

The Rehabilitation and Resettlement Bill, 2007

Critique Paper

EQUATIONS

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In December 2007, the government tabled the Rehabilitation and Resettlement Bill (2007) and the Land Acquisition (Amendment) Bill (2007). According to the official note of the Ministry of Parliamentary Affairs, both the Bills are an attempt to give statutory backing and amend the provisions of The National Rehabilitation and Resettlement Policy (2007) and The Land Acquisition Act (1894) and to strike a balance between statutorily acquiring land for development and protecting the interests of the people whose lands are acquired. Estimates indicate that since independence (1947), more than 40 million people have been displaced due to various development projects and a large majority have not been compensated. In this paper, we critique both these Bills, as they will determine the basis for land acquisition by the government in the future. Since much of our work is on the impacts of tourism on communities, our critique of these Bills highlights the issues from the perspective of tourism and tourism development linked displacement.

Context

In December 2007, just before the winter session of Parliament ended, the government tabled the Rehabilitation and Resettlement Bill, 2007 and the Land Acquisition (Amendment) Bill, 2007. The Parliamentary Standing Committee on Rural Development has invited suggestions on both the bills as part of their public consultation.

According to the official note of the Ministry of Parliamentary Affairs the Rehabilitation and Resettlement Bill, 2007 is an attempt to give a statutory backing to the provisions of The National Rehabilitation and Resettlement Policy, 2007. It also states that the Land Acquisition (Amendment) Bill, 2007 seeks to amend the various provisions of The Land Acquisition Act, 1894 with a view to strike a balance between the need for land for development and other purposes and protecting the interests of the persons whose lands are statutorily acquired.

Both the Bills come at in the context of central and state governments pursuing current rates of economic growth through incentivising industry and the deployment of domestic and foreign private capital on a massive scale in new infrastructure and industry. The relentless drive by the government at Central and State level for investment and related acquisition of land to facilitate the interest of the investors. In Various models are being promoted. These include among others 'Special Economic Zones' (SEZ), Special Tourism Zones (STZ) 'Private-Public partnerships' and 'Build-Operate-and-Transfer' for infrastructure development and de-notification of forest areas for mining. Apart from tax and duty concessions; dilution of labour and environmental legislations of the country; and dilution of regulatory mechanisms like Environmental Impact Assessment (EIA); government policies are calling for creation of "Land Banks" for all sorts of investment oriented activities including tourism. They are encouraging governments to make land available by the state at desirable locations and low prices to private entrepreneurs and corporations. To make the proposition more attractive, land is promised not just for the requirements of the planned economic activity, but also for other uses such as developing residential townships, business districts or entertainment hubs. As a result, violent conflicts between local communities and government and private developers are on the rise in various parts of the country.

There are numerous people's movements and civil society groups who have worked for many years fighting a desperate battle against mindless, unplanned displacement and completely inadequate and insensitive rehabilitation (if any) meted out to those displaced. They have sent in their comments and concerns on the both the Bills. We lend our voice of solidarity to those concerns and to the plight of people who are the targets and victims of development induced displacement – who end up paying the costs but not reaping the benefits of such "development". Along with many other civil society organizations, EQUATIONS also presents a set of comments, concerns and critique of primarily the R&R Bill which is being said to be basis on which land acquisition is to be made by the government in the coming future. We have also commented on few provisions in the LA (Amendment) Bill that we felt was important to make the connections comprehensible. **As we work specifically through research and advocacy on the impacts of tourism on communities (many of whom are displaced by tourism and tourism linked infrastructure projects) our critique of the R&R Bill highlights the issues from the perspective of tourism and tourism development linked displacement.**

Background on Evolution of the Rehabilitation & Resettlement Bill, 2007

After the first attempt at a draft policy on rehabilitation in 1985-86, a draft Rehabilitation Policy 2003 came after immense pressure from movements of displaced persons and civil society groups. In a short span of two years, the Government of India, Ministry of Rural Development (MoRD), Department of Land Resources has come up with two rehabilitation policies, one notified in February 2004 (also called National Policy for Resettlement and Rehabilitation of Project Affected Families or NPRR 2003) and one in October 2006 (called National Rehabilitation Policy or NRP 2006). The 2003 policy was widely debated by civil society groups so was the policy of 2006.

