

prepared drafts of National Rehabilitation and Resettlement Policy for the displaced person and of Land Acquisition, (Amendment) Bill. A meeting of activists was organized by the Ministry on the 21st January, 1999. A suggestion to incorporate the provisions rehabilitation and resettlement into the amendments to the land acquisition bill was proposed at the meeting. Following this a National workshop of the activist was organized by the national committee for the protection of natural resources on 30th and 31 January, 1999 at Bangalore. Representatives of over 60 organisations assembled there decided to prepare an alternate draft and formed a committee to do so. The committee prepared the draft that integrated the provisions for land acquisition and rehabilitation and resettlement in one bill. The same was submitted to the Ministry and was published. However, for reasons not revealed, the drafts were not submitted to the Parliament and were practically forgotten.

Later the National Human Rights Commission took up the issue and requested the Ministry to take proper action. It recommended action in three consecutive annual reports. In the Report for 2002-03 the Commission has noted the reactions of the Ministry as follows :

Project Affected Persons (Resettlement and Rehabilitation) Bill. The Ministry has submitted its proposal to the standing committee of secretaries (SCOS) and would consider the subject after comments from different Ministries / Departments have been received. The approval of the SCOS is still awaited.

Land Acquisition (Amendment) Bill- The Ministry of Rural Development subsequently received two new proposals on this subject. The two proposals were incorporated and submitted to the Ministry of Law for concurrence.

It was evident that the Ministry wanted two separate laws to amend the Land Acquisition Act and to provide for the Resettlement and Rehabilitation of the project affected persons.

National Policy on Resettlement and Rehabilitation of Project Affected Persons, 2004.

In February 2004, the Ministry adopted a National Policy for Resettlement and Rehabilitation. It was stated in the preamble that there is need to minimise large scale displacement and to handle the issues related to resettlement and rehabilitation with utmost care. Intention of the policy is 'to impart greater flexibility for interaction and negotiation so that the resultant package gains all round acceptability in the shape of a workable instrument providing satisfaction to all stakeholder / requiring bodies'. The policy resolution is an improvement over the earlier ones. However, it did not mention the need to amend the Land Acquisition Act to bring it in line with the policy.

National Rehabilitation and Resettlement Policy 2007 :

Then again the Ministry came up with a new National Rehabilitation and Resettlement Policy that came into operation on the 31st Oct. 2007. This incorporates a number of points made in the earlier resolutions. Two major points mentioned in the objectives are 1. to provide a better standard of living, making concerted efforts for providing sustainable income to the affected families and 2. to integrate rehabilitation concerns into development planning and implementation process. Many provisions in the

- 2) The definition of the affected family is also quite existing. Besides the land holder and tenants and lessees of the acquired land it includes 'Any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land or either homestead or agricultural land), rural artisan, shall trodden or self - employed person; who has been residing or engaged in 'any trade, business or occupation or vocation continuously for a period of not less than five years in the. affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or, being involuntarily displaced for any other reasons (s.3 (iii))
- 3) A provision is made in the Amending Bill to the Land Acquisition Act to ensure that a social impact assessment shall be carried out in cases involving the physical displacement of 400 or more families en masse or 200 or more * families on mass in tribal or hilly areas or areas specified in V schedule or schedule VI to the Constitution. The R&R Bill adds that the assessment will include impact on public and community properties, facilities for roads, provision of drinking water, public utilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds (s.4)

However, the assessment will be in such manner and within such time as may be prescribed by rules made by the Central Government. The provision for social impact assessment is very desirable but it must be made clear as to who will conduct the social impact assessment. In view of the proclaimed principles of participatory, informed and transparent process, leaving at least the important issues of the agency and its composition to the rules is contrary to the claims and these must be specified in the Amending Bill and the R&R Bill. Unless these provisions relating to the agency entrusted with the task of carrying out the assessment are made clear, it will be difficult to call the related provisions as informed, participatory and transparent.

- 4) There is no provision in the Amending Bill as well as in the R&R Bill to publish this social impact assessment. This also goes against the proclaimed principles in the statement of subjects and reasons.
- 5) According to the provision in the Amending Bill and the R&R Bill, the social impact assessment report shall be submitted to the independent multi-disciplinary group consisting of two non-official social scientists, secretary of the Tribal Welfare Department or his nominee and a representative of the requiring body, all to be nominated by the appropriate government. There is no provision for appointing any representative of the affected persons. This can not be called informed and participatory.
- 6) Section 7 of the R&R Bill provides the social impact assessment clearance shall be granted in such manner and within such time as may be prescribed. It appears that the clearance is to be given by the Expert Group and that it can be conditional. However, there is no provision that it should be published and made available to the public. This is quite necessary to ensure that the people and in particular the likely to be affected know the details of the clearance of the Expert Group. The report of the Expert Group must be made available to the people in the interest of making the process participatory,

the eminent expert are to be associated as consultants or members. The functions and powers of this committee are not described

- 19) In every major project there shall be an Oversight Committee for R&R in the ministry or the department of the appropriate government. The composition, functions and procedures of the committee shall be prescribed in the rules. This is an unnecessary addition to the committees and authorities provided for in the bill. For every project there is an administrator and also a R&R committee. At the State level there will be a commissioner for R&R and also an ombudsman. There is no need for any oversight committee. This provision should be deleted.
- 20) A National Rehabilitation Commission shall be set up by the Central Government with power to supervise and exercise general oversight over rehabilitation and resettlement of the affected families covered under this Act. The composition of the Commission is left to the rules.

This again is very vague. The better way will be to merge the National Monitoring Committee with the National Commission. The commission should have independent experts and should be empowered to monitor the implementation of the Act. This will do away with a large committee of more or less ornamental type. The composition of this important commission and its powers and functions should be a part of the Act and should not be left to the rules.

- 21) Guidelines are given for the survey of affected families, for the rehabilitation scheme, purchase of land and provisions for infrastructural facilities (sections 23 to 50). Many of these are recommendatory with qualifications like as far as possible.
- 22) A major provision rules out the jurisdiction of civil courts in matters relating to the R&R. The purpose is to do away with the injunctions issued by the civil courts.

