



July 31, 2011  
Shri Jairam Ramesh,  
Minister of Rural Development  
Government of India

**Sub : Concerns with regard to Draft Land Acquisition, Rehabilitation and Resettlement Bill**  
Dear Jairam Ramesh Ji,

We have seen and read the draft which has been put in the public domain for discussion and comment. It is indeed commendable that finally the government has accepted the recommendations of the NAC – I & 2 and Parliamentary Standing Committee on Rural Development 2008 to bring one comprehensive Bill. However, NAC – I and PSC both made recommendations keeping in view a development framework within the purview of the directive principles of the state policy and the fulfilling the functions of