicable to the area in question.

(b) The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to such area subject to such exceptions and modifications as he may specify.

(c) The Governor of a State having Scheduled Areas therein, shall annually, or whenever so required by the President of India, make a report to the President regarding the administration of the Scheduled Areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said area.

(d) Tribes Advisory Council [TAC] shall be established in States having Scheduled Areas. The TAC may also be established in any State having Scheduled Tribes but not Scheduled Areas on the direction of the President of India. The TAC consists of not more than twenty members of whom, as nearly as may be, three fourths are from the representatives of Scheduled Tribes in the Legislative Assembly of the State. The role of TAC is to advise the State Government on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to it by the Governor.

(e) The Panchayats (Extension to Scheduled Areas) Act, 1996, vide which the provisions of Panchayats, contained in Part IX of the Constitution, were extended to Scheduled Areas, also contains special provisions for the benefit of Scheduled Tribes.

16.11 Panchayats (Extension to Scheduled Areas) ACT, 1996

16.11.1

The provisions of Part IX of the Constitution relating to Panchayats have been extended to the Scheduled Areas in various States through the Panchayats (Extension to Scheduled Areas) Act, 1996 (ANNEXURE-XV). Section (4) of this Act provides that 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 features mentioned in this Section. Section (4) of the Act, inter alia, provides that:-

(i) (a) Every Gram Sabha shall approve of 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.

(b) Every Gram Sabha shall be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes.

(iii) Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilization of funds by that Panchayat for the plans, programmes and projects.

(iii) 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.

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

(v) The State Legislature shall endeavor 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.

16.11.2

Some other powers of Gram Sabhas in the Scheduled Areas as provided in Section (4) of the Act relate to (i) safeguarding and preserving the traditions and customs of the tribal people, (ii) planning and management of miner water bodies in the Scheduled Areas. The State Legislature is required to ensure that the Panchayats at appropriate level and the Gram Sabha are endowed specifically with the power-

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

(ii) to grant the ownership of minor forest produce,

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

(iv) to manage village markets,

(v) to exercise control over money lending to Scheduled Tribes,

(vi) to exercise control over institutions and functionaries in social sectors and,

(vii) to exercise control over local plans and resources for such plans including tribal-sub plans.

16.12 Scheduling and de-scheduling of Tribes:

16.12.1

Empowered by Clause (1) of Article 342, the President may, with respect to any State or Union Territory, and where it is a State, after consultation with the governor thereof, notify tribes or tribal communities or parts of these as Scheduled Tribes. This confers on the tribe or part of it a Constitutional status for availing the rights and safeguards provided for the Scheduled Tribes in the Constitution, in their respective State/UT.

16.12.2

Clause (2) of the Article empowers the Parliament to pass a law to include in or exclude from the list of Scheduled Tribes, any tribe or tribal community or parts of these.

16.13 Criteria for specification of a community as a Scheduled Tribe:

16.13.1

The criteria followed for specification of a community as a Scheduled Tribe are:

(a) Indication of primitive traits,
(b) Distinctive culture,
(c) Geographical isolation,
(d) Shyness of contact with the community at large, and
(e) Backwardness.

16.13.2
This criteria is not spelt out in the Constitution but has become well established. It takes into account the definitions
in the 1931 Census, the reports of the first Backward Classes Commission (Kalelkar) 1955, the Advisory Committee
on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of Parliament on the Scheduled
Castes and Scheduled Tribes Order (Amendment) Bill, 1967 (Chanda Committee) 1969.

16.14 Procedure for inclusion in or exclusion from the list of Scheduled Tribes

16.14.1
In June, 1999, the Government approved modalities for deciding claims for inclusion in or exclusion from the lists
of Scheduled Tribes. According to these approved guidelines, only those claims that have been agreed to by the
concerned State Government, the Registrar General of India and the National Commission for Scheduled Castes
& Scheduled Tribes will be taken up for consideration.

16.14.2
Whenever representations are received in the Ministry of Tribal Affairs for inclusion of any community in the list
of Scheduled Tribes of a State/UT, the Ministry forwards that representation to the concerned State Government/ U.T. Administration for recommendation as required under Article 342 of the Constitution. If the concerned State
Government recommends the proposal, then the same is sent to the Registrar General of India (RGI). The RGI,
if satisfied with recommendation of the State Government, recommends the proposal to the Central Government.
Thereafter, the Ministry of Tribal Affairs refers the proposal to the National Commission for Scheduled Castes and
Scheduled Tribes for their recommendation. If the National Commission for Scheduled Castes and Scheduled
Tribes also recommends the case, the matter is processed for the decision of the Cabinet after consulting the
concerned administrative Ministries. Thereafter the matter is put up before the Parliament in the form of a Bill to
amend the Presidential Order.

16.14.3
In case, there is disagreement between the views of the State Government and the RGI, the views of the RGI are
sent to the State Government for reviewing or further justifying their recommendation. On receipt of the further
clarification from the State Government/Union Territory Administration, the proposal is again referred to the RGI
for comments. In such cases, where the RGI does not agree to the point of view of the State Government/UT
Administration of India may reject the said proposal.

16.14.4
Claims that neither the RGI nor the concerned State Government have supported are rejected. Similarly, those
cases where the State Government and the RGI favour inclusion/exclusion, but not supported by the National
Commission for Scheduled Castes and Scheduled Tribes are also rejected.

16.15 Authorities Competent to Issue Scheduled Tribe certificates:

16.15.1
The candidates belonging to Scheduled Tribes may get Scheduled Tribe certificates, in the prescribed form, from
any one of the following authorities:

(i) District Magistrate/Additional District Magistrate/ Collector/ Deputy Commissioner/ Additional Deputy
Commissioner/Deputy Collector/ Ist Class Stipendiary Magistrate/ City Magistrate/ Sub Divisional Magistrate/
Taluka Magistrate/Executive Magistrate/ Extra Assistant Commissioner. [not below the rank of Ist Class Stipendiary
Magistrate]

(ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/ Presidency Magistrate

(iii) Revenue Officers not below the rank of Tehsildar
Sub- Divisional Officer of the Area where the candidate and/or his family normally resides

Administrator/ Secretary to the Administrator/ Development Officer [Lakshadweep Islands]

16.16 Points to be observed while issuing/ verifying Scheduled Tribe certificates:

16.16.1 General:

16.16.1.1 Various points and issues are required to be considered before issuing a caste certificate to an applicant. The nodal Ministry dealing with the policy issue relating to the subject matter relating to inclusion into and exclusion from the list of SCs/STs has been with the Ministry of Social Justice and Empowerment. These points and issues are given in detail on the website of the Ministry of Social Justice and Empowerment (http://www.socialjustice.nic.in). However, some important issues are highlighted in this Handbook for ready reference.

16.16.1.2 Where a person claims to belong to a Scheduled Tribes by birth it should be verified that:-

(i) The person and his/her parents actually belong to the community claimed;

(ii) The community is included in the Presidential Order specifying the Scheduled Tribes in relation to the concerned State;

(iii) The person belongs to that State and to the area within that State in respect of which the community has been scheduled;

(iv) He/she may profess any religion;

(v) He/she or his/her parents/grandparents etc., should be permanent resident of the State/UT on the date of notification of the Presidential Order applicable in his/her case.

(vi) A person who is temporarily away from his permanent place of residence at the time of the notification of the Presidential Order applicable in his case, say for example to earn a living or seek education, etc. can also be regarded as a Scheduled Tribe, if his tribe has been specified in that Order in relation to his State/Union Territory. But he/she cannot be treated as such in relation to the place of his temporary residence notwithstanding the fact that the name of his/her tribe has been scheduled in respect of that State where he/she is temporarily settled, in any Presidential Order.

(vii) In the case of persons born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring Scheduled Tribe status, is the place of permanent abode of their parents at the time of the notification of the Presidential Order under which they claim to belong to such a tribe.

16.16.2 Scheduled Tribe claims on migration:

16.16.2.1 Where a person migrates from the portion of the State in respect of which his community is scheduled to another part of the same State in respect of which community is not scheduled, he will continue to be deemed to be a member of the Scheduled Tribe, in relation to that State;

16.16.2.2 Where a person migrates from one State to another, he can claim to belong to a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.

16.16.3 Scheduled Tribe claims after marriage and status of their children:

16.16.3.1 The guiding principle is that no person who was not a Scheduled Tribe by birth will be deemed to be a member of Scheduled Tribe merely because he or she has married a person belonging to a Scheduled Tribe. Similarly a person who is a member of a Scheduled Tribe would continue to be a member of that Scheduled Tribe, even after his or her marriage with a person who does not belong to a Scheduled Tribes. However, status of the children born out of such marriages would depend on the particular caste status of the father.
16.17 The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

16.17.1

Article 17 of the Constitution provides that the untouchability is abolished and its practice in any form is punishable. To implement this provision Government of India enacted the Untouchability Offences Act 1955. This Act for the first time defined various forms of practices of untouchability and provided punishment for the offence(s) committed under the Act. The Act was amended in the year 1976 for providing higher punishment committed under the Act and also renamed as Protection of Civil Rights Act, 1955 (PCR Act). The Rules under the PCR Act have also been framed as the Protection of Civil Right Rules 1977. A copy each of the PCR Act and the PCR Rules is placed at ANNEXURE-XVI and ANNEXURE-XVII respectively.

16.17.2

The PCR Act, 1955 prescribed punishment for the preaching and practice of untouchability, for the enforcement of any disability arising there from and for matters connected there with. This however, did not deter the people from committing offences of atrocity upon Scheduled Castes and Scheduled Tribes. To prevent the Commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith of incidental thereto, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (ANNEXURE-XVIII) was passed by the Parliament on 16 August, 1989 and received the assent of the President on 11 September, 1989 and came into force on 30 January, 1990. Sections 3(1) and 3(2) describe various types of offences of atrocities on the members of Scheduled Castes and Scheduled Tribes by non-SC/ST persons.

16.17.3

The PoA Act extends to whole of India except the State of Jammu and Kashmir. The PoA Act is implemented by the respective State Governments and Union Territory Administrations, which are provided due Central assistance under the Centrally Sponsored Scheme for effective implementation of the provisions of the Act. Main provisions of the PoA Act are as under: -

(i) Defines offences of atrocities and prescribes punishment therefor, (Section 3).
(ii) Punishment for wilful neglect of duties by non-SC/ST public servants (Section 4).
(iii) Designating for each District a Court of Session as a Special Court for speedy trial of offences under the Act (Section 14).
(iv) Powers of Special Court to inter –alia, extern persons likely to commit an offence in a Scheduled or Tribal area (Section 10).
(v) Appointment of Public Prosecutors/Special Public Prosecutors for conducting cases in special courts (Section 15).
(vi) Preventive action to be taken by the law and order machinery (Section 17).
(vii) Measures to be taken by State Governments for effective implementation of the Act, (prescribed under Section 21) include: -

a) the provision for adequate facilities, including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice
b) the provision for travelling and maintenance expenses to witness- es, including the victims of atrocities, during investigation and trial of offences under this Act
c) the provision for the economic and social rehabilitation of the victims of the atrocities
d) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act
e) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures
f) for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act
g) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are
likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members

16.17.4

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act further prescribe that the Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments and that the Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section. As per information available on the website of the Ministry of Social Justice and Empowerment, the Government has placed Annual Reports on the measures taken by itself and by the State Governments upto the year 2013.

16.17.5

In exercise of the powers conferred by sub-section (1) of Section 23 of the SCs and STs (POA) Act, 1989, the Central Govt. have made the SCs and the STs (Prevention of Atrocities) Rules, 1995. Section 3 of these Rules assigns certain duties to the State Govt. with a view to prevent atrocities on SCs and STs. Section 12 of these Rules, inter alia, assigns certain duties to the district administration which include making arrangements for providing immediate relief in cash or kind or both to the victims of atrocity, their family members and dependents according to the Norms as given in the Schedule I annexed to these Rules. Such relief includes food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings. These Rules have been amended in the year 2011(23rd December, 2011)\(^1\), 2013 (8th November, 2013)\(^2\) and twice in the year 2014 (23rd June 2014 and 5th November, 2014)\(^3\). Consequent to these amendments to the Rules Norms for relief, prescribed in Schedule I [w.r.t. Rule 12(4)] have been revised twice. Accordingly the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Rules, 1995 as amended vide the above mentioned amendments is placed at ANNEXURE-XIX in this HANDBOOK. The Scheduled Annexure-I to these Rules (ANNEXURE-XIX) gives the latest revised Schedule of Norms for Relief and Rehabilitation of the victims of atrocities under the PoA Act.

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1. Please also see for details the Website of the MSJE www.socialjustice.nic.in
2. Please also see for details the Website of the MSJE www.socialjustice.nic.in
3. Please also see for details the Website of the MSJE www.socialjustice.nic.in
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The Gazette of India
EXTRAORDINARY

PART-II-Section 1

PUBLISHED BY AUTHORITY
No.31, NEW DELHI, FRIDAY, JUNE 8, 1990/
JYAISTHA 18, 1912

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 8th June, 1990/Jyaistha 18, 1912(Saka)

The following Act of Parliament received the assent of the President on the 7th June, 1990, and
is hereby published for general information:-

THE CONSTITUTION (SIXTY-FIFTH AMENDMENT) ACT, 1990
(7th June, 1990)

An Act further to amend the Constitution of India.

1. Short title and commencement

(1) This Act may be called the Constitution (Sixty-fifth Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint

2. Amendment of Article 338

In Article 338 of the Constitution:-

(a) for the marginal heading, the following marginal heading shall be substituted, namely:-

“National Commission for Scheduled Castes and Scheduled Tribes”.

(b) for clauses (1) and (2), the following clauses shall be substituted, namely:-

“(1) There shall be a Commission for the Scheduled Castes and Scheduled Tribes to be known as the National Commission for the Scheduled Castes and Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under
his hand and seal.

(4) The Commission shall have the power to regulate its own procedure.

(5) It shall be the duty of the Commission:

(a) to investigator and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other time as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendation as to the measures that should be taken by Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Scheduled Tribes; and

(f) to discharge such other function in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations;

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters,
namely:

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
(b) requiring the discovery and production of any documents;
(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;
(e) issuing commissions for the examination of witnesses and documents;
(f) any other matter which the President may by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes.”

(c) existing clause (3) shall be renumbered as clause (10).

Sd/-
(V.S.RAMA DEVI)
Secy. To the Govt. of India
The Gazette of India

Extraordinary

PART II - Section 1

PUBLISHED BY AUTHORITY

No. 55 NEW DELHI, TUESDAY, SEPTEMBER 30, 2003/ASVINA 8, 1925

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 30th September, 2003/Asvina 8, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2003, and is hereby published for general information:

THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003

[28th September, 2003]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:

1. (1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In article 338 of the Constitution--

(a) for the marginal heading, the following marginal heading shall be substituted namely:-

“National Commission for Scheduled Castes”;

(b) for clause (1) and (2), the following clauses shall be substituted, namely:-

(1) There shall be a Commission for the Scheduled castes to be known as the National Commission for Scheduled Castes.