Though the National Advisory Council (NAC) was set up by the UPA Government in 2004, with the mandate to have an interface with civil society in regard to the implementation of the National Common Minimum Programme (NCMP) of the Government¹, the revised version of the policy placed by NAC in 2006 was ignored and important recommendations watered down in the draft National Rehabilitation Policy that was tabled in November 2006. EQUATIONS in it's Research and Critique Paper of the Draft National Rehabilitation Policy 2006 sent to the Ministry of Rural Development in November 2006 had pointed out that some of the important recommendations of NAC that were overlooked included the following:

- Displacement as a rule should not be forced. Forced displacement of people should only be permitted in "rarest of rare" cases, only after it has been established by independent and credible evaluation that the displacing project has the sorts of social benefits that are indisputable.
- The NAC recommends "as a rule displacement should be preceded by detailed discussion of all project related information in the Gram Sabha". NAC recommends consent of Gram Sabha as mandatory for any land acquisition and compensation packages.
- Consequently, the prior informed consent of the community should be taken before any project resulting in displacement. Prior informed consent of people is a critical issue and the new policy does not seem to taking this as a serious issue.
- NAC had widened the scope of Project Affected People to cover all those affected by any of the works or activities related to the project. Policy should be applicable to all individuals, families and communities that are either physically displaced from their homes or whose livelihood activities or access to natural and common resources is adversely affected.
- Time line to be specified to ensure R & R is done within a stipulated time. Given the record of rehabilitation on large scale development induced displacement (justice delayed is justice denied)
- Amendments in Land Acquisition Act: Some of the changes suggested by NAC include defining public good, providing compensation for loss of livelihood, shelter, habitat, cultural and natural resources, adherence to PESA for tribal areas, role of Gram Sabha and Panchayats in taking decision with regard to acquisition, resettlement and rehabilitation.
- NAC states that it is essential to make new rehabilitation as a right legally enforceable.

Persistent lobbying and campaign by Civil Society Organisations and concerned individuals from across the country persuaded the government to redraft the policy. On 31st October 2007 the National Rehabilitation and Resettlement Policy, 2007 (RRP 2007) was finally passed. The RRP 2007 addressed many concerns and included some progressive provisions.

During the same time,² the archaic Land Acquisition Act 1894 came under the scanner of the Supreme Court. The Court, for the first time, directed the Centre and all states to furnish their responses on a petition raising question on the clause of "public purpose" besides posing other challenges to provisions of the said Act. The Bench headed by Chief Justice of India K G Balakrishnan, acting on a public interest petition filed by an association of landless farmers of Karnataka, issued notices to chief secretaries of all states besides seeking response from the Union Ministries of Commerce and Agriculture. The petition filed under Article 32 of the Constitution raised a rather crucial question as to what constitutes the "public purpose" citing which the Government is authorised to acquire land, owned by farmers and cultivators under provisions of the statute under question. The petitioner thereby challenged the legality and constitutional validity of the sections including Section 3(f), 4 and 6 of the said Land Acquisition Act 1894, which authorises the Government to acquire land under the guise of "public purpose" terming it as unconstitutional and violative of the Articles 14 (Right to Equality), 19 (1) (g), 21 (Right to life and personal liberty) besides others rights enshrined in the Constitution.

Points of Critique

The development processes in India has largely remained top down, led by central and state governments. Ever since independence, it is largely the government who has decided the nature, form and process of development. On purported grounds of public purpose and greater good, millions of people have been displaced from their lands, social and cultural milieu and environment. Estimates indicate that since independence more than 40 million people have been displaced due to various development projects. This figure does not include those deprived of their livelihoods by the expansion of large estate monoculture production, project related natural resource extraction, urban evictions, or by the relocation of other displacement victims³. The impact of such displacement is disproportionately borne by marginalized sections of society such as dalits, tribal communities, women and children. It is expected that with neo-liberal development models, the number of people facing direct and indirect consequences of displacement will increase. In such a context, the role of the state and the tenor, principles, and processes of its policies become critical. The initiative by the government to amend the archaic and draconian LA Act and making R& R legally enforceable is a welcome move. The experience of the Sardar Sarovar, the Hirakud Dam, construction of large plants and highways in fact innumerable other projects over the last 60 years reveals the inadequacy of policy - at the project, company, state or even national level - to address the legal neglect of displacement and the rights of the affected people, particularly those without land or tenancy. The importance of Law arises from the fact that Policy is not enforceable but law is. Will the courts provide relief when the promises contained in a policy are not adhered to? Explaining how courts look at policy as opposed to statute law, Usha Ramanathan writes: "Statute law where it defines (or denies) rights is binding. Policy on the other hand, has at best a persuasive value. Courts are bound by statements in the law, but are free to be guided by policy or to ignore it."⁴

There has been general recognition among those concerned with displacement that the law must look at the entirety of loss of rights of the affected, not just the loss of ownership and tenancy rights and that resettlement and rehabilitation should be as much the consideration of law as the land acquisition that necessitates them. The numerous conditions associated with rehabilitation and resettlement and the un-enforceability of various provisions all reduce the proposed legislation to little more than a statement of policy.

Civil courts are barred by the bill from entertaining suits on matters that are the responsibility of the R&R administration. Identification of 'affected families', the resettlement plan including land and amenities to be provided, and the implementation of the plan are under the R&R administration. What happens if benefits described in the bill are not forthcoming? Grievances may not be taken to courts but only to an ombudsman appointed by the government. In this respect, the situation will be no different from what prevails today - beneficiaries and benefits of R&R will be determined solely by the Government. Perhaps the only recourse to courts allowed by the bill is in case of violation of the R&R process that it specifies.

Specific points of critique:

(a) Scope of "Public Purpose" under the LA (Amendment) Bill:

Proactive Proposal	Concerns	Recommendations
Attempt to define "Public Purpose"	<ul style="list-style-type: none"> The definition remains vague and subject to a wide range of interpretation. The wordings like "any other work vital to the state" in Section 5 (v) (i) of the LA (Amendment) Bill 2007 can be misused to legalise acquisition of land for any purpose. Similarly with respect to the infrastructure projects, it is unclear what is meant by "where the benefits accrue to the general public"- Section 5(v)(ii). Section 5(v)(iii)- help private persons to acquire extra stretches of land. – This will encourage private parties to acquire huge tracts of land through coercive measures and then ask the government to help them acquire more tracts in the name of development and modernisation. A similar model was adopted by Reliance for the SEZ in Navi Mumbai, and the Subhas Chandra promoted Essel Group SEZ in Gorai- Manori region in Maharashtra. 	The Ministry should provide a more precise definition "Public Purpose". The present definition proposed is completely opened ended and hardly different from the definition used in the LA act 1894.

“Public Purpose” grants license to the government to acquire. Thus, it is extremely crucial that it is given a clear and distinct definition that does not leave any scope for wide interpretation and misuse. This has been a long standing demand of the communities who have borne the brunt of displacement that “Public Purpose” should be defined in clear terms. The NAC had in its Report attempted to define and outline qualifiers for public purpose and public interest, as these concepts have been instrumentalised to “legitimise” and justify displacement.

(b) The Definition of “Affected Area” and “Affected Community” under R&R Bill:

Proactive proposal	Concerns	Recommendations
<p>Expansion of the definition of “affected families” to include people who neither have land rights nor tenancy rights. Also expansion of the definition of “affected areas” to include land in urban areas.</p>	<ul style="list-style-type: none"> • The bill prescribes conditions for project affected families to qualify as beneficiaries and makes the benefits themselves conditional on external circumstances. • An area will be notified as an 'affected area' will include "where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families en masse in plain areas" (the number is 200 for hilly and tribal areas). R&R planning is mandated by the bill only for families living in such 'affected areas'. A family that neither owns nor occupies (tenants) land such as that of an agricultural labourer, artisan, small shop keeper, etc will be considered to be an 'affected family' and entitled to any R&R benefits only if it can prove that it has been living in that notified 'affected area'. This limits the scope of R&R. Specially with respect to rural and urban poor. Marginalized sections of society, especially poor communities at large (both urban and rural) migrate in search of labour and related income. Like agricultural labourers in rural settings, the mill workers in Mumbai, the women working in the garment industry in Bangalore travel large distances for their livelihood. So do the hawkers, coolies and many others employed in the unorganised sector in towns and cities of India. • The attached condition that these families will need to prove residence for 5 years in the affected area in order to claim benefits is completely irrational. How will they prove it? Most of them do not have the luxury of time or support of government machinery to obtain voters identity card or card for availing the Public distribution system. According to some observers, such requirement only reveals the distrust of the Government towards this section of society⁵. • The other conditions like land will be allotted to 'affected families' whose agricultural land has been acquired "if Government land is available in the resettlement area" or preference will be given in jobs to 'affected families', "subject to the availability of vacancies and suitability of the affected person for the employment", limits the scope of rehabilitation and resettlement for the people displaced, and in effect allows the government to get away without any real accountability. 	<p>Unconditional Rehabilitation and resettlement to all affected. The definition of affected area needs to be given a wider definition.</p>

It is disheartening to see that the government still continues to hold the opinion that the scale of the displacement will decide if there will be planned R&R of the displaced. While acquiring land for a 'public purpose', with its attendant displacement and denial of livelihood, is claimed as a right of the state under its powers of eminent domain, the R&R bill does not accept that it is the unconditional duty of the state to resettle and rehabilitate all the affected citizens, irrespective of numbers, so that they are able to maintain, if not improve, their current standard of living. Instead, rehabilitation is presented as an act of benevolence of the state, a measure to mitigate the suffering of the affected citizens to the extent permitted by the external circumstances and subject to various conditions. This numbers clause is a poorly disguised ploy for the government to abdicate its responsibility to rehabilitate and resettle those who are displaced. It is a known fact that communities in the tribal and hilly areas stay scattered in small hamlets. In most cases the number displaced in a particular project related displacement in such areas may not lead to a head count of 200 displaced. Can the state so easily disregard the fundamental right of the people to life and livelihood under Article 21 of the Constitution?

Moreover, as per the new Bill the scale of displacement will determine if families who neither own nor occupy land (who are the poorest) will be entitled to any benefits at all - unconscionable from the standpoint of justice. Do the impacts of displacement on the lives of those who get displaced become more when the numbers of those displaced are manifold? The severity of the impacts is of equal magnitude on the life, livelihood and socio-cultural identity of those displaced, irrespective of whether the number is 4 or 400.

(C) Definition of Infrastructure Project under the LA (Amendment) Bill:

Proactive proposal	Concerns	Recommendations
The definition of "infrastructure Project" has included construction of roads, highways, bridges, airports, ports, rail systems, mining activities, water supply projects, irrigation projects, and sanitation and sewerage system.	Tourism projects have been not been included in the definition of infrastructure projects.	Immediate need to include the tourism projects within the definition of infrastructure projects. The inclusion will give legal entitlement to the local communities who are displaced due to tourism projects to claim R&R.

It is a little known fact that tourism development projects propagated as "clean and green" and employment generating, have both direct and indirect impact on peoples' rights, livelihood access to resources and social fabric and also results in displacement. Tourism has also played a role in the eviction of indigenous people, fishing communities and people in general from their ancestral lands only to then open them up to 'tourism', packaged in various names like "eco-tourism", "beach- tourism", "wildlife tourism" "adventure tourism" etc. While it might seem that the land requirements for tourism activities are not high, this is not true. The tourism and entertainment SEZ in Gorai-Manori is acquiring 1000 hectares, the Delhi Commonwealth Games Village STZ requires 250 acres and the Haryana government's planned Tourism Economic Zone in Gurgaon to build "Disneyland" is going to grab huge tracts of land as well although no official figure on size of this project has yet been quoted. A multi-million dollar project to build a huge statue of Buddha and develop Kasya (the site where the Buddha spent his last days) in Kushinagar as a tourist site threatens to displace 700 families from 600 acres of cultivable land⁶. The Sardar Sarovar project has been a symbol of state indifference to displacement and rehabilitation issues. It is widely discussed. However, what is not very well known is that Sardar Sarovar Nigam has decided to launch an eco-tourism Project near Kevadia to meet the growing demand of tourism industry in the name of upgrading the environment. This project will affect six villages near the dam site, causing loss of agricultural land to number of tribal families, many of whom had been displaced during the construction of the first phase of the Dam.

(d) Social Impact Assessment (SIA) as Proposed in LA (Amendment) Bill and laid down in the R&R Bill:

Proactive proposal	Concerns	Recommendations
<p>Inclusion of mandatory Social Impact Assessment (SIA) prior to acquisition of land under LA (Amendment) Bill 2007 and related provisions in RR Bill 2007.</p>	<ul style="list-style-type: none"> • It is not clear whether a proposed acquisition shall be stopped if the SIA indicate that the acquisition and related project will have devastating impact on the local community. Though the Rehabilitation and Resettlement Bill 2007 based on which the LA (Amendment) Bill has been formulated does talk about ameliorative measures in such cases, the prescription remains confined to schemes and programmes of the government. We are only too painfully aware of how schemes and programmes in this country are marred by corruption and discrimination based on caste, sex and social standing. • The precondition that SIA will be conducted only where the number of people displaced is as per the limit prescribed in the R&R Bill is a limiting factor. In other words, both the Bills are considering only large scale physical displacement and ignoring the impacts of project on other aspects and not considering secondary displacement. In case of tourism related projects, the physical displacement of families may not be very high and visible in most of the cases. However, it has far reaching impact on livelihood, environment and socio cultural aspects of people. • The prescribed composition of independent multi-disciplinary expert group for examination of SIA report neither includes any representative of the local community that will get affected by acquisition nor any of their elected representatives from the local self governing institutions. It also does not prescribe any representation from civil society. However, makes mandatory inclusion of representative of the company or institution for whom land is to be acquired by the government. 	<ul style="list-style-type: none"> • Both the Bills should include both direct (primary) and indirect (secondary) displacement and consider not only physical displacement but overall impacts of the project. The Policy needs to consider impacts on access and control over common property and natural resources, impact on social and cultural aspects apart from physical displacement of families. • Criteria for SIA, EIA and Planning (400 families in case of plains and 200 families in case of hilly/ tribal areas) need to be changed. SIA and EIA process need to be mandatory, across the projects and geographical areas. • SIA should be given due value. Acquisition and related proposed project should be stopped if SIA indicates negative impacts. • Inclusion of representative of the local community in the independent multidisciplinary expert group constituted for examination of the SIA report.

Reiterating the concern EQUATIONS had highlighted in its critique of the Draft National Rehabilitation and Resettlement Policy 2006, it is of concern that R&R Bill still does not take into account the projects where physical impact is not as visible and effects are indirect or secondary. For instance in Goa, star category hotels and resorts such as Bogomalo Beach Resort, Holiday Inn Resort, Leela Palace at Mobor beach and Taj Fort Aguda Resort at Calangute beach and several other resorts have come on the beaches. On an average each of these star category resorts have used about 20 acres of land on the beach. The Taj Fort Aguda Resort has used about 73 acre land on Calangute beach, one of the major attractions for tourists. Although physical displacement of people due to development of resorts may not be a very large numbers, it has affected people's access to the coast to pursue traditional livelihood. The small shack owners and communities dependent on fishing have been affected by such developments. Hence, the Bill should consider mandatory and participatory SIA across the range of projects and not just define its applicability in terms of numbers directly affected. The NAC's principles on project affected people also

reiterated the fact that displacement is much more than physical displacement of people and has far reaching impacts on people's livelihood and socio-cultural aspects of their lives. The recent move of the government both at Centre and State to promote Special Tourism Zones to press forward elite and luxury tourism at the cost of displacement of people only goes to reiterate the need for such clauses and caution to be included in the bill.

(e) Non Inclusion of Common Property Resource in any of the Definitions in the R&R Bill:

The history of land acquisition by government shows that these have been predominantly in tribal belts which are predominantly rich in natural resources like forest, minerals and water and rural areas that cater to the need to huge tracks of unobstructed land. In the recent past government has embarked into the task of acquiring lands adjacent to city and town under the guise of city and town planning and related development.

Most of these land acquisitions covered entire villages and their common property resources - tanks, grazing lands and village forests. Land use in India is not confined to cultivation but also extends to collective use for day-to-day survival. Fuel, fodder, and other non-timber forest produce requirements are met from land, which could be categorised as common property resources or charagah, gaucher, pandit bhoomi in local languages. This forms almost 20 percent of the total geographical area of the country⁷. These lands contribute to almost 12% of the income of poor households. In states like Maharashtra, Madhya Pradesh and Rajasthan pastoral communities depend entirely on these lands for livestock rearing⁸. Most of the time these resources are impacted by large projects and they may not be acknowledged in official records. In Galikonda Raktakonda villages of Araku Panchayat, (Andhra Pradesh) the livelihood of families have been affected by bauxite mining, because of huge amount of wastes generated and dumped on hill slopes. Because of bauxite mining the ground water reservoir of region has witnessed depletion over the years, affecting agricultural practices of the area.

The present R&R Bill and also the LA (Amendment) Bill once again does not recognize the importance of these common property resources and include them in any of the definitions. The R&R Bill also does not prescribe for compensation for the expropriation of these common property resources.

(f) Resettlement and Rehabilitation Plan in the R&R Bill:

The R&R Bill has adopted a top down approach to planning. According to the Bill, the appropriate government (which is State/ Central government) should carry out the planning procedure. It is the responsibility of the appropriate Government to assess the extent of displacement. If in the Government's assessment there is likely to be displacement of 400 or more families in plain areas or 200 and more families in tribal/ hilly areas, it has to declare this in the Official Gazette. The Administrator, R & R, who is not below the rank of District Collector (DC) and appointed by the State/ Central Government (as the case may be) has been made overall in charge of the planning process. The entire set of tasks from conducting the survey, facilitation of consultative processes with affected families, land acquisition process, to actual preparation of scheme/ plan for the resettlement and rehabilitation have been assigned to the Administrator R & R . Even cost benefit analysis, accounts and record keeping are the Administrator's responsibility. The R&R Bill proposes the constitution of a Rehabilitation and Resettlement Committee (R&R Com.) under the Chairmanship of the Administrator to monitor and review the progress of implementation of schemes or plan of rehabilitation and resettlement of the affected families and to carry out post-implementation of social audits at the project level and also district level. This R&R Com. includes one representative each from the women residing in the affected areas, SC and ST in the affected areas, voluntary organisation working in that area, nationalised bank, the land acquisition officer of the project, the Chairpersons of the panchayats or municipalities located in the affected areas or their nominees, MP and MLA of the concerned area and representative of the party for whom the land is acquired. However, their powers and functions are not clearly laid down nor are their authority to take forward the issue of non-compliance/ default by the government in rehabilitating and resettling those who are displaced to the appropriate authority.

(g) Monitoring Mechanism Proposed in the R&R Bill:

The R&R Bill has the provision of a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes. The Committee shall have representation from concerned ministries and departments (which these are, is not defined) and eminent experts from the relevant field. The Secretaries of various ministries such as Social Justice and Empowerment, Agriculture, Tribal Affairs, Railways, Power, Coal, Water Resources, Environment and Forests, Mining, Road Transport and Highways, Commerce, Defence, Department of Industrial policy, Urban Development, Water resources, Panchayati Raj, Law and Justice and Planning Commission as per the National Rehabilitation and Resettlement Policy, 2007. However, important ministries/ departments that also

have the propensity to displace, such as Tourism, Civil aviation, Ports, Oil and natural gas, (irrigation and dams) and Home Affairs have not been mentioned.

There is also the provision of National Monitoring Cell, headed by Joint Secretary, Department of Land Resources. However, the Bill does not state clearly its composition, interface with the monitoring committee, state and central government agencies/ departments. Apart from outlining the composition of the monitoring committee, the bill is silent on its role and responsibilities, role of local institutions and affected families and communities in conducting the monitoring and evaluation of R & R. It is good to see that following the recommendation of NAC, the Bill proposes the formation of the National Rehabilitation Commission. However, in delineating the Commissions' power the Bill merely mentions that it shall have power to supervise and exercise general oversight over R&R of the affected families. It does not seem to provide following powers, roles and responsibilities of this Commission as recommended by the NAC:

- Assessment of all activities/ projects that lead to displacement.
- The power to impose sanctions on the requiring agency for lapses in the process of displacement and rehabilitation, including the imposition of monetary fines.
- Verify the necessity of displacement, and the extent of displacement that is likely to occur;
- Assess each referred project that involves displacement to ensure it adopts the least displacing alternative;
- Ascertain that the rehabilitation policy is capable of being implemented, for e.g., by verification that, where the policy of allocation of land as rehabilitation is recommended, land for such rehabilitation is available.

EQUATIONS' Recommendations

Apart from the broad concerns based on the principles highlighted throughout this note, EQUATIONS would like to draw the attention to certain issues in the context of tourism projects as summarized below:

The core principle of a Bill on resettlement and rehabilitation should be based on avoiding forced displacement in the first place and it should ensure serious exploration and implementation of non displacing alternatives. The need for certain kinds of tourism projects which bring very few benefits to local people but push onto them all the costs, is to be seriously questioned. The recent move of the Government to promote Special Tourism Zones to promote elite and luxury tourism at the cost of displacement of people is a pointer to the case.

- The R&R Bill needs to expand the "definition of projects" to include a wider range of development projects that cause displacement so that communities displaced can have recourse to rehabilitation and resettlement and define all the projects covered under the Bill (e.g.: dam, tourism, transport, urban development, irrigation forestry etc)
- The R&R Bill should include both direct (primary) and indirect (secondary) displacement and consider not only physical displacement but overall impacts of the project. The Bill needs to consider impacts on access and control over common property and natural resources, impact on social and cultural aspects apart from physical displacement of families.
- Criteria for SIA, EIA and Planning (400 families in case of plains and 200 families in case of hilly/ tribal areas) need to be changed. SIA and EIA process need to be mandatory, across the projects and geographical areas. The Bill need to clearly define the time frame for these processes and the provision of stopping acquisition if the SIA and EIA indicate adverse impacts.

It is of concern that the too many discretionary powers vested in the Government, the numerous conditions associated with rehabilitation and resettlement and the un-enforceability of various provisions all reduce the proposed legislation to again a tool in the hand of the government for acquisition.

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End Notes

1 The NAC comprises distinguished professionals drawn from diverse fields of development activity who serve in their individual capacities. Through the NAC, the Government has access not only to their expertise and experience but also to a larger network of Research Organizations, NGOs and Social Action and Advocacy Groups. The Council makes detailed recommendations to the Government of India in the areas of priority identified in the NCMP and to provide independent feedback on the impact of action initiated in various sectors. (www.nac.nic.in)

2 As reported in Indian Express May17, 2007

3 Refer "Development Displacement: Whose Nation is it?" Smitu Kothari, Published in PCD Form Column #77.

4 Refer "Right to displace, but no duty to rehabilitate" Kannan Kasturi, India Together, 4th January 2008.

5 Id 4

6 Refer "The Buddha Would Not Have Wanted This" <http://www.thesouthasian.org/> August 25, 2007

7 Refer "Don't call it Wasteland", Manshi Asher, The Times of India, 12 October 2006, Editorial. <http://timesofindia.indiatimes.com/articleshow/2151679.cms>

8 Ibid.