Summary Note for on R&R and LAAC Draft Bills

Prepared by constituent members of SANGHARSH (since 2007), a platform of 150 people’s movements and mass organisations engaged in fighting displacement across India.

In response to the proposed enactment of Land Acquisition (Amendment) Bill, and the Resettlement and Rehabilitation Bill, based on the earlier 2007 draft Bill prepared by the Ministry of Rural Development to be tabled in Parliament in Budget Session here is a summary of concerns regarding the nature and content of these two Bills and would like to bring them to the attention of MPs.

Major concerns

I) Process:

1) प्रक्रिया:

The existing draft Rehabilitation and Resettlement Bill, 2007, has dismissed a long process of participation, consultation, contribution, and inputs by civil society over the last few years. The draft approved by the National Advisory Council (NAC) in 2005, in particular, was the result of a series of national and regional consultations. We are unable to understand why the Government is bringing on yet another draft, ignoring the whole process of consultations which has happened till now. We demand that the draft approved by NAC be the basis for enactment of a National Development Planning Act and Land Acquisition Act be repealed.

II) Content:

2) Land Acquisition (Amendment) Bill

1. The proposed amendments are in effect more regressive than even the century old British land acquisition legislation.

   a. The Bill sanctions land acquisition for companies and private individuals by changing the definition of “persons” and “public purpose”. Thus private purposes
have now been directly included in the definition of “public purpose”, while omitting
using of the term ‘for Companies’

3) यह विषयक भूमि अधिग्रहण के लिए कंपनियों व निजी व्यक्तियों को “योग्यता” और
“सार्वजनिक हित” की परिभाषा बदलकर स्वीकार देता है। अब निजी प्रयोजन को “सार्वजनिक
हित” में जोड़ दिया गया है जबकि “कंपनियों के लिए” शब्द हटा दिया गया है।

b. Exhibiting a clear bias against the rural and urban poor and landless and rural areas
in general, provisions in 1894 Act regarding of village sites, provision of land for
residential purpose to the poor or landless, educational and housing schemes etc have
been explicitly removed from the definition of ‘public purpose’ by the proposed
amendments. The proposed amendments have defined ‘public purpose’ to include
three kinds of projects: (i) Projects that are of strategic defence purposes; (ii)
Infrastructure projects – including even mining; (iii) Projects for ‘any other purpose
useful to the general public’ which is to be carried out by a “person”, which
essentially means corporates, companies or private individuals.

2. The colonial legacy of land acquisition itself must be discarded. The Land Acquisition
Act, 1894, should be repealed. It should be replaced by a new comprehensive human
rights based legislation, which must among other things, clearly specify the definition of
“public purpose”, incorporate democratic processes and institutions, and aim to establish
“no enforced displacement” as a norm.

Rehabilitation and Resettlement Bill (R&R)
पुनर्स्थापना एवं पुनर्बस्त विधेयक (५० एवं ७०)
1. While recognising the injustice of forced displacement, the draft R&R Bill asserts that
displacement is an inherent part of development, thereby attempting to trivialise its
social, environmental and economic costs, and ignore the inherent human rights
violations it entails. The aim of any policy or Bill on R&R has to specifically be on
preventing or at least minimising displacement to the greatest extent possible.

1. जब तक बलपूर्ण विस्थापन के अन्याय को नही माना जाता, यह विषयक विस्थापन को विकास का
एक आवश्यक अंग मानता है, उसके द्वारा सामाजिक, पर्यावरणीय व आर्थिक लागत को नगण्य और
आवश्यक मानव अधिकार के उल्लंघन को कम करना है। ५० एवं ७० पर किसी भी नीति, विषयक
का मूल उद्देश्य विस्थापन को रोकना या पूरे प्रयासों से विस्थापन को कम करना हो।

2. The Bill does not recognise the right to rehabilitation and resettlement as a human right;
neither does it adhere to the fundamental principle that needs to be central to any R&R
policy, which is that rehabilitation should ensure that peoples’ habitats and
livelihoods are restored, in accordance with their needs and aspirations, and must
guarantee an improved lifestyle and overall well-being over what they enjoyed prior to the displacement. The proposed Bill does not even guarantee land for land rehabilitation.

2. The new R&R Bill does not recognise the human rights of those threatened by displacement and of already displaced people. It should be informed by and consistent with both international human rights principles and constitutional obligations. The non-negotiable principles of gender equality, non-discrimination and indivisibility of human rights must be adopted.

3. While the Bill speaks of rehabilitation sites, it does not lay down any minimum standards based on human rights norms that must characterize any rehabilitation site. Specific details related to location of the site, proximity to livelihood source, adequate housing, delivery of essential services, healthcare, education, and transport must be specified. A rehabilitation legislation without the articulation of minimum standards is meaningless.

4. A clear time line for completion of rehabilitation is also missing. At every stage of the process, a minimum timeframe has to be clearly specified. No land acquisition must be allowed before all R&R obligations are fulfilled by the government.
7. Concerns regarding development planning, land acquisition and resettlement and rehabilitation are intrinsically linked to one another and cannot be addressed in isolation. Resettlement and rehabilitation cannot be addressed by bringing on a Bill or Policy that does not address the root causes of displacement. Any proposed legislation must therefore be comprehensive and proposed on the lines of: Act on Development Planning, Minimal Displacement, and Just Rehabilitation.

7. विकास योजना, भूमि अभियान, पुरस्खलन और पुनर्वास आपस में मूलभूत रूप से जुड़े मामले है, इसे एकाएक रूप में नहीं देखा जा सकता। विस्थापन के मूल कारण को देखें बिना, नूरस्खलन और पुनर्वास पर मात्र एक विधेयक या नीति लाकर समयका समाधान नहीं किया जा सकता। इसलिए कोई भी प्रस्तावित विधि निर्माण व्यापक हो और इस आधार पर प्रस्तावित हो--विकास नियोजन पर कार्य, न्यूनतम विस्थापन, और न्यायपूर्ण पुनर्वास।

Non-Negotiables by people’s movements:
जन आंदोलनों के गैर-समझौते बाले मुदे

With reference to both the Bills, the following can be described as the basic non-negotiable principles, which have emerged through decades of discussion and debate among people’s movements across the country:

1. All legislation must be grounded in human rights and must recognise people’s individual and community rights over natural resources, including land, and must be grounded in the fundamental rights guaranteed by the Indian Constitution as well as India’s international human rights commitments.

2. **Options assessment** must be a part of the project planning process and it must begin at the smallest unit, i.e., the gram sabha/basti sabhas. It must be finalized pre-facto to ensure the appropriate options with no enforced displacement, socio-environmental impact assessment, and effective, efficient and just distribution of benefits.

3. No displacement without ‘prior informed consent’ should be acceptable in the case of any of the affected populations. **Prior informed consent** is a right of all, including marginalised groups like dalits, adivasis, nomads, and women.

4. Rehabilitation implies a social, economic and cultural alternative way of life and hence can’t be attained without an **alternative livelihood**, which needs to be land-based (to be allotted as private and common property) for agriculturist populations, forest dwellers and nomadic pastoral communities affected.
Demands from the Government:
सरकार से मांग

1. Keeping the above concerns in mind, the Land Acquisition (Amendment) Bill and the Resettlement and Rehabilitation Bill should be deferred in the present form.

2. Bring out a White Paper on all the land acquired using the Land Acquisition Act in the past, current utilisation of the acquired land, how much land acquired for one “public purpose” has been subsequently used for another and the status of the rehabilitation of the displaced persons as a result of such acquisition before these Bills are considered.

Requests from the Parliamentarians:
संसदों से निर्देशन

1. Keeping the above concerns in mind, categorically disapprove the Land Acquisition (Amendment) Bill and the Resettlement and Rehabilitation Bill, in its current form and demand its referral to a Joint Parliamentary Committee (JPC) for enactment of National Development Planning Act.

2. Suggest that instead of starting a fresh process of consultation, the draft approved by the National Advisory Council (NAC) in 2006 should be the basis for any further process of consultation.

3. Recommend the a new comprehensive legislation must spell out (i) our development goals (as a reference) for defining public interest (ii) the planning process including options assessments and criteria for choice and (iii) the democratic structure and administrative mechanisms that would be involved (iv) the process which should be based on India’s domestic and international human rights commitments as well–legal, humane – for no enforced displacement and (v) just and fair rehabilitation – principles, provisions and processes with democratic, decentralised administrative structure.
3. सिफारिश करें कि— (1) हमारे विकास के लक्ष्य सार्वजनिक हित के हो (2) नियोजन प्रक्रिया में विकल्प आकलन चुनाव का मानक हो (3) जनतात्मक ढांचा और प्रशासनिक तंत्र को भी शामिल किया जाये (4) ये प्रक्रिया भारतीय घरेलू व अंतरराष्ट्रीय मानवाधिकारों के प्रति वचनबद्धता पर आधारित हो जिसमें साथ ही बलपूर्वक विश्वास रोकने के लिए कानूनी और मानवीय (5) न्यायपूर्ण और उचित पुनर्वास— सिद्धांत, जनतात्मक प्रावधान और प्रक्रिया, विकसित प्रशासनिक ढाँचा