(2) Subject to the provisions of any law made in this behalf by Parliament the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the
Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine:

(c) in clauses (5) and (10), the words “and Scheduled Tribes” where they occur shall be omitted.

Insertion of New Article 338A.

(3) After Article 338 of the Constitution, the following article shall be inserted namely:

“338 A (1) There shall be a Commission for the Scheduled tribes to be known as the National Commission for the Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure

(5) It shall be the duty of the Commission----

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled tribes; and

(f) to discharge such other functions insulation to the protection, welfare and development and advancement of the Scheduled tribes as the President may, subject to the provisions of any law made by Parliament by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5) have all the powers of a civil court trying a suit and in particular in respect of the following manners namely:

   (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
   (b) requiring the discovery and production of any document;
   (c) receiving evidence on affidavits;
   (d) requisitioning any public record or copy thereof from any court or office;
   (e) issuing commissions for the examination of witnesses and documents;
   (f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.”

SUBHASH C. JAIN
Secy to the Govt. of India
G.S.R.124(E).—In exercise of the powers conferred by Sub-section (2) of Section 1 of the Constitution (Eighty-Ninth Amendment) Act, 2003 the Central Government hereby appoints the 19th day of February, 2004 as the date on which the provisions of the said Act shall come into force.

[F.No.17014/12/99-TDR]
S. CHATTERJEE, Jt. Secy
ANNEXURE-IV

MINISTRY OF TRIBAL AFFAIRS
NOTIFICATION

New Delhi, the 20th February, 2004

G.S.R.128(E).-In exercise of the powers conferred by clause (2) of article 338A of the Constitution and in supersession of the National Commission for Scheduled Castes and Scheduled Tribes Chairperson and Members (Conditions of Service and Tenure) Rules, 1990, except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules, namely:-

1. **Short title and commencement:** (1) These rules may be called the *National Commission for Scheduled Tribes Chairperson, Vice-Chairperson and Members (Conditions of Service and Tenure) Rules, 2004.*

   (2) They shall come into force on the date of commencement of the Constitution (Eighty-Ninth Amendment) Act, 2003.

2. **Definitions**- In these rules, unless the context otherwise requires,
   
   (a) “article” means article of the Constitution;
   
   (b) “Chairperson” means the Chairperson of the Commission;
   
   (c) “Commission” means the National Commission for Scheduled Tribes established under article 338A;
   
   (d) “Member” means a Member of the Commission;
   
   (e) the expression “Scheduled Tribes” shall have the meaning assigned in clause (24) of article 366;
   
   (f) “Vice-Chairperson” means the Vice-Chairperson of the Commission.

3. **Qualifications:**- (1) The Chairperson, The Vice-Chairperson and the Members shall be appointed from amongst persons of ability, integrity and standing who have had a record of selfless service to the cause of justice for the Scheduled Tribes.

   (2) Subject to the provisions of sub rule (1)-

   (a) The Chairperson shall be appointed from amongst eminent socio-political workers belonging to the Scheduled Tribes, who inspire confidence amongst the Scheduled Tribes by their very personality and record of selfless service.

   (b) The Vice-Chairperson and all other Members out of whom at least two shall be appointed from amongst persons belonging to the Scheduled Tribes.

   (c) At least one other Member shall be appointed from amongst women.

4. **Term of Office**- (1) Save as otherwise provided in these rules, the Chairperson, the Vice-Chairperson and other Member shall hold office for a term of three years from the date on which he/she assumes such office.

   (2) The Chairperson, the Vice-Chairperson and other Members shall not be eligible for appointment for more than two terms.
5. **Salaries and allowance:-**

   (1) The Chairperson shall have the rank of a Cabinet Minister and the Vice-Chairperson that of a Minister of State and other Members shall have the rank of a Secretary to the Government of India unless otherwise specified.

   (2) The Chairperson, the Vice-Chairperson and other Members shall be entitled to such salaries and allowances as admissible to a Secretary to the Government of India:

   Provided that the Chairperson shall also be entitled to a rent free accommodation,

   (3) Notwithstanding anything contained in sub rules (1) and (2), if the Chairperson, Vice-Chairperson or any other Member is a Member of Parliament, or a State Legislature he/she shall not be entitled to any remuneration other than the allowances, defined in clause (a) of Section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (10 of 1959) or as the case may be, other than the allowances, if any, which a Member of the Legislature of the State may, under any law for the time being a force in the State relating to the prevention of disqualification for membership of the State Legislature receive without incurring such disqualification.

6. **Arrangement in case of permanent or temporary vacancies-**

   (1) If the office of the Chairperson becomes vacant or if the Chairperson is for any reason absent or unable to discharge the duties of his office, those duties shall, until the new Chairperson assumes office or the existing Chairperson resumes his office, as the case may be, be discharged by the Vice-Chairperson.

   (2) If the office of the Vice-Chairperson becomes vacant or if the Vice-Chairperson is for any reason absent or unable to discharge the duties of his office, these duties shall, until the new Vice-Chairperson assumes office or the existing Vice-Chairperson resumes his office, be discharged by such other Member as the President may direct.

7. **Special provision for retired persons appointed as Chairperson, Vice-Chairperson and other Members of the Commission-**

   Where any person, being a retired judge of Supreme Court or of a High Court or a retired government servant or retired servant of any other institution or autonomous body and in receipt of a pension in respect of any previous service, is appointed as Chairperson, Vice-Chairperson or a Member, the salary admissible to him under these rules shall be reduced by the amount of that pension and if he had received in lieu of a portion of the pension, the commuted value thereof, by the amount of that portion of the pension.

8. **Resignations and Removal-**

   (1) The Chairperson and Vice-Chairperson and any other Member, may, be notice in writing under his hand addressed to the President, resign his post. (2) (a) The Chairperson shall only be removed from his office by order of the President on the ground of misbehavior after the Supreme Court, on reference being made to it by the President, has on inquiry held in accordance with the procedure prescribed by it under sub-clause(i) of clause(1) of article 145 of the Constitution, reported that the Chairperson ought on any such ground to be removed.

   (b) The President may suspend from office the Chairperson in respect of whom a reference has been made to the Supreme Court under this sub-rule until the President has passed orders on receipt of the report of the Supreme Court on such reference.

   (c) Notwithstanding anything in clause (a) the President maybe order remove from office the Chairperson if the Chairperson.

   (i) is adjudged an insolvent; or
(ii) engaged during his term of office in any paid employment outside the duties of his office; or

(iii) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body;

Provided that the Chairperson shall not be removed under this clause until he has been given a reasonable opportunity of being heard in the matter.

(d) If the Chairperson is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State of participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of clause (a) be deemed guilty of misbehavior.

(3) The President shall remove a person from the office of Vice-Chairperson or Member, if that person.-

(a) becomes an un-discharged insolvent;

(b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude;

(c) is in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body;

(d) refuses to act or becomes incapable of acting;

(e) is without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or

(f) in the opinion of the President, has so abused the position of Vice-Chairperson or Member as to render that persons continuance in office detrimental to the interest of the Scheduled Tribes;

Provided that no person shall be removed under this clause until he has been given reasonable opportunity of being heard in the matter.

(F.No.17014/12/1999-TDR)

S. CHATTERJEE, Jt. Secy.
ANNEXURE-V

Ministry of Tribal Affairs
Notification
New Delhi, the 23rd August, 2005

S.O. 1175(E) – In exercise of the powers conferred by sub-clause (f) of clause 5 of Article 338A of the Commission, the President hereby makes the following rules to specify the other functions of the National Commission for the Scheduled Tribes, namely:-

1. **Short title and commencement:-** (1) These rules may be called the National Commission for the Scheduled Tribe (Specification of other functions) Rules, 2005.

2. **The Commission shall discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely:-**

   (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas.

   (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc. as laid down by law.

   (iii) Measures to be taken for the development of tribal to plug loopholes and to work more viable livelihood strategies.

   (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.

   (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already been taken place.

   (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation.

   (vii) Measures to be taken to ensure full implementation of the provision of Panchayat (Extension to Scheduled Areas) Act, 1996

   (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribal that lead to their continuous disempowerment and degradation of land and the environment.

(F.No.17014/3/2004-C&LM-II)

Sd/-
S.Chatterjee, Jt. Secy.
CHAPTER I

GENERAL

Constitution of the Commission

1. The National Commission for Scheduled Tribes (hereinafter called the Commission) has been constituted under new Article 338A of the Constitution of India as amended by the Constitution (Eighty-Ninth Amendment) Act, 2003. The Commission consists of a Chairperson, a Vice-Chairperson and three other Members. The constitution of the Commission was notified by the Ministry of Tribal Affairs, Govt. of India vide the Notification No.GSR 124E dated 19 February, 2004.

Headquarters of the Commission

2. The Headquarters of the Commission shall be located at New Delhi.

3. The functions and responsibilities of the Commission as laid down in Article 338A of the Constitution are:

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

(c) to participate and advise on the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such report recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

4. The Commission shall function by holding ‘sittings’ and ‘meetings’ at any place within the country and also through its officers at the Headquarters and in the Regional Offices. The Members of the Commission including the Chairperson and the Vice-Chairperson shall function in accordance with the procedure prescribed under these rules.
## CHAPTER II
### DIVISION OF RESPONSIBILITIES AND ALLOCATION OF WORK

#### CHAIRPERSON

5. The Chairperson shall be the head of the Commission and shall have the residuary powers to decide on all questions and matters arising in the Commission excepting such matters where specific provision has been made in these rules.

6. The Chairperson shall allocate subjects and responsibilities among the Members of the Commission. The Order allocating the subjects and responsibilities shall be circulated to all concerned by the Secretariat of the Commission.

7. The Chairperson shall be the authority to sanction leave and approve tours of the Members.

8. The Chairperson shall preside over the meetings of the Commission.

9. All important decisions in the Commission pertaining to the subjects allotted to the Members shall be taken with the approval of the Chairperson.

10. The Chairperson may call for any records on any matter, which he/she considers important and may take a decision on it himself/ herself or, if necessary, place it at the meeting of the Commission.

#### VICE-CHAIRPERSON

11. The Vice-Chairperson shall preside over the meetings of the Commission in the absence of the Chairperson.

12. The Vice-Chairperson shall perform such functions as are entrusted to him/ her by the Chairperson.

#### MEMBERS

13. The Members of the Commission shall have collective responsibility and shall function by participating in the 'meetings' and 'sittings' of the Commission and looking after the subjects allocated to them. Important actions and decisions of a Member may be brought at a meeting of the Commission which may review the same.

14. Any Member may suggest items for inclusion in the agenda of a meeting of the Commission and the same shall be so included after obtaining the consent of the Chairperson.

15. Each Member shall have overall responsibility of subjects and/or regions or State(s) as may be allocated to him.

16. The Members shall play the role of advising the State Governments under their jurisdiction on matters of planning and development relating to the welfare of Scheduled Tribes. The Commission’s Secretariat at Headquarters and the Regional Offices shall assist the Members in keeping them fully informed of the problems and activities of the States and subjects under their respective charge.

17. One or more Members may, in accordance with the procedure specified in the rules elsewhere, hold sittings of the Commission to give hearing to the cases or to collect evidence or information on any matter, issue or case under investigation or inquiry of the Commission.

18. The Members shall communicate their tour programme well in advance to the Regional Offices indicating in detail the purpose of the visit and to the State Govt. Department and other concerned for discussions/inquiry, etc., during the tour/visit. The Members will observe the norms laid down by the State Govts. regarding security/travel/ accommodation etc., during such tours.

#### SECRETARY

19. The Secretary shall be the administrative head of the Commission and shall assist the Commission in the discharge of its functions with the assistance of the officers of the Commission.
20. All important administrative matters shall be placed before the Secretary who may pass general or specific orders on such matters.

21. The Secretary shall be responsible for having the agenda prepared for the meetings of the Commission and for circulating the minutes.

22. The Secretary shall assist the Commission in finalizing the Reports.

23. The Secretary may, in his discretion, delegate any of his functions or authority to a subordinate officer of the Secretariat.

CHAPTER III
INVESTIGATION AND INQUIRY BY THE COMMISSION

METHODS OF INVESTIGATION AND INQUIRY

24. The Commission may adopt any one or more of the following methods for investigating or inquiring into the matters falling within its authority:

(a) by the Commission directly;
(b) by an Investigating Team constituted at the Headquarters of the Commission; and
(c) through its Regional Offices

INVESTIGATION AND INQUIRY BY THE COMMISSION DIRECTLY

25. The Commission may hold sittings for investigation into matters relating to safeguards, protection, welfare and development of the Scheduled Tribes for inquiry into specific complaints for which the Commission decided to take up investigation or inquiry directly. Such sittings may be held either at the Headquarters of the Commission or at any other place within the country.

26. The sitting(s) of the Commission would be held after giving due notice to the parties intended to be heard and also due publicity notice to the general public. Care will be taken to see that the members of the Scheduled Tribes who are affected in the matter under investigation or inquiry are given due information through notice or publicity.

27. When a decision for direct investigation is taken, an officer not below the rank of Assistant Director/Research Officer/Section Officer concerned with the subject matter of investigation, along with necessary staff may be attached to the Member(s) entrusted with such investigation or enquiry and they shall take all steps to arrange such sittings.

28.(i) In accordance with clause 8 of Article 338A of the Constitution, while investigating in a matter referred to in sub-clause (a) or in inquiring into any complaint referred to in sub-clause (b) of clause (5) of Article 338A, the Commission shall have all the powers of civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
(b) requiring the discovery and production of any document;
(c) receiving evidence on affidavits;
(d) requisitioning any public record or copy thereof from any court or office;
(e) issuing commissions for the examination of witnesses and documents;
(f) any other matter which the President may, by rule, determine.

(ii) The Commission for the purpose of taking evidence in the investigation or inquiry may require the presence of any person and when considered necessary may issue summons to him/her. The summons for enforcing attendance of any person from any part of India and examining him/her during the course of investigation and inquiry by the Commission shall provide at least 15 days’ notice to the person directed to be present before the Commission from the date of receipt of the summons.
29. Where the property, service/employment of Scheduled Tribes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of telex/fax to the concerned authority for making it known to them that the Commission is seized of the issue. Urgent reply by telegram or fax shall be called from the concerned authority. In case no reply is received within ten working days, the authority concerned may be required to appear before the Commission at a shorter notice for enquiry.

30. The Commission may issue commission/under clause 8(e) of Article 338A of the Constitution to take evidence in any matter under investigation or inquiry and for this purpose appoint any person by an order in writing. The Commission may make further rules for payment of fee and travelling and other allowances to persons appointed to take evidence on commission.

31. After holding the required sittings, the Member(s) who conducted the investigation shall make a report which shall be sent to the Secretary or any other officer authorized to receive the report. After examination, action may be initiated on the report with the approval of the Chairperson.

32. The Commission may decide about the matter that is to be investigated or enquired into by an Investigating Team of officials of the Commission, provided that in case the matter is urgent, the decision for such investigation or inquiry may be taken by the Chairperson.

33. The Investigating Team shall hold the investigation or inquiry, as the case may be, promptly and for this purpose, may initiate necessary correspondence including issuance of notices for production of documents in Form I, appended to these rules.

34. The Investigating Team may visit the area concerned after observing due formalities for obtaining approval of tours and other administrative requirements and after giving information to the concerned local authorities regarding the matter, purpose, scope and procedure of the investigation or inquiry. The Investigating Team may enlist the help of the officers and staff of the concerned Regional Office but the responsibility of preparing and presenting the report shall rest with the head of the Investigating Team.

35. The Investigating Team shall submit the report of the investigation or inquiry, as the case may be, to the Secretary or a subordinate officer of the Commission as may be directed by general or specific orders within the stipulated time, if any. If the time limit stipulated is likely to be exceeded, the head of the Investigating Team shall obtain the orders of the Secretary through the Officer-in-charge of the matter. The report shall be examined and put up to the competent authority for a decision regarding the action to be taken on the report.

36. The report shall be placed before the Chairperson of the Commission who will take appropriate action in the matter.

**INVESTIGATION AND INQUIRY THROUGH THE REGIONAL OFFICES:**

37. The Chairperson, the Vice-chairperson, the Members having jurisdiction over the subject or the Secretary of the Commission may decide about an investigation or inquiry that may be carried out through the Regional Offices of the Commission. The decision will be conveyed to the Officer-in-Charge of the concerned Regional Office who will be asked to get the matter investigated or inquired into within a stipulated time and send the report. The Regional Office shall conduct the investigation or inquiry through interrogation, on the spot visit, discussions and correspondence and examination of documents as may be necessary in the case and shall follow any special or general instructions issued in the matter by the Secretariat of the Commission from time to time.

38. If the investigation or inquiry cannot be completed within the stipulated time, the officer-in-charge of the Regional Office may send a communication to the Secretariat of the Commission before the expiry of the stipulated time and explain the circumstances and reasons for non-completion of the investigation or inquiry, as the case may be, within the stipulated time. The Secretary to the Commission or an officer acting under delegated functions may consider the request and communicate a revised date for the completion of the investigation or inquiry.

39. If during the course of investigation or inquiry, the Head of the Regional Office feels that it is necessary to invoke the powers of the Commission to require the production of any document or compelling the attendance of a person, he may make a special report with full facts to the Secretariat of the Commission. On receipt of such special report, the matter shall be placed before the Secretary/Member in-charge of the subject/State/UT who may make an order that necessary legal processes to compel attendance or to require production of any document may be issued. The summons and warrants issued for the purpose may be served on the person concerned either directly or through the officer-in-charge of the Regional Office as may be directed by the Secretary/Member authorizing issue of such legal process.

40. After completion of the investigation or inquiry, as the case may be, the head of the Regional Office shall submit the report to the Secretary of the Commission suggesting the course of action that could be followed in the matter. The gist or findings of the report may be placed before the Secretary who may decide about further action in the matter.
CONFIDENTIALITY OF CERTAIN REPORTS:

41. The Commission may, through a decision at a meeting or otherwise, direct that the contents of any report made on any matter shall be kept confidential and shall not be revealed to any person other than those who have been authorized access to such report.

LEGAL PROCESSES

42. All summons and warrants that are required to be issued in pursuance of the exercise of the powers of a civil court by the Commission shall be written in the prescribed form and shall bear the seal of the Commission. The legal process shall be issued from the Legal Cell of the Commission and shall bear its seal. The provisions of the Code of Civil Procedure applicable for the service of the legal processes shall be followed by the Commission.

ISSUE OF LETTERS AND NOTICES

43. Letters and notices as provided in Form I requiring production of documents which are issued without exercising the powers of the civil court by the Commission may be signed by an officer not below the rank of Research Officer/Section Officer.

FORM OF SUMMONS AND WARRANTS

44. The summons and warrants shall be as provided in Form II and Form III respectively, appended to these rules.

CHAPTER IV

MEETINGS OF THE COMMISSION

FREQUENCY OF MEETINGS

45. The Commission shall meet at least once in two months. The notice for a meeting shall normally be issued two weeks in advance. Emergent meetings may also be called by the Chairperson either on his own or on the request of a Member or the Secretary for disposing of important matters requiring urgent consideration by the Commission.

Quorum

46. Presence of atleast three members including the Chairperson and/or Vice-Chairperson shall constitute the quorum for holding meeting of the Commission.

Matters requiring decisions by the Commission at its meetings

47. The following matters shall be brought up before the Commission at a meeting for consideration and decision:
   (i) any amendment to these Rules of Procedure;
   (ii) matters to be investigated by the Commission directly;
   (iii) all the reports that are required to be considered by the Commission as provided in these rules;
   (iv) any matters that a Member may like to bring to the meeting, with the approval of the Chairperson;
   (v) important matters relating to planning and development for the welfare and advancement of the Scheduled Tribes and specially references received under Article 338A (9) of the Constitution; and
   (vi) any matter that the Chairperson may direct to be placed at a meeting of the Commission.
Agenda for the meeting

48. The agenda will normally be circulated to all the Members at least seven days before the date of the meeting, provided that for an Emergent Meeting, this time limit may not apply.

49. The minutes of a meeting shall be circulated as soon as possible to all the Members.

Place of meeting of the Commission

50. Normally the place of meeting of the Commission shall be the Headquarters of the Commission at New Delhi. The Commission may, however, decide to hold a meeting at any other place in India.

Fee

51. The Chairperson, the Vice-Chairperson and the Members shall not be entitled to any fee for sitting in the meeting of the Commission. However, the entitlement of part-time Members, if any, may be determined by the terms of appointment of such Members.

CHAPTER V
SITTINGS OF THE COMMISSION

NEED FOR SITTINGS

52. Whenever a matter is to be investigated into directly by the Commission it may do so by holding sittings of the Commission. In the case of such sittings, the presence of all the Member may not be necessary.

OFFICERS TO BE PRESENT

53. Whenever a Member(s) is holding a sitting, an officer of the Commission, not below the rank of Research Officer/Section officer, duly deputed for the purpose, shall be present to assist the Member(s) holding the sitting to discharge the functions properly and promptly. It shall be the duty of the officer to assist the Member(s) in preparing the report if called upon to do so by the Member(s). The officer shall also be responsible for assisting the Member(s) in following the prescribed procedure.

FREQUENCY OF SITTING(S)

54. Sittings of the Commission may be held as and when necessary. The Commission may hold more than one sitting simultaneously in different parts of the country with different Members functioning separately.

PROGRAMME OF THE SITTINGS

55. The programme of the sittings, both at the Headquarters and at other places, would normally be worked out each month in advance and duly circulated.

DEFRAYING EXPENSES TO WITNESSES

56. The Commission may defray travelling expenses to persons who have been called through summons to appear before the Commission in a sitting, provided that the place of residence of one person is more than 8 kms. from the place of the sitting of the Commission. The amount so defrayed shall be limited to the actual traveling expenses plus Daily Allowance for the number of days that the person has appeared before the Commission in its sitting, provided that the person is not entitled to travelling and daily allowance from any other source. Persons who are employees of the Government/Public Sector Undertaking shall be deemed to be on duty if they are summoned to depose before the Commission or produce documents. The limit of travelling expenses shall be determined on the basis of the rail fare and road mileage calculated on the basis of the rates that may be prescribed by the Commission. In the case of any doubt regarding the entitlement of the person, the decision of the Secretary of the Commission shall be final.

57. The officer attached to the Member for the purposes of the sitting shall take steps to ensure that sufficient cash amount is carried if the sitting is held at a place other than the Headquarters of the Commission. The
Secretariat of the Commission may devise a suitable procedure to ensure that such claims as above are paid on the spot and in cash to the person(s) so appearing.

58. The claim for traveling expenses as above shall not be admissible in the case of a person who appears before the Commission during any investigation or enquiry on his own accord or in response to a communication or notice which is not a summon issued by the Commission.

CHAPTER VI

ADVISORY ROLE OF THE COMMISSION

INTERACTION OF THE COMMISSION WITH THE STATE GOVERNMENTS

59. The Commission shall interact with the State Governments through its Members, Secretariat and the Regional Offices.

60. The Members in-charge of the State/UT would interact with the State Government/UT Administration through meetings, personal contacts, visits and correspondence. The information in this regard may be sent to the concerned Deptt./Organizations well in advance and the Regional Offices should also be informed about the same. For this purpose, detailed guidelines may be formulated by the Commission. The Secretariat of the Commission through its concerned Wing(s) would provide necessary assistance and information to the Member for enabling him to discharge his functions effectively. The State Governments should provide facilities for transport, security, accommodation etc. to the Member as per his entitlement.

Interaction with the Planning Commission

61. The Commission shall interact with the Planning Commission at appropriate levels through representation in the various Committees, Working Groups or other such bodies set up by the Planning Commission. The Commission shall indicate this requirement through general or specific communication to the Planning Commission.

62. The Commission may request the Planning Commission to forward copies of all the documents concerning the process of planning and development and evaluation of all programmes and schemes touching upon the Scheduled Tribes.

63. The Commission may decide about the manner of interaction between the Chairperson/Members of the Commission and the Deputy Chairman/Members of the Planning commission.

Interaction of the Regional Offices with the State Governments

64. The Regional Offices of the Commission shall work in a manner so as to provide a regular and effective link between the State Governments concerned and the Commission. For this purpose, the Commission may send communications to the State Governments suggesting that the officers-in-charge of the Regional Offices of the Commission may be taken on important Planning, Evaluation and Advisory bodies including Corporations concerned with the welfare, protection and development of the Scheduled Tribes.

65. The officers-in-charge of the Regional Offices may be directed or authorized by the Commission to convey to any State authority the formal views, opinion or approach of the Commission on any specific or general matter or issue arising at any meeting or deliberation.

RESEARCH/STUDIES/SURVEYS/EVALUATION

66. The Commission may undertake studies to evaluate the impact of the development schemes on the socio-economic development of the Scheduled Tribes taken up by the Union or State Governments. For this purpose, the Commission may constitute Study Teams either at the Headquarters or at the Regional Offices. The Study Teams may undertake investigations, surveys or studies either in collaboration with Central or State Govt. authorities or Universities or Research Bodies, as the case may be, or may do so independently.

67. The Commission may entrust surveys or evaluation studies to any professional body or person considered suitable and competent to undertake such work and, for this purpose, may make any reasonable payment to such body or person towards the cost of the study by way of fee or grant.
68. The studies so undertaken or their gists may form part of the Annual or Special Report of the Commission to be presented to the President or may be published separately by the Commission.

69. The Commission may forward a copy of such a study report to the Union or the State Government concerned, as the case may be, asking for their comments, if any. The comments or action taken reports by the Union/State Government may also form part of the Annual Report of the Commission.

CHAPTER VII

DUTIES OF THE REGIONAL OFFICES OF THE COMMISSION

70. It shall be the duty of the Regional Offices of the Commission:

(i) To act as the “eyes and ears” of the Commission in the State(s) under their jurisdiction.

(ii) To maintain effective interaction and liaison with State Government/UT Administration on behalf of the Commission.

(iii) To serve on State Level Advisory Councils/Committees/Corporations, etc. on behalf of the Commission:

(iv) To provide information and documentation about the policies and programmes of the Union Government for the welfare and advancement of Scheduled Tribes to the States, NGOs, Media in their respective jurisdiction, and obtain similar information and documentation from such organizations and provide to the Headquarters of the Commission information/documentation about important developments, social movements, policy changes etc. in the State(s) affecting the interest of Scheduled Tribes.

(v) To monitor and inspect the working of voluntary and other non-governmental organizations receiving grant-in-aid from the Ministry of Tribal Affairs as also other Ministries/Departments of the Central Government, the concerned State Governments and Foreign Aid Agencies etc., engaged in Research Studies on Scheduled Tribes or welfare and development work relating to Scheduled Tribes and send reports to the Headquarters.

(vi) To conduct Research Studies, Seminars, Conferences, Surveys etc. either on their own or as entrusted to them by Headquarters from time to time and to organize Awareness Camps on the role of the Commission in ensuring the proper implementation of the safeguards available to members of STs including the schemes and programmes for their development in different districts in collaboration with the States/UTs.

(vii) To conduct on-the-spot inquiries into cases of atrocities on Scheduled Tribes either on their own or as entrusted to them by Headquarters and interact with the concerned Administrative/Police authorities having jurisdiction and submit report to the Headquarters.

(viii) To deal with complaints/representations from individuals, Scheduled Tribes Welfare Associations, etc., on various matters as also to deal with, suo moto grievances of Scheduled Tribes published in print media.

(ix) To participate and advise in the planning process for socio-economic development of Scheduled Tribes as envisaged under Clause (5) of Article 338A of the Constitution of India.

(x) To collect, compile, analyse and monitor issues pertaining to development of Scheduled Tribes in the states especially with reference to Tribal Sub Plan (TSP) and Special Central Assistance (SCA) and prepare drafts of Reports pertaining to the State(s)/UT(s) under their jurisdiction.

(xi) To prepare and maintain a comprehensive and up-to-date database of Scheduled Tribes population, education, development etc. in the State(s)/UT(s); and

(xii) To perform any other duty specifically assigned/entrusted to the Regional Office(s) by the Commission or the Secretary or any other officer empowered in this regard.

CHAPTER VIII

MONITORING FUNCTIONS OF THE COMMISSION

The Commission to determine subjects for monitoring

71. The Commission may determine from time to time the subjects or matters and areas that it would monitor relating to safeguards and other socio-economic development measures provided for the Scheduled Tribes under
the Constitution or under any other law for the time being in force or under any order of the Govt.

Prescribing returns and reports

72. The Commission may prescribe periodical returns or reports to be furnished by any authority responsible for or having control of the subject matter of which monitoring is being done by the Commission.

73. The Commission may from time to time issue instructions to its Regional Offices to collect information and data on any particular subject or matter from the State Governments, Local bodies, Corporate Bodies or any other authorities which is charged with the implementation of the safeguards provided for the Scheduled Tribes.

74. The Commission may direct its Regional Offices to process the information/ data in the Regional Offices with a view to arriving at conclusions with regard to the deficiencies/ shortcomings discovered through such processing or analysis of the data and to bring these to the notice of the concerned authority for comments and rectification, where necessary.

75. The Commission may have data, relating to the subjects monitored, collected at the headquarters and may prescribe returns and reports for the purpose to be sent directly to its Headquarters by the Ministries/ Departments of the Central government or a State Government or Public Sector Undertaking or any other body or authority which is charged with the responsibility of implementing safeguards relating to the Scheduled Tribes.

Follow-up action

76. In order to ensure that monitoring is done effectively, the Commission, after getting the information as prescribed in the above rules and after reaching conclusions, may as early as possible send out communications to the concerned authority describing the shortcomings that have been noticed in the implementation of the safeguards and suggesting corrective steps. Decisions on sending out such a communication may be taken at a level not lower than that of Joint Secretary/ Secretary at Headquarters. Heads of Regional Offices may take decisions on routine matter whereas they will seek approval of the Secretary and the concerned Member on complex and important matters affecting the interest of Scheduled Tribes as a group.

77. The Commission may ask for the comments of the concerned authority on the action taken in pursuance of the communications sent under the Rule 76.

78. The Commission may include in its Annual Report or any Special Report, findings and conclusions arrived at through the process of monitoring of the subjects relating to the safeguards and socio-economic development measures provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Union/ State Government.

CHAPTER IX

Non-formal actions by the Commission

79. The Commission may initiate correspondence in special cases in matters which are not strictly covered under the law if the matter is such that the welfare of an individual person belonging to Scheduled Tribes or that of a group of such persons is involved and it is necessary for the Commission in its inherent capacity as the protector of the interests of these classes of persons, to take action. The decision for correspondence on such matter shall be taken at the level of Director or above.

80. All routine formal communications from the Commission shall be issued under the signatures of an Officer not below the rank of Research Officer/ Section Officer.

81. The Commission can sue or be sued through its Secretary.

82. The Scheduled Tribes in these rules will have the same connotation as is given in clause 10 of Article 338A of the Constitution.

Applicability of rules, etc., of the Central Government

83. All rules, regulations and orders issued by the Central Government and applicable in the Ministries/ Departments will also apply in the Commission.

84. The provisions relating to the delegation of financial powers in the Government of India shall apply to the
corresponding officers in the Commission.

**Use of Staff cars**

85. The Staff Car Rules of the Government of India shall apply for the purposes of utilization of staff cars in the Commission.

**Decision on matters not specified in these rules**

86. If a question arises regarding any matter pertaining to the mandate of the Commission for which no provision exists in these rules, the decision of the Chairperson shall be sought. The Chairperson may, if he deems fit, direct that the matter may be considered at a meeting of the Commission.

(WILFRED LAKRA)
SECRETARY
FORM-I

NATIONAL COMMISSION FOR SCHEDULED TRIBES
[A Constitutional body set up under Article 338A of the Constitution of India]

6th Floor, 'B' Wing Lok Nayak Bhawan
New Delhi – 110 003.

(Notice for collecting basic facts)

To

Subject matter: _______________________________________________________

Whereas a petition/complain/information has been received by this Commission from
or a press news under caption which has appeared
in dated on the above matter (a copy of which is enclosed) and the Commission has decided to investigate/inquire into the matter in pursuance of the powers conferred upon it under Article 338A of the Constitution of India, you are hereby requested to submit the facts and information on the action taken on the allegations/matters to the undersigned within 30 days of receipt of this notice either by post or in person or by any other means of communication.

Please take notice that in case the Commission does not receive reply from you within the stipulated time, the Commission may exercise the powers of civil court conferred on it under Clause (8) of Article 338A of the Constitution of India and issue summons for your appearance in person before the Commission.

Signature

Dated ____________
FORM-II

NATIONAL COMMISSION FOR SCHEDULED TRIBES
[A Constitutional body exercising powers of a civil court
under Clause (8) of Article 338A of the Constitution of India]

SUMMONS

File No. : 6th Floor, 'B' Wing Loknayak Bhawan
New Delhi – 110 003

To

________________
________________
________________

Subject matter: __________________________________________________________
___________________________________________________________

Whereas this Commission has decided to further investigate into the above-mentioned
matter in pursuance of powers conferred upon it under Clause (5) of Article 338A of the
Constitution of India, you are hereby required to appear in person before
Shri/Smt./Ms._____________________, Chairperson/Vice-Chairperson/Member, National
Commission for Scheduled Tribes on the_________day of_______200___ at________hours at
the address given above. You are also required to bring with you the connected documents for
examination by this Commission.

If you fail to comply with this order without lawful excuse, you shall be subjected to
the consequences of non-attendance as laid down in Rule 12 of Order XVI of Code of Civil
Procedure, 1908.

Given under my hand, and seal of the National Commission for Scheduled Tribes
exercising powers of a civil court, this ________ day of ___200__.

Signature

Court Officer

SEAL
[Warrant of arrest of witness]

NATIONAL COMMISSION FOR SCHEDULED TRIBES
[A Constitutional body exercising powers of a civil court under Clause (8) of Article 338A of the Constitution of India]

6th Floor, 'B' Wing Loknayak Bhawan
New Delhi – 110 003.

To

________________
________________
________________

Subject matter: ________________________________________________________

_____________________________________________________________________

Whereas Shri/Smt./Ms. ___________r/o____________was duly served with a summons regarding the above subject matter but he/she has failed to appear (absconds and keeps out of the way for the purpose of avoiding service of the summons), the National Commission for Scheduled Tribes exercising the powers of a civil court under Clause (8) of Article 338A of the Constitution of India hereby orders you to arrest and bring the said person before this Commission at the above address.

You are further ordered to return this warrant on or before the _______day of_______200_____with an endorsement certifying the day and the manner in which it has been executed, or the reasons why it has not been executed.

Given under my hand, and the seal of the National Commission for Scheduled Tribes exercising powers of civil court, this______________ day of_______200_____.

Signature

Court Officer

SEAL
भारत का राजपत्र
The Gazette of India

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नई दिल्ली, शुक्रवार, अगस्त 22, 2014/सरकार 31, 1936

PUBLISHED BY AUTHORITY

राष्ट्रीय अनुसूचित जनजाति आयोग
(कार्यालय के निवास)

शृंखला-पंक्ति

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

नाम

निर्देश

निर्देशात्मक प्रश्नों के साथ

46. अप्रत्यय और/या अप्रत्यय उपभाषा शहिद का अनुयोग्यता, अप्रत्यय को अन्य आयोजक करने के लिए अनिवार्य होता है।

(1) नियुक्त सदस्यों, अप्रत्यय और/या अप्रत्यय उपभाषा शहिद, में शहिद से वर्ग 50 प्रतिशत की उपरिस्थिति आयोजन की अन्य आयोजक करने के लिए अनिवार्य होते हैं।

(2) पहले कॉर्ट पूरा नहीं होता है तो अप्रत्यय अथा अप्रत्यय के लिए अन्य आयोजक करने के लिए निर्णय रखते हैं। जब अप्रत्यय पूरा करने को कॉर्ट अनिवार्यता का अवसर नहीं होता है।

[स. 12/2014-रद्द]

[स. 12/2014-रद्द]

[स. 12/2014-रद्द]

NATIONAL COMMISSION FOR SCHEDULED TRIBES
(Rules of Procedure)
CORRIGENDUM

New Delhi, the 20th August, 2014

G.S.R. 602(E).—In Chapter IV : Rule 46 and Title Quorum

Rule

For Existing entries

46. Presence of at least three members including the Chairperson and/or Vice Chairperson shall constitute the quorum for holding meeting of the Commission.

Read

(iii) Presence of Minimum 50% of posted members including the Chairperson and/or Vice Chairperson shall constitute the quorum for holding meeting of the Commission.

(iv) If the quorum is not complete, the Chairperson may adjourn the meeting for half an hour. When the Commission reassembles, the quorum requirement shall not apply.

[No. 12/2014-Coord]

Ms. K.D. BHANSOR, Director

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.
OFFICE MEMORANDUM


Sub: Reservation policy for the Scheduled Castes and Scheduled Tribes - Implementation of

The undersigned is directed to say that, in terms of this Department's O.M. No. 36011/15/79-Estt(SCT) dated January 6, 1981, if other Ministries/Departments intend to depart from the policies laid down by the Department of Personnel, it is mandatory for them to consult the Department of Personnel, in terms of sub rule 4 of Rule 4 of the Transaction of Business Rules, otherwise the policies laid down by the Department of Personnel are binding on them.

2. The instructions contained in this Department's Office Memorandum dated July 2, July 22, August 13, and August 29, 1997 continue to be in operation and there is no proposal to withhold or to keep in abeyance their implementation.

3. In the All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and others Vs. Union of India and others (Civil Appeal No. 13700 of 1996) the Supreme Court has held that the National Commission for Scheduled Castes and Scheduled Tribes has no power of granting injunctions, whether temporary or permanent. The Court also held that the powers of the Commission in terms of Article 338(8) of the Constitution are all the procedural powers of a civil court for the purpose of investigating and inquiring into the matters and that too for that limited purpose only.

4. In view of the judgment of the Supreme Court referred to in para-3, the National Commission for Scheduled Castes and Scheduled Tribes has no power to direct withholding of the operation of any orders issued by the Government.

5. Ministry of Agriculture etc. may, therefore, keep in mind the directions contained in this Department's O.M. dated 06.01.1981 and the judgment of the Supreme Court referred to above while dealing with the directions given by the National Commission for Scheduled Castes and Scheduled Tribes. Ministry/Departments etc. must, however, in all fairness consider the recommendations of the Commissions in the light of policies laid down by the Department of Personnel and Training.

Sd/-

(J. Kumar)
Under Secretary to the Govt. of India

To,

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi
3. Department of Economic Affairs (Insurance Division), New Delhi
4. Department of Public Enterprises, New Delhi
5. Railway Board
6. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Office/P.M.O./Planning Commission
7. Staff Selection Commission, CGO Complex, Lodhi Load, New Delhi.
8. All Officers/Sections of the Department of Personnel and Training/Deptt. of Administrative Reforms & Public Grievances/Department of Pensioners Welfare.
ANNEXURE-IX

Relevant extracts from the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd September, 2013; Asvina 5, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 26th September, 2013, and is hereby published for general information:

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013

No. 30 of 2013

[26th September, 2013]

An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
(2) The powers of the appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or any other emergency arising out of natural calamities or any other emergency with the approval of Parliament.

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of eighty per cent. of the compensation for such land as estimated by him to the person interested entitled thereto.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1), sub-section (3) or sub-section (2) are applicable, the appropriate Government may direct that any or all of the provisions of Chapter II into Chapter VI shall not apply and, if it does so direct, a declaration may be made under section 19 in respect of the land at any time after the date of the publication of the preliminary notification under sub-section (1) of section 11.

(5) An additional compensation of seventy-five per cent. of the total compensation as determined under section 27, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section.

Provided that no additional compensation will be required to be paid in case the project is one that affects the sovereignty and integrity of India, the security and strategic interests of the State or relations with foreign States.

4. (1) As far as possible, no acquisition of land shall be made in the Scheduled Areas.

(2) Where such acquisition does take place, it shall be done only as a demonstrable last resort.

(3) In case of acquisition or alienation of any land in the Scheduled Areas, the prior consent of the concerned Gram Sabha or the Panchayats or the autonomous District Councils, at the appropriate level in Scheduled Areas under the Fifth Schedule to the Constitution, as the case may be, shall be obtained, in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act or any other Central Act or a State Act for the time being in force.

Provided that the consent of the Panchayats or the Autonomous District Councils shall be obtained in cases where the Gram Sabha does not exist or has not been constituted.

(4) In case of a project involving land acquisition on behalf of a Requiring Body which involves involuntary displacement of the Scheduled Castes or the Scheduled Tribes families, a Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for setting land rights due, but not settled and restoring titles of the Scheduled Tribes as well as the Scheduled Caste on the alienated land by undertaking a special drive together with land acquisition.

(5) The 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 as well as the Scheduled Castes.

(6) In case of land being acquired from members of the Scheduled Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families initially as first instalment and the rest shall be paid after taking over of the possession of the land.

(7) The affected families of the Scheduled Tribes shall be resettled preferably in the same Scheduled Area in a compact block so that they can retain their ethnic, linguistic and cultural identity.
(8) The resettlement areas predominantly inhabited by the Scheduled Castes and the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government free of cost for community and social gatherings.

(9) Any alienation of tribal lands or lands belonging to members of the Scheduled Castes 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 made available to the original tribal land owners or land owners belonging to the Scheduled Castes.

(10) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes 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.

(11) Where the affected families belonging to the Scheduled Castes and the Scheduled Tribes are relocated outside of the district, then, they shall be paid an additional twenty-five per cent rehabilitation and resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of fifty thousand rupees.

42. (1) All benefits, including the reservation benefits available to the Scheduled Tribes and the Scheduled Castes in the affected areas shall continue in the resettlement area.

(2) Whenever the affected families belonging to the Scheduled Tribes who are residing in the Scheduled Areas referred to in the Fifth Schedule or the tribal areas referred to in the Sixth Schedule to the Constitution are relocated outside those areas, than, all the statutory safeguards, entitlements and benefits being enjoyed by them under this Act shall be extended to the area to which they are resettled regardless of whether the resettlement area is a Scheduled Area referred to in the said Fifth Schedule, or a tribal area referred to in the said Sixth Schedule, or not.

(3) Where the community rights have been settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion with his share in such community rights.

CHAPTER VI
PROCEDURE AND MANNER OF REHABILITATION AND RESettlement

43. (1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land, then, the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of Joint Collector or Additional Collector or Deputy Collector or equivalent official of Revenue Department to be the Administrator for Rehabilitation and Resettlement.

(2) The Administrator shall, with a view to enable him to function efficiently and to meet the special time-frame, be provided with such powers, duties and responsibilities as may be prescribed by the appropriate Government and provided with office infrastructure and be assisted by such officers and employees who shall be subordinate to him as the appropriate Government may decide.

(3) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the formulation, execution and monitoring of the Rehabilitation and Resettlement Scheme shall vest in the Administrator.

44. (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.
OFFICE MEMORANDUM

Subject:- Instructions on preparation of notes for the Cabinet/ Cabinet Committees/ Empowered Group of Ministers/Group of Ministers.

The undersigned is directed to state that some instances have been brought to the notice of the Government where the National Commission for the Scheduled Castes, and/or the National Commission for the Scheduled Tribes have not been consulted as envisaged under the Constitution on major policy matters affecting the Scheduled Castes or the Scheduled Tribes, respectively, by the Ministries/Departments concerned. All Ministries/Departments have, keeping in view the Constitutional mandate of Article 338(9) and Article 338A(9), been advised vide Cabinet Secretary’s D.O. letters no. 701/6/4/2007-CA.V dated 20.11.2007 and 703/1/1/2011-CA.V dated 04.01.2012 to ensure strict compliance of the relevant provisions of the Constitution. It has further been clarified vide D.O. letter no. 703/1/1/2011-CA.V dated 10.02.2012 from Secretary (Coord.), Cabinet Secretariat that such consultations would also be required in respect of major policy issues placed before the Cabinet/Cabinet Committees.

2. Accordingly, the sponsoring Ministries/Departments are advised to ensure that the National Commission for the Scheduled Castes, and the National Commission for the Scheduled Tribes, as the case may be, shall mandatorily be consulted by them through the Ministry/Department administratively concerned with the Commission before finalization of such notes for consideration of the Cabinet/Cabinet Committees. In all such cases, the administrative Ministry/Department concerned will place the views of the concerned National Commission, as the case may be, as received by them, before the Minister-in-charge of the Ministry/Department before their final views/comments on such issues are communicated to the sponsoring Ministry/ Department. It has also been decided that the unabridged/unedited views of the concerned Commission along with the views of the Ministry/Department administratively concerned with the Commission be included in/enclosed with the note for consideration of the Cabinet/Cabinet Committees along with responses thereon by the sponsoring Ministry/Department.

3. It is requested that the above instructions may be disseminated to all concerned for ensuring strict compliance.

4. The consolidated instructions relating to preparation of notes for the Cabinet/Cabinet Committees, as also the Handbook on writing Cabinet notes stand duly modified to the extent as indicated above.

(K.L. Sharma)
Director (Cabinet)
Tele No. 2301 5802

To
All Secretaries to the Government of India.
(i) List of Telephone Nos. of present Chairperson, Members, Secretary and other officers of the Commission’s Hqrs at New Delhi

<table>
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<tr>
<th>S. No.</th>
<th>Name</th>
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<td>1.</td>
<td>Dr. Rameshwar Oraon</td>
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<td>24635721 24624628 (Fax)</td>
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<td>Dr. Shyam S. Agarwal</td>
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<td>24615012 24604689 (Fax)</td>
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<td>Shri Pramod Chand</td>
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<td>Shri Rajesh Kumar</td>
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<td>Shri Rajeshwar Kumar</td>
<td>A. D. (OL)</td>
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Information and Facilitation Centre: 1800117777 (Toll Free),
Website of the Commission: http://ncst.nic.in
(ii) Location, Jurisdiction & Telephone No. of the Regional Offices of the National Commission for Scheduled Tribes

<table>
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<tr>
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<tr>
<td>2.</td>
<td>Shri S.R. Tiriya, Research Officer (Addl. Charge)</td>
<td>N-1/297, IRC Village, Bhubaneswar-751015</td>
<td>Andhra Pradesh, Orissa, Tamil Nadu, West Bengal and Union Territories of Andaman &amp; Nicobar Islands, and Pondicherry</td>
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<td>3.</td>
<td>Shri Pramod Chand, Deputy Secretary, NCST(Hq.) (In-charge)</td>
<td>Room No. 101 &amp; 102, first floor, Kendriya Sadan, Sector-10, Vidhyadhar Nagar, Jaipur-302023</td>
<td>Chandigarh, Gujarat, Haryana, Himachal Pradesh, Jammu &amp; Kashmir, Punjab, Rajasthan, Uttarakhand, Daman &amp; Diu and Delhi NCR</td>
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<td>5.</td>
<td>Shri S.R. Tiriya, Research Officer</td>
<td>14, New A.G. Cooperative Colony, Kadru, Ranchi-834002</td>
<td>Bihar, Jharkhand, and Uttar Pradesh</td>
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<td>6.</td>
<td>Shri S.P Meena, Assistant Director, NCST (Hq.) (Addl. Charge)</td>
<td>Rabekka Villa, Temple Road, Lower Lachumiere, Shillong-793001</td>
<td>Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura,</td>
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EXTRAORDINARY

PART II — Section 1

PUBLISHED BY AUTHORITY

No. 2]
NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd January, 2007/ Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on
the 29th December, 2006, and is hereby published for general information:—

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST
DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

No. 2 of 2007

[29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in
forest dwelling Scheduled Tribes and other traditional forest dwellers who
have been residing in such forests for generations but whose rights could not
be recorded; to provide for a framework for recording the forest rights so
vested and the nature of evidence required for such recognition and vesting
in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other
traditional forest dwellers include the responsibilities and authority for sustainable use,
AND WHEREAS it has become necessary to address the long standing insecurity of
tenural and access rights of forest dwelling Scheduled Tribes and other traditional forest
dwellers including those who were forced to relocate their dwelling due to State development
interventions.

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

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest
Dwellers (Recognition of Forest Rights) Act, 2006.

(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.

2. In this Act, unless the context otherwise requires,—

(a) “community forest resource” means customary common forest land within
the traditional or customary boundaries of the village or seasonal use of landscape
in the case of pastoral communities, including reserved forests, protected forests
and protected areas such as Sanctuaries and National Parks to which the community
had traditional access;

(b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries
where it has been specifically and clearly established, case by case, on the basis of
scientific and objective criteria, that such areas are required to be kept as inviolate
for the purposes of wildlife conservation as may be determined and notified by the
Central Government in the Ministry of Environment and Forests after open process
of consultation by an Expert Committee, which includes experts from the locality
appointed by that Government wherein a representative of the Ministry of Tribal
Affairs shall also be included, in determining such areas according to the procedural
requirements arising from sub-sections (1) and (2) of section 4;

(c) “forest dwelling Scheduled Tribes” means the members or community of the
Scheduled Tribes who primarily reside in and who depend on the forests or forest
lands for honest wage livelihood needs and includes the Scheduled Tribe pastoralist
communities;

(d) “forest land” means land of any description falling within any forest area
and includes unclassified forests, demarcated forests, existing or deemed forests,
protected forests, reserved forests, Sanctuaries and National Parks;

(e) “forest rights” means the forest rights referred to in section 3;

(f) “forest villages” means the settlements which have been established inside
the forests by the forest department of any State Government for forestry operations
or which were converted into forest villages through the forest reservation process
and includes forest settlement villages, fixed demand holdings, all types of tamiya
settlements, by whatever name called, for such villages and includes lands for
cultivation and other uses permitted by the Government;

(g) “Gram Sabha” means a village assembly which shall consist of all adult
members of a village and in case of States having no Panchayats, Padas, Tolans
and other traditional village institutions and elected village committees, with full
and unrestricted participation of women;

(h) “habitat” includes the area comprising the customary habitat and such other
habitats in reserved forests and protected forests of primitive tribal groups and pre-
aricultural communities and other forest dwelling Scheduled Tribes;

(i) “minor forest produce” includes all non-timber forest produce of plant origin
including bamboos, brushwood, stumps, cane, tassar, cocoa, honey, wax, lac, tendu
or kendu leaves, medicinal plants and herbs, roots, tubers and the like;
(j) "nodal agency" means the nodal agency specified in section 11;
(k) "notification" means a notification published in the Official Gazette;
(l) "prescribed" means prescribed by rules made under this Act;
(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;
(n) "sustainable use" shall have the same meaning as assigned to it in clause
(o) of section 2 of the Biological Diversity Act, 2002;
(o) "other traditional forest dweller" means any member of community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forest land for bona fide livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means—

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or
(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or
(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or
(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II

FOREST RIGHTS

3. (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as nitrar by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of Pastas or leases or grants issued by any local authority or any State Government on forest lands to titles;
(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely—

(a) schools;

(b) dispensary or hospital;

(c) anganwadis;

(d) fair price shops;

(e) electric and telecommunication lines;

(f) tanks and other minor water bodies;

(g) drinking water supply and water pipelines;

(h) water or rain water harvesting structures;

(i) minor irrigation canals;

(j) non-conventional source of energy;

(k) skill upgradation or vocational training centres;

(l) roads; and

(m) community centres.

Provided that such diversion of forest land shall be allowed only if—

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.
CHAPTER III
RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfills the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferrable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.
(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (1) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.
(4) Any person aggrieved by the decision of the Sub-divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-divisional Level Committee and the District Level Committee shall consider and dispose of such petition.

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabhas through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.
10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or
other employee of the Central Government or the State Government for anything which is in
good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the
State Government or any of its officers or other employees for any damage caused or likely
to be caused by anything which is in good faith done or intended to be done under
this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in
Chapter IV including its Chairperson, members, member-secretary, officers and other employees
for anything which is in good faith done or intended to be done under this Act.

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or
authority authorised by the Central Government in this behalf shall be the nodal agency for
the implementation of the provisions of this Act.

12. In the performance of its duties and exercise of its powers by or under this Act,
every authority referred to in Chapter IV shall be subject to such general or special directions,
as the Central Government may, from time to time, give in writing.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats
(Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition
to and not in derogation of the provisions of any other law for the time being in force.

14. (1) The Central Government may, by notification, and subject to the condition of
previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such
rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and
preparing a map delineating the area of each recommended claim for exercise of forest
rights under sub-section (7) of section 6 and the manner of preferring a petition to the
Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs
of the State Government to be appointed as members of the Sub-Divisional Level
Committee, the District Level Committee and the State Level Monitoring Committee
under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the
District Level Committee and the State Level Monitoring Committee and the procedure
to be followed by them in the discharge of their functions under sub-section (9) of
section 6;

(e) any other matter which is required to be, or may be, prescribed.

(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 remission shall be without prejudice to the validity of anything previously done under that rule.

K. N. CHATURVEDI,
Secy. to the Govt. of India.
S.O. 2224 (E).—In exercise of the powers conferred by sub-section (3) of Section 1 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby appoints the 31st day of December, 2007 as the date on which the provisions of the said Act shall come into force.

[F. No. 17014/02/2007-PC&V (Vol. VII)]

Dr. BACHITTAR SINGH, Jr. Secy.
ANNEXURE-XIV

(GOVERNMENT OF INDIA, MINISTRY OF TRIBAL AFFAIRS)

New Delhi, the 1st January, 2008

NOTIFICATION

G.S.R. __________(F) -- WHEREAS the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R.437(E), dated the 19th June, 2007 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS copies of the said Gazette were made available to the public on 25.06.2007;

AND WHEREAS the objections and suggestions received from the public in respect of the said draft rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules for recognizing and vesting the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers residing in such forests, namely:-

1. Short title, extent and commencement.- (1) These rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.

(2) They shall extend to the whole of India except the State of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions.- (1) In these rules, unless the context otherwise requires,-
(a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
(b) "bonafide livelihood needs" means fulfillment of sustenance needs of self and family through production or sale of produce resulting from self-cultivation of forest land as provided under clauses (a), (c) and (d) of sub-section (1) of section 3 of the Act;
(c) "claimant" means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
(d) "disposal of minor forest produce" under clause (c) of sub-section (1) of section 3 of the Act shall include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood;
(e) "Forest Rights Committee" means a committee constituted by the Gram Sabha under rule 3;
(f) "section" means the section of the Act;
(2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Gram Sabha.- (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least one-third members shall be the Scheduled Tribes:

Provided that not less than one-third of such members shall be women:

Provided further that where there are no Scheduled Tribes, at least one-third of such members shall be women.

(2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.

4. Functions of the Gram Sabha.- (1) The Gram Sabha shall -
   (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
   (b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
   (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;
(d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and

(e) constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.

(2) The quorum of the Gram Sabha meeting shall be not less than two-thirds of all members of such Gram Sabha:

Provided that where there is a heterogeneous population of Scheduled Tribes and non Scheduled Tribes in any village, the members of the Scheduled Tribe, primitive tribal groups (PTGs) and pre-agricultural communities shall be adequately represented.

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

5. **Sub-Divisional Level Committee.** - The State Government shall constitute Sub-Divisional Level Committee with the following members, namely:-

(a) Sub-Divisional Officer or equivalent officer - Chairperson;
(b) Forest Officer in charge of a Sub-division or equivalent officer - member;
(c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
(d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. **Functions of the Sub-Divisional Level Committee.** - The Sub-Divisional Level Committee (SDLC) shall -

(a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
(b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
(c) collate all the resolutions of the concerned Gram Sabhas;
(d) consolidate maps and details provided by the Gram Sabhas;
(e) examine the resolutions and the maps of the Gram Sabhas to ascertain the
veracity of the claims;
(f) hear and adjudicate disputes between Gram Sabhas on the nature and
extent of any forest rights;
(g) hear petitions from persons, including State agencies, aggrieved by the
resolutions of the Gram Sabhas;
(h) co-ordinate with other Sub-Divisional Level Committees for inter sub-
divisional claims;
(i) prepare block or tehsil-wise draft record of proposed forest rights after
reconciliation of government records;
(j) forward the claims with the draft record of proposed forest rights through
the Sub-Divisional Officer to the District Level Committee for final
decision;
(k) raise awareness among forest dwellers about the objectives and procedures
laid down under the Act and in the rules;
(l) ensure easy and free availability of proforma of claims to the claimants as
provided in Annexure-1 (Forms A & B) of these rules;
(m) ensure that the Gram Sabha meetings are conducted in free, open and
fair manner with requisite quorum.

7. District Level Committee.- The State Government shall constitute District
Level Committee (DLC) with the following members, namely:-

(a) District Collector or Deputy Commissioner - Chairperson;
(b) concerned Divisional Forest Officer or concerned Deputy Conservator of
Forest - member;
(c) three members of the district panchayat to be nominated by the district
panchayat, of whom at least two shall be the Scheduled Tribes preferably
those who are forest dwellers, or who belong to members of the primitive
tribal groups, and where there are no Scheduled Tribes, two members who
are preferably other traditional forest dwellers, and one shall be a woman
member; or in areas covered under the Sixth Schedule to the Constitution,
three members nominated by the Autonomous District Council or
Regional Council of whom at least one shall be a woman member; and
(d) an officer of the Tribal Welfare Department in-charge of the district or
where such officer is not available, the officer in charge of the tribal affairs.

8. Functions of District Level Committee.- The District Level Committee shall -
(a) ensure that the requisite information under clause (b) of rule 6 has been
provided to Gram Sabha or Forest Rights Committee;
(b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
(c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
(d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
(e) co-ordinate with other districts regarding inter-district claims;
(f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
(g) ensure publication of the record of forest rights as may be finalized; and
(h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively;

9. **State Level Monitoring Committee.** - The State Government shall constitute a State Level Monitoring Committee with the following members, namely:-

(a) Chief Secretary - Chairperson;
(b) Secretary, Revenue Department - member;
(c) Secretary, Tribal or Social Welfare Department - member;
(d) Secretary, Forest Department - member;
(e) Secretary, Panchayati Raj - member;
(f) Principal Chief Conservator of Forests - member;
(g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
(h) Commissioner, Tribal Welfare or equivalent who shall be the Member-Secretary.

10. **Functions of the State Level Monitoring Committee.** - The State Level Monitoring Committee shall –

(a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
(b) monitor the process of recognition, verification and vesting of forest rights in the State;
(c) furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency;
(d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
(e) monitor resettlement under sub-section (2) of section 4 of the Act.
11. Procedure for filing, determination and verification of claims by the Gram Sabha.- (1) The Gram Sabhas shall -

(a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months:

Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

(b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.

(2) The Forest Rights Committee shall assist the Gram Sabha in its functions to -

(i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
(ii) prepare the record of claims and evidence including maps;
(iii) prepare a list of claimants on forest rights;
(iv) verify claims as provided in these rules;
(v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.

(3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.

(4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for community forest rights in Form B as provided in Annexure I of these Rules.

(5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub-Divisional Level Committee.

(6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.

12. Process of verifying claims by Forest Rights Committee.- (1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department –
(a) visit the site and physically verify the nature and extent of the claim and evidence on the site;

(b) receive any further evidence or record from the claimant and witnesses;

(c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;

(d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and

(e) prepare a map delineating the area of each claim indicating recognizable landmarks.

(2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.

(3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

(4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorised officer.

13. Evidence for determination of forest rights.- (1) The evidence for recognition and vesting of forest rights shall, inter alia, include-

(a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of
rights by whatever name called, pattas or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;

(b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;

(c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;

(d) quasi-judicial and judicial records including court orders and judgments;

(e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;

(f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;

(g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;

(h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;

(i) statement of elders other than claimants, reduced in writing.

(2) An evidence for Community Forest Rights shall, inter alia, include –

(a) community rights such as nistar by whatever name called;

(b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;

(c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;

(3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.
14. Petitions to Sub-Divisional Level Committee.- (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

(2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.

(4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.

(5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.

(6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.

(7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. Petitions to District Level Committee.- (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

(2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
(4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.

(5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.

(6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.

(7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.

Dr. Bachittar Singh, Joint Secretary
[ F. No.17014/02/2007-PC&V (Vol.VII) ]
ANNEXURE - I
[See rule 6(l)]
FORM – A
CLAIM FORM FOR RIGHTS TO FOREST LAND
[See rule 11(1)(a)]

1. Name of the claimant(s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe : Yes/ No
   (Attach authenticated copy of Certificate)
   (b) Other Traditional Forest Dweller: Yes/ No
      If a spouse is a Scheduled Tribe (attach authenticated copy of
      certificate)
10. Name of other members in the family with age:
    (including children and adult dependents)

Nature of claim on land:
1. Extent of forest land occupied
   a) for habitation
   b) for self-cultivation, if any:
      (See Section 3(1)(a) of the Act)
2. disputed lands if any:
   (See Section 3(1)(l) of the Act)
3. Pattas/ leases/ grants, if any:
   (See Section 3(1)(g) of the Act)
4. Land for in situ rehabilitation or alternative land, if any:
   (See Section 3(1)(m) of the Act)
5. Land from where displaced without land compensation
   (See Section 4(8) of the Act)
6. Extent of land in forest villages, if any:
   (See Section 3(1)(h) of the Act)
7. Any other traditional right, if any:
   (See Section 3(1)(l) of the Act)
8. Evidence in support:
   (See Rule 13)
9. Any other information:

Signature/ Thumb Impression
of the Claimant(s):
FORM – B

CLAIM FORM FOR COMMUNITY RIGHTS

[See rule 11(1)(a) and (d)]

1. Name of the claimant(s):
   a. FDST community: Yes/ No
   b. OTFD community: Yes/ No

2. Village:

3. Gram Panchayat:

4. Tehsil/ Taluka:

5. District:

Nature of community rights enjoyed:

1. Community rights such as nisar, if any:
   (See Section 3(1)(b) of the Act)

2. Rights over minor forest produce, if any:
   (See Section 3(1)(c) of the Act)

3. Community rights
   a. uses or entitlements (fish, water bodies), if any:
   b. Grazing, if any
   c. Traditional resource access for nomadic and pastoralist, if any:
      (See Section 3(1)(g) of the Act)

4. Community tenures of habitat and habitation
   for PFGs and pre-agricultural communities, if any:
   (See Section 3(1)(c) of the Act)

5. Right to access biodiversity, intellectual property and traditional knowledge, if any:
   (See Section 3(1)(k) of the Act)

6. Other traditional right, if any:
   (See Section 3(1)(l) of the Act)

7. Evidence in support:
   (See Rule 13)

8. Any other information:

Signature/ Thumb Impression
of the Claimant(s):
ANNEXURE – II
[See rule 8(h)]
TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder(s) of forest rights (including spouse):

2. Name of the father/mother:

3. Name of dependents:

4. Address:

5. Village/gram sabha:

6. Gram Panchayat:

7. Tehsil/Taluka:

8. District:

9. Whether Scheduled Tribe or Other Traditional Forest Dweller

10. Area:

11. Description of boundaries by prominent landmarks including khasra/compartment No:

    This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).............affix our signatures to confirm the above forest right.

Divisional Forest Officer/ Deputy Conservator of Forests

District Tribal Welfare Officer

District Collector/ Deputy Commissioner
ANNEXURE - III
[See rule 8(h)]
TITLE TO COMMUNITY FOREST RIGHTS

1. Name(s) of the holder(s) of community forest right:

2. Village/Gram Sabha:

3. Gram Panchayat:

4. Tehsil/Taluka:

5. District:

6. Scheduled Tribe/Other Traditional Forest Dweller:

7. Nature of community rights:

8. Conditions if any:

9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/compartment No:

Name(s) of the holder(s) of community forest right:

1. ................................
2. ................................
3. ................................

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State)............affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

Divisional Forest Officer/Deputy Conservator of Forests

District Tribal Welfare Officer

District Collector/Deputy Commissioner
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 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.

2. In this Act, unless the context otherwise requires, “Scheduled Areas” means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

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.

3. 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 of 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 utilization 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 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.

Continuance Of existing Laws and Panchayats

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 in consistent 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;

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
THE PROTECTION OF CIVIL RIGHTS ACT, 1955.

[Formerly known as Untouchability (Offences) Act, 1955]
(Act no. 22 of 1955)

[8th May, 1955]

An Act to prescribe punishment for the [the preaching and practice of "Untouchability"] for the enforcement of any disability arising there from and of matters connected therewith.

BE it enacted by Parliament in the Sixth Year of The Republic of India as follows:

I. (1) This Act may be called "the Protection of Civil Rights Act", 1955

(2) It extends to the whole of India

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires--

(a) "civil rights" means any right accruing to a person by reason of the abolition of "Untouchability" by article 17 of the Constitution;

(aa) "hotel" includes a refreshment room, a boarding house, a lodging house, a coffee house and a café;

(b) "place" includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel;

(c) "place of public entertainment" includes any place to which the public are admitted and in which an entertainment is provided or held.

Explanation.—"Entertainment" includes any exhibition, performance, game, sport and any other form of amusement;

(d) "place of public worship" means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; and includes--

(i) all lands subsidiary shrines appurtenant or attached to any such place.

1 Subs. by Act 106 of 1976, s. 2, for "practice of Untouchability" (w.e.f. 19-11-1976)

2 Subs. by s. 3, ibid., for "the Untouchability (Offences) Act" (w.e.f. 19-11-1976)

3 Extended to Goa, Daman and Diu with modification by Regulation 12 of 1962, section 3 and Schedule to Dadra and Nagar Haveli by Regulation 6 of 1963, section 2 and Schedule 1 (with effect from 1st July, 1965) and to Pondicherry by regulation 7 of 1963, section 3 and Schedule 1 (with effect from 1st October, 1965).


6 Clause (a) was relettered as clause (aa) by s. 4, ibid., (w.e.f. 19-11-1976).

7 Subs. by s. 4 ibid., for cl. (b) (w.e.f. 19-11-1976).

8 Subs. by Act 106 of 1976, s. 4 for certain words (w.e.f. 19-11-1976).
(ii) a privately owned place of worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and

(iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;

2 [(da) "prescribed" means prescribed by rules made under this Act;

(db) "Scheduled Castes" has the meaning assigned to it in clause (24) of article 366 of the Constitution;]

(c) "shop" means any premises where goods are sold either wholesale or by retail or both wholesale and by retail [and includes-

(i) any place from where goods are sold by a hawker or vendor or from a mobile van or cart.

(ii) a laundry and a hair cutting saloon.

(iii) any other place where services are rendered to customers].

3. Whoever on the ground of "Untouchability" prevents any person—

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<tr>
<th>Punishment for enforcing religious disabilities</th>
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<td>(a) from entering any place of public worship which is open to other persons professing the same religion of any section thereof, as such person; or</td>
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<tr>
<td>(b) from worshipping or offering prayers or performing any religious service in any place of public worship or bathing in or using the waters of, any sacred tank, well, spring or water-course or bathing at any ghat of such tank, water-course, river or lake in the same manner and to the same extent as is permissible to the other persons professing the same religion of any section thereof, as such person;</td>
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5 [shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

Explanation—For the purposes of this section and section 4 persons professing the Buddhist, Sikh or Jain religion or persons professing the Hindu religion in any of its forms or developments including Vaishnavas, Lingayats, Adivasis, followers of Brahmo, Pranitha, Arya Samaj, and the Swaminarayan Sampraday shall be deemed to be Hindus.

4. Whoever on the ground of "Untouchability" enforces against any person any disability with regard to—

---

2 Ins. by Act 106 of 1976, s.4 (w.e.f. 19-11-1976).
3 The words "or belonging to the same religious denomination" omitted by s. 5, ibid, w.e.f. from 19-11-1976.
4 Ins. by s. 5, ibid., (w. e. f. 19-11-1976).
5 Subs. by s. 5, ibid., for certain words (w. e. f. 19-11-1976).
Punishment for enforcing social disabilities

(i) access to any shop, public restaurant, hotel or place of public entertainment;
(ii) the use of any utensils, and other articles kept in any public restaurant, hotel, dharmshala, sarai or musafirkhana for the use of the general public or of [any section thereof]; or
(iii) the practice of any profession or the carrying on of any occupation, trade or business 2[or employment in any job]; or
(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or [any section thereof], have a right to use or have access to; or
(v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public or [any section thereof]; or
(vi) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of [any section thereof]; or
(vii) the use of, or access to, any public conveyance; or
(viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or
(ix) the use of any dharmshala, sarai or musafirkhana which is open to the general public, or to [any section thereof]; or
(x) the observance of any social or religious custom, usage or ceremony or [taking part in, or taking out, any religious, social or cultural procession]; or
(xii) the use of jewellery and finery:

4[shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

[Explanation—For the purposes of this section, “enforcement of any disability” includes any discrimination on the ground of “Untouchability”.

5. Whoever on the ground of “Untouchability”—

(a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel * if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or
(b) does any act which discriminates against any such person after admission to any of the aforesaid institutions;

shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

Subs. by Act 106 of 1976, s. 6 for certain words (w.e.f. 19.11.1976).

2 Ins. by s. 6 ibid., (w.e.f. 19.11.1976).

3 Subs. by s. 6 ibid., for “taking part in any religious procession” (w.e.f. 19.11.1976).

4 Subs. by s. 7, ibid., for certain words (w.e.f. 19.11.1976).

5 Ins. by s. 6, ibid., (w.e.f. 19.11.1976).

6 The words “attached thereto” omitted by s. 7, ibid., (w.e.f. 19.11.1976).
6. Whoever on the ground of "Untouchability" refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions as or which such goods are sold or services are rendered to other persons in the ordinary course of business [shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

7. (1) Whoever—

(a) prevents any person from exercising any right accruing to him by reason of the abolition of "Untouchability" under article 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "Untouchability" in any form whatsoever; [or]

(d) insults or attempts to insult, on the ground of "Untouchability" a member of a Scheduled Caste] [shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

[Explanation 1].—A person shall be deemed to boycott another person who—

(a) refused to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, word for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms and in the manner on which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

[Explanation II. —For the purpose of clause (c) a person shall be
deemed to incite or encourage the practice of "Untouchability"—

(i) if he, directly or indirectly, preaches "Untouchability" or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "Untouchability" in any form.

[(1A) Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to him by reason of the abolition of "Untouchability" under article 17 of the Constitution, shall, where the offence is punishable with imprisonment for a term exceeding two years, be punishable with imprisonment for a term which shall not be less than two years and also with fine.]

(2) Whoever—

(i) denies to any person belonging to his community or any section thereof any right or privilege to which such person would be entitled as a member of such community or section, or

(ii) takes any part in the ex-communication of such person, on the ground that such person has refused to practise "Untouchability" or that such person has done any act in furtherance of the objects of this Act.

[shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

[(7A. (1) Whoever compels any person on the ground of "untouchability", to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature, shall be deemed to have enforced a disability arising out of "untouchability".

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation. —For the purposes of this section, "compulsion" includes a threat of social or economic boycott.]

8. When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the court

Cancellation or suspension of licenses in certain cases
d. for certain words (w. e. f. 19-11-76)
(w. e. f. 19-11-1976)
trying the offence may, without prejudice to any penalty to which such person may be liable under that section, direct that the license shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so canceling or suspending a license shall have effect as if it had been passed by the authority competent to cancel or suspend the license under any such law.

Explanations.—In this section, “license” includes a permit or a permission.

9. Where the manager or trustee of a place of public worship [1] or any educational institution or hostel which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

2. [Explanation.—A public servant who willfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act]

[10A. (1) If, after an enquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government, may by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government’s judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realised until the petition, if any, filed by him under sub-section (3) is disposed of.

(1) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(2) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of appointment, may, within the prescribed period, file a petition before the State Government or such other authority as that

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1. Ins. by Act 106 of 1976, s. 11 (w.e.f. 19-11-1976).
2. Ins. by s. 12, ibid., (w.e.f. 19-11-1976).
Government may specify in this behalf for being exempted from such fine or for modification of the order of appointment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realisable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(3) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(4) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.] 2 of 1974

1. Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, shall, in conviction, be punishable—

(a) for the second offence, with imprisonment for a term of not less than six months and not more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;

(b) for the third offence or any offence subsequent to the third offence, with imprisonment for a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees.

2. Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste [***], the court shall presume, unless the contrary is proved, that such act was committed on the ground of "untouchability"

3. (1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No court shall, in adjudicating any matter or executing any decree or order, recognise any custom or usage imposing any disability on any person on the ground of "untouchability".

4. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was a charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed
to be guilty of the offence and shall be liable to be proceeded against and
punished accordingly;

Provided that nothing contained in this sub-section shall render any such
person liable to any punishment, if he proves that the offence was committed without
his knowledge or that he exercised all due diligence to prevent the commission of
such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under
this Act has been committed with the consent of any director or manager, secretary
or other officer of the company, such director, manager, secretary or other officer shall
also be deemed to be guilty of that offence and shall be liable to be proceeded against
and punished accordingly.

Explanations. — For the purposes of this section, —
(a) "company" means any body corporate and includes a firm or other
association of individuals; and
(b) "director" in relation to a firm means a partner in the firm.

15A. (1) Notwithstanding anything contained in the Code of Criminal
Procedure, 1973, every offence punishable under this Act shall be cognizable and
every such offence, except where it is punishable with imprisonment for a
minimum term exceeding three months, may be tried summarily by a Judicial
Magistrate of the first class or in a metropolitan area by a Metropolitan
Magistrate in accordance with the procedure specified in the said
2 of 1974

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,
when any public servant is alleged to have committed the offence of abetment of
an offence punishable under this Act, while acting or purporting to act in
the discharge of his official duty, no court shall take cognizance of such offence of
abetment except with the previous sanction—
2 of 1974

(a) of the Central Government, in the case of a person employed in
connection with the affairs of the Union; and
(b) of the State Government, in the case of a person employed in
connection with the affairs of a State.

15A. (1) Subject to such rules as the Central Government may make in this behalf, the
State Government shall take such measures as may be necessary for ensuring that
the rights arising from the abolition of "untouchability" are made available to,
and are availed of by the persons subjected to any disability arising out of "untouchability".

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include--
(i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;
(ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;
(iii) the setting up of special courts for the trial of offences under this Act;
(iv) the setting up of Committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;
(v) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;
(vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

16. Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority.

16A. The provisions of the Probation of Offenders Act, 1958, shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

16B. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

amended by the Act of 1976, s. 18 (w.e.f. 19.11.1976).
(2) 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.

17. The enactments specified in the Schedule are hereby repealed to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained therein.
THE SCHEDULE  
(See section 17)

5. The Central Provinces and Berar Temple Entry Authorisation Act, 1947 (Central Provinces and Berar Act XLI of 1947).
THE PROTECTION OF CIVIL RIGHTS ACT, 1955
(22 OF 1955)

DATE OF OPERATION OF THE ACT

S.R.O.1109, dated the 23rd May, 1955. - In exercise of the powers conferred by sub-section (3) of section 1 of the Untouchability (Offences) Act, 1955 (22 of 1955), the Central Government hereby appoints the 1st day of June, 1955, as the date on which the said Act shall come into force.

(Ministry of Home Affairs, No. 25/7/53-Poll.!)]

[Gazette of India, Extraordinary, 1955, Part II, Section 3, page 971]

Subordinate Legislation under the Protection of Civil Rights Act, 1955

S.O.734(E), dated the 16th November, 1976. - In exercise of the powers conferred by sub-section (2) of section 1 of the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976 (106 of 1976), the Central Government hereby appoints the 16th day of November, 1976, as the date on which the said Act shall come into force.

[Ministry of Home Affairs, No.BC.12013/2/76-SCT-V.]

[Gazette of India, Extraordinary, 1976, Part II, Section 3(ii), page 2063]

Subordinate Legislation under the Protection of Civil Rights Act, 1955

PROTECTION OF CIVIL RIGHTS RULES, 1977

**S.O 3006, dated the 15th September, 1977. - In exercise of the powers conferred by section 16B of the Protection of Civil Rights Act, 1955 (22 of 1955), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement. - (1) These rules may be called the Protection of Civil Rights Rules, 1977.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - In these rules, unless the context otherwise requires,-
(a) “Act” means the Protection of Civil Rights Act, 1955 (22 of 1955):
(b) “section” means a section of the Act.

3. Manner of inquiry under sub-section (1) of section 10A. - (1) The State Government may appoint an officer not below the rank of a Sub-divisional Magistrate for the purpose of making an inquiry referred to in sub-section (1) of section 10A.
(2) The officer appointed under sub-rule (1) (hereinafter in this rule referred to as the inquiry officer) shall issue a public notice specifying the date, time, place and the purpose of such inquiry and calling upon all the residents of the area in respect of which the inquiry is to be held to furnish such information and materials, including documents in their possession, as may be relevant for the purposes of the inquiry.

* Now it is the Protection of Civil Rights Act, 1955 (22 of 1955).
** Published in Gazette of India, 1977, Part II, Section 3(ii), Page 3478.
(3) The Public notice referred to in sub-rule (2) shall be in the local language or
languages of the area and the same shall be-

(i) published on the notice board in the offices of the District Magistrate, the District
Superintendent of Police, the Village Panchayat or Municipal Committee of the area and such
other places as the inquiry officer deems fit and at least in one daily newspaper circulating in the
area; and

(ii) proclaimed in the area by beat of drum or in such other manner as the inquiry officer
may think best in the circumstances to bring the contents of the public notice to the notice of
inhabitants of the area.

(4) The inquiry officer, while making such inquiry shall follow as nearly as practicable,
the procedure for summary trials including the recording of evidence as laid down in Chapter XXI

(5) The inquiry officer shall complete the inquiry as expeditiously as possible and submit
the report to the State Government within such period, not exceeding six weeks, as may be
specified by the State Government in the order appointing the inquiry officer.

Provided that the State Government may, having regard to the nature of the inquiry,
extend the period of submission of the report by such period, not exceeding two months in total,
as it may consider necessary.

4. Period for filing a petition under sub-section (3) of section 10A— (1) Any person
aggrieved by the imposition of a collective fine under sub-section (1) of section 10A or by the order
of apportionment may within a period of thirty days from the date of proclamation of the
notification under sub-section (2) of that section file a petition before the State Government or the
authority specified by it;

Provided that where the State Government or the authority, as the case may be, may
entertain the petition after the expiry of the said period if it is satisfied that the petitioner was
prevented by sufficient cause from filing the petition in time.

(2) The State Government or the authority before which the petition is filed shall dispose
of the petition as expeditiously as possible.

5. Reports by the State Governments.— Every State Government shall, for the purpose
of enabling the Central Government to place the report referred to in sub-section (4) of section
15A, on the Table of each House of Parliament, furnish to that Government before the 15th day of
February, each year, a summary of the measures taken by it under sub-section (1) and (2) of
that section during the preceding calendar year and shall also furnish such other information as
may be required by the Central Government from time to time

Ministry of Home Affairs, NO. BC.12013/2/76-SCT-V]
The Gazette of India

EXTRAORDINARY

PART-II-Section 1

PUBLISHED BY AUTHORITY

No.39, NEW DELHI, TUESDAY, SEPTEMBER 12, 1989/

BHADRA 21, 1911

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th September, 1989

Bhadra 21, 1911 (Saka)

The following Act of Parliament received the assent of the President on the 11th September, 1989, and is hereby published for general information.

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

No.33 of 1989

(11th September, 1989)

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Court for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:-

CHAPTER-1

PRELIMINARY

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(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.

2. (1) In this Act, unless the context otherwise requires-

(a) “Atrocity” means an offence punishable under section 3;

(b) “Code” means the Code of Criminal Procedure, 1973;

(c) “Scheduled Castes and Scheduled Tribes” shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution;

(d) “Special Court” means a Court of Session specified as a Special Court in section 14;

(e) “Special Public Prosecutor” means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.
(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER- II

OFFENCES OF ATROCITIES

3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

(i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;

(ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood;

(iii) Forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

(vi) Compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do ‘beggar’ or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote in a manner other than that provided by law;

(viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or Scheduled Tribe;

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or outrage her modesty;

(xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence;

Shall be punishable with imprisonment for a term, which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe-

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribes be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;
(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

5. Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

6. Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

7. (1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter.

8. In a prosecution for an offence under this Chapter, if it is proved that-

9. (a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was sequel to any existing dispute regarding land or any other matter, it shall be presumed that offence was committed in furtherance of the common intention or in prosecution of the common object.

10. (1) notwithstanding anything contained in the code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do-

(a) for the prevention of and for coping with any offence under this Act, or

(b) or any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in
particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made there under.

(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1)

CHAPTER III

EXTERNMENT

11. (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

12. (1) If a person to whom a direction has been issued under section 10 to remove himself from any area-

(a) fails to remove himself as directed; or

(b) having so removed himself enters such area within the period specified in the order, otherwise than with the permission in writing of the Special Court under sub-section (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or an the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

13. (1) Every person against whom an order has been made under section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by police officer.

(2) If any person referred to in sub-section (1), when required to allow his measurements or photographs to be taken resists or refuses to allow his taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof.

(3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code.

(4) Where an order under section 10 is revoked, all measurements and photographs (including negative) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.
14. Any person contravening an order of the Special Court made under section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

CHAPTER -IV

Special courts

15. For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try offences under this Act.

16. For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER-V

Miscellaneous

17. The provisions of section 10A of the Protection of Civil Rights Act, 1955, shall, so far as may be, apply for the purposes of imposition and realisation of collective fine and for all other matters connected therewith under this Act.

18. (1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behavior and maintenance of public order and tranquility and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as maybe, apply for the purposes of sub-section (1)

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

19. Nothing in section 438 of the code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

20. The provisions of section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

21. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

22. (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include-

(i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;

(ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;
(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) provisions for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as maybe necessary to co-ordinate the measures taken by the State Governments under sub-section- (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

23. No suit, prosecution or other legal proceedings shall lie against the central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made 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; show however, that any such modification annulment shall be without prejudice to the validity of anything previously done under that rule.

V.S. RAMA DEVI,
Secy. to the Govt. of India
NOTIFICATION \(^1\)

G.S.R. 316 (E). - In exercise of the powers conferred by sub-section (1) of Section 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), the Central Government hereby makes the following rules, namely: -

1. SHORT TITLE AND COMMENCEMENT: (1) These rules may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS: In these rules, unless the context otherwise requires: -

(a) “Act” means the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989);

(b) “dependent”, with its grammatical variations and cognate expressions, includes wife, children, whether married or unmarried, dependent parents, widowed sister, widow and children of pre-deceased son of a victim of an atrocity;

(c) “identified area” means such area where State Government has reason to believe that an atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act or an area prone to victim of an atrocity;

(d) “Non Government Organisation” means a voluntary organisation engaged in the welfare activities relating to the Scheduled Castes and the Scheduled Tribes and registered under the Societies Registration Act, 1866 (21 of 1866) or under any law for the registration of documents or such organisation for the time being in force;

(e) “Schedule” means the Schedule annexed to these rules;

(f) “Section” means section of the Act;

(g) “State Government”, in relation to a Union Territory, means the Administrator of that Union Territory appointed by the President under Article 239 of the Constitution;

(h) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. PRECAUTIONARY AND PREVENTIVE MEASURES:

1. With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes, the State Government shall: -

(i) identify the area where it has reason to believe that an atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act;

(ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation;

(iii) if deem necessary, in the identified area cancel the arms licenses of the persons, not being member of the Scheduled Castes or the Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory;

(iv) seize all illegal fire arms and prohibit any illegal manufacture of fire arms;

(v) with a view to ensure the safety of person an property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes;

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1. As amended vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2011, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2013 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2014
(vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act;

(vii) set-up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act;

(viii) set-up Awareness Centers and organise Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed there under;

(ix) encourage Non-Government Organisations for establishing and maintaining Awareness Centers and organising Workshops and provide them necessary financial and other sort of assistance

(x) deploy special police force in the identified area;

(xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

4. SUPERVISION OF PROSECUTION AND SUBMISSION OF REPORT

(1) The State Government on the recommendation of the District Magistrate shall prepare for each District panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director Prosecution in-charge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(2) The District Magistrate and the Director of prosecution/in-charge of the prosecution shall review at least twice in a calendar year, in the month of January and July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

(3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of the ability and with due care and caution, his name may be, for reasons to be recorded in writing, de-notified.

(4) The District Magistrate and the officer-in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specify the action taken/proposed to be taken in respect of investigation and prosecution of each case.

(5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary, or if so desired by the victims of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fee as he may consider appropriate.

(6) Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates in the State.

5. INFORMATION TO POLICE OFFICER IN-CHARGE OF A POLICE STATION:

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in-charge of a police station to record the information referred to in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to
6. SPOT INSPECTION BY OFFICERS

(1) Whenever the District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

(2) The District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police, Deputy Superintendent of Police after inspecting the place or area shall on the spot:
   (i) draw a list of victims, their family members and dependents entitled for relief;
   (ii) prepare a detailed report of the extent of atrocity loss and damage to the property of the victims;
   (iii) order for intensive police patrolling in the area;
   (iv) take effective and necessary steps to provide protection to the witnesses and other sympathisers of the victims;
   (v) provide immediate relief to the victims;

7. INVESTIGATING OFFICER

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director General of Police of the State Government.

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer in-charge of Prosecution and the Director General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

(1) The State Government shall set up Scheduled Castes and the Scheduled Tribes Protection Cell at the State head quarter under the charge of Director of Police/Inspector General police. This Cell shall be responsible for:
   (i) conducting survey of the identified area;
   (ii) maintaining public order and tranquility in the identified area;
   (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;
   (iv) making investigations about the probable causes leading to an offence under the Act;
   (v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;
   (vi) informing the nodal officer and special officer about the law and order situation in the identified area;
   (vii) making enquiries about the investigation and spot inspections conducted by various officers;
   (viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter and information in a book to be maintained by that police station under sub-rule (3) of rule 5;
(ix) making enquiries about the willful negligence by a public servant;

(x) reviewing the position of cases registered under the Act; and

(xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government nodal officer about the action taken/proposed to be taken in respect of the above.

8. SETTING UP OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES PROTECTION CELL

(1) The State Government shall set up Scheduled Castes and the Scheduled Tribes Protection Cell at the State head quarter under the charge of Director of Police/Inspector General police. This Cell shall be responsible for:-

(i) conducting survey of the identified area;

(ii) maintaining public order and tranquility in the identified area;

(iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;

(iv) making investigations about the probable causes leading to an offence under the Act;

(v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;

(vi) informing the nodal officer and special officer about the law and order situation in the identified area;

(vii) making enquiries about the investigation and spot inspections conducted by various officers;

(viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in charge of the police station has refused to enter and information in a book to be maintained by that police station under sub-rule (3) of rule 5;

(ix) making enquiries about the willful negligence by a public servant;

(x) reviewing the position of cases registered under the Act; and

(xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government nodal officer about the action taken/proposed to be taken in respect of the above.

9. NOMINATION OF NODAL OFFICER

The State Government shall nominate a nodal officer of the level of a Secretary to the State Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for co-coordinating the functioning of the District Magistrates and Superintendent of Police or the offices authorised by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review:-

(i) the reports received by the State Government under sub-rule (2) and (4) of rule 4,rule 6, clause (xi) of rule 8.

(ii) the position of cases registered under the Act;

(iii) law and order situation in the identified area;

(iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;

(v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims of atrocity or his/her dependants;

(vi) performance of non-Governmental organisations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.
10. APPOINTMENT OF A SPECIAL OFFICER

In the identified area a Special Officer not below the rank of an Additional District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell. The Special Officer shall be responsible for:

(i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity;

(ii) setting up an awareness centre and organising workshop in the identified area or at the district head quarters to educate the persons belonging to the Scheduled Castes and Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes etc. framed therein;

(iii) co-ordinating with the non Governmental organisations and providing necessary facilities and financial and other type of assistance to non-Governmental Organisation for maintaining centres or organising workshops;

11. TRAVELLING ALLOWANCE DAILY ALLOWANCE MAINTENANCE EXPENSES AND TRANSPORT FACILITIES TO THE VICTIM OF ATROCITY, HIS OR HER DEPENDENT AND WITNESSES

(1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and fro rail fare by second class in express/mail/passenger train or actual bus or taxi fare from his/her place of residence or actual bus or taxi fare from his/her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.

(2) The District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police, Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

(3) Every women witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 percent or more disability shall be entitled to be accompanied by an attendant of her/his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called upon during hearing, investigation and trial of an offence under the Act.

(4) The witness, the victims of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses, for the days he/she is away from the place of his/her residence or stay during investigation, hearing and trial of an offence, of such rates but not less than the minimum wages, as may be fixed by the State Government for the agricultural laborers.

(5) In addition to daily maintenance expenses the witness, the victim of atrocity (or his/her dependant) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time.

(6) The payment of travelling allowances, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-divisional Magistrate or any other Executive Magistrate to the victims that dependants attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or Superintendent of Police/ Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court.

(7) When an offence has been committed under Section 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim(s) of atrocity.

12. MEASURES TO BE TAKEN BY THE DISTRICT ADMINISTRATION

(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.
(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule Annexed to these Rules (Annexure-I read with Annexure-II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his/her dependent under sub-rule (4) in respect of death, or injury or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

13. SELECTION OF OFFICERS AND OTHER STAFF MEMBERS FOR COMPLETING THE WORK RELATING TO ATROCITY:

(1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and the Scheduled Tribes.

(2) It shall also be ensured by the State Government that person from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level of police posts and police station.

14. SPECIFIC RESPONSIBILITY OF THE STATE GOVERNMENT

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specific or appointed under Section 15 of the Act, various reports received, investigation made and preventing steps taken by the District magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

15. CONTINGENCY PLAN BY THE STATE GOVERNMENT

(1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify, the role and responsibility of various departments and their officers at different levels and the role and responsibility of Rural/Urban, Local Bodies and Non-Government Organisations, inter alia, this plan shall contain a package of relief measures including the following:

(a) scheme to provide immediate relief in cash or in kind or both ;

(b) allotment of agricultural land and house sites ;

(c) the rehabilitation packages ;

(d) scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim ;

(e) pension scheme for widows, dependent children of the deceased, handicapped or old age victims of atrocity.

(f) mandatory compensation for the victims ;

(g) Scheme for strengthening the socio-economic condition of the victim ;

(h) provisions for providing brick/stone masonry house to the victims;
(i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.

(2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates. Inspectors General of Police and Superintendents of Police.

16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) The State Government shall constitute a high power vigilance and monitoring committee of not more than 25 members consisting of the following:

(i) Chief Minister/Administrator-Chairman (in case of a State under President’s Rule Governor-Chairman).

(ii) Home Minister, Finance Minister and Welfare Minister- Members (in case of a State under the President’s Rule Advisors-Members).

(iii) All elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and Scheduled Tribes-Members.

(iv) Chief Secretary, the Home Secretary, the Director General of Police, [representatives of the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes]1, [Not more than three social workers nominated by the Central Government]2 - Members.

(v) The Secretary in-charge of the Welfare and Development of the Scheduled Castes and the Scheduled Tribes-Convener

(2) The high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing, the provisions of the Act and various reports received by the State Government.

17. CONSTITUTION OF DISTRICT LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, three group ‘A’ officers/Gazetted officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official Members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organisations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member Secretary respectively.

(2A) [ omitted] 3

(3) The district level committee shall meet at least once in three months.

17A. CONSTITUTION OF SUB-DIVISION LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) In each Sub Division within the State, the Sub-Divisional Magistrate shall set up a vigilance and monitoring committee in his sub-division to review the implementation of the provisions of the Act, relief and rehabilitation

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1 Substituted vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2011
2 Inserted vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2013
3 Sub-rule " (2A)Not more than three social workers nominated by the Central Government” inserted vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2013 subsequently omitted vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2014
facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the Sub-Division Administration.

(2) The Sub-Division level vigilance and monitoring committee shall consist of the elected Members of Panchayati Raj Institutions belonging to Scheduled Castes and Scheduled Tribes, Deputy Superintendent of Police, Tehsildar, Block Development Officer, not more than two non-official member belonging to the Scheduled Castes and the Scheduled Tribes and not more than two members from the categories other than the Scheduled Castes and the Scheduled Tribes, having association with Non-Government Organizations. The Sub-Divisional Magistrate shall be the Chairperson and the Block Development Officer, the Member Secretary respectively.

(3) Not more than three social worker nominated by the Central Government- members

18. MATERIAL FOR ANNUAL REPORT

The State Government shall every year, before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes plans framed by it during the previous calendar year.

[File No. 11012/1/89-PCR (Desk)]

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1 Inserted vide the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2013
## NORMS FOR RELIEF AMOUNT

(See Rule 12(4) of SCs and STs (POA) Rules, 1995)


<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Offence</th>
<th>Minimum amount of Relief</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Drink or eat inedible or obnoxious substance (Section 3(1)(i))</td>
<td>Ninety thousand rupees or more depending upon the nature and gravity of the offence to each victim and also commensurate with the indignity, insult, injury and defamation suffered by the victim. Payment to be made as follows: 25% when the charge sheet is sent to the court. 75% when accused are convicted by the lower court.</td>
</tr>
<tr>
<td>2.</td>
<td>Causing injury insult or annoyance (Section 3(1)(ii))</td>
<td>Payment to be made as follows: 25% when the charge sheet is sent to the court. 75% when accused are convicted by the lower court.</td>
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<tr>
<td>3.</td>
<td>Derogatory act (Section 3(1)(iii))</td>
<td>At least Ninety thousand rupees or more depending upon the nature and gravity of the offence. The land/premises/water supply shall be restored where necessary at Govt. cost. Full payment to be made when charge-sheet is sent to the Court.</td>
</tr>
<tr>
<td>4.</td>
<td>Wrongful occupation or cultivation of land, etc. (Section 3(1)(iv))</td>
<td>At least Ninety thousand rupees or more depending upon the nature and gravity of the offence.</td>
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<tr>
<td>5.</td>
<td>Relating to land, premises and water (Section 3(1)(v))</td>
<td>At least Ninety thousand rupees to each victim. Payment of 25% at First Information Report stage and 75% on conviction in the lower court.</td>
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<td>6.</td>
<td>Begar or forced or bonded labour (Section 3(1)(vi))</td>
<td>At least Ninety thousand rupees to each victim depending upon the nature and gravity of the offence.</td>
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<tr>
<td>7.</td>
<td>Relating to right to franchise (Section 391)(vii)</td>
<td>Up to Seventy five thousand rupees to each victim depending upon the nature and gravity of the offence.</td>
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<td>8.</td>
<td>False, malicious or vexatious legal proceedings (Section 3(1)(viii))</td>
<td>Ninety thousand rupees or reimbursement of actual legal expenses and damages or whichever is less after conclusion of the trial of the accused.</td>
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<tr>
<td>9.</td>
<td>False and frivolous information (Section 391)(ix)</td>
<td>Up to Ninety thousand rupees to each victim depending upon the nature of the offence. Payment of 25% when charge sheet is sent to the court and rest on conviction.</td>
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<tr>
<td>10.</td>
<td>Insult, intimidation and humiliation (Section 3(1)(x))</td>
<td>One lakh eighty thousand rupees to each victim of the offence. 50% of the amount may be paid after medical examination and remaining at the conclusion of the trial.</td>
</tr>
<tr>
<td>11.</td>
<td>Outraging the modesty of a woman (Section 391)(xi)</td>
<td>Up to Three lakh seventy five thousand rupees or full cost of restoration of normal facility, including clearing when the water is fouled. Payment may be</td>
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<td>14.</td>
<td>Denial of customary rights of passage [Section 3(1)(xiv)]</td>
<td>Made at the stage as deemed fit by District Administration. Up to Three lakh seventy five thousand or full cost of restoration of right of passage and full compensation of the loss suffered if any. Payment of 50% when charge sheet is sent to the court and 50% on conviction in lower court.</td>
</tr>
<tr>
<td>15.</td>
<td>Making one desert place of residence [Section 3(1)(xv)]</td>
<td>Restoration of the site or right to stay and compensation of Ninety thousand rupees to each victim and reconstruction of the house at Govt. cost, if destroyed. To be paid in full when charge sheet is sent to the lower court.</td>
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<tr>
<td>16.</td>
<td>Giving false evidence Section 3D(2)(i) and (ii)]</td>
<td>At least Three lakh seventy five thousand rupees or full compensation of the loss or harm sustained. 50% to be paid when charge sheet is sent to Court and 50% on conviction by the lower court.</td>
</tr>
<tr>
<td>17.</td>
<td>Committing offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more Section 3(2)(v)</td>
<td>At least One lakh eighty thousand rupees depending upon the nature and gravity of the offence to each victim and/or his dependents. The amount would vary if specifically otherwise provided in the Schedule.</td>
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<tr>
<td>18.</td>
<td>Victimization at the hands of public servant [Section 3(2)(vii)]</td>
<td>Same as the compensation payable, if the accused was not a public servant.</td>
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<tr>
<td>19.</td>
<td>Disability, the definitions of physical &amp; mental disabilities are contained in the Ministry of Welfare, GOI notification No.4-2/83-HW.III dated 6-8-1986 as amended from time to time. A copy of the notification is at Appendix. II. (a) 100% incapacitation (i) Non-earning Member of a family. At least Three lakh seventy five thousand rupees to each victim of offence.50% on First Information Report and 25% at charge sheet and 25% on conviction by the lower court. (ii) Earning member of family. At least Seven lakh fifty thousand rupees to each victim of offence. 50% to be paid on FIR/Medical examination stage. 25% when charge-sheet sent to court and 25% at conviction in lower court. (b) Where incapacitation is less than 100% Provided that an amount of not less than sixty thousand rupees from the amount payable to non-earning member of a family and an amount of not less than one lakh twenty thousand rupees from the amount payable to an earning member of a family may be</td>
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<td></td>
<td>Murder/Death</td>
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<td></td>
<td>(i) Non-earning member of a family.</td>
<td>At least Three lakh seventy five thousand rupees to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.</td>
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<tr>
<td></td>
<td>(ii) Earning member of a family.</td>
<td>At least Seven lakh fifty thousand rupees to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.</td>
</tr>
<tr>
<td>21.</td>
<td>Victim of murder, death massacre, rape, mass rape and gang rape, permanent incapacitation and dacoity.</td>
<td>In addition to relief amounts paid under above items, relief may be arranged within three months of date of atrocity as follows:-</td>
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<td></td>
<td>(i) Pension to each widow and/or other dependents of deceased Scheduled Castes and Scheduled Tribes @ Four thousand five hundred rupees per months, or employment to one member of the family of the deceased, or provision of agricultural land and house, if necessary by outright purchase.</td>
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<td>(ii) Full cost of the education and maintenance of the children of the victims. Children may be admitted to Ashram Schools/residential schools.</td>
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<td></td>
<td>(iii) Provision of utensils, rice, wheat, dals, pulses etc. for a period of three months.</td>
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<tr>
<td>22.</td>
<td>Complete destruction/burnt houses.</td>
<td>Brick or stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.</td>
</tr>
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</table>
ANNEXURE- XIX
(Cont.)

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT
NOTIFICATION
New Delhi, the 1st June, 2001

Subject: Guidelines for evaluation of various disabilities and procedure for certification.

No. 16-18-97-NI. I.- In order to review the guidelines for evaluation of various disabilities and procedure for certification as given in the Ministry of Welfare’s O.M. No. 4-2/83-HW.-III, dated the 6th August, 1986 and to recommend appropriate modifications/alterations keeping in view the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Government of India in Ministry of Social Justice and Empowerment, vide Order No. 16-18/97- NI. I, dated 28-8-1998, set up four committees under the Chairmanships of Director General of Health Services-one each in the area of mental retardation, Locomotor/Orthopaedic disability, Visual disability and Speech & Hearing disability. Subsequently, another Committee was also constituted on 21-7-1999 for evaluation, assessment of multiple disabilities and categorization and extent of disability and procedures for certification.

2. After having considered the reports of these committees the undersigned is directed to convey the approval of the President to notify the guidelines for evaluation of following disabilities and procedure for certification:-

1. Visually impairment
2. Locomotor/Orthopaedic disability
3. Speech and hearing disability
4. Mental retardation
5. Multiple Disabilities.

Copy of the Report is enclosed herewith as Annexure.  

3. The minimum degree of disability should be 40% in order to be eligible for any concession/benefits.

4. According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996 notified on 31.12.1996 by the Central Government in exercise of the powers conferred by sub-section (1) and (2) of section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of1996), authorities to give disability Certificate will be a Medical Board duly constituted by the Central and the State Government. The State Government may constitute a Medical Board consisting of at least three members, out of which at least one shall be a specialist in the

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6 For full Report please see the website of the Ministry of Social Justice and Empowerment www.socialjustice.nic.in
particular field for assessing locomotor/ Visual including low vision/ hearing and speech disability, mental retardation and leprosy cured, as the case may be.

5. Specified tests as indicated in *Annexure* should be conducted by the medical board and recorded before a certificate is given.

6. The certificate would be valid for a period of five years for those whose disability is temporary. For those who acquire permanent disability, the validity can be shown as ‘Permanent’.

7. The State Governments/UTs Administrations may constitute the medical boards indicated in para 4 above immediately if not done so far.

8. The Director General of Health Services Ministry of Health and Family Welfare will be the final authority, should there arise any Controversy/ doubt regarding the interpretation of the definitions/ classifications/ evaluations tests etc.

GAURI CHATTERJI, Jt. Secy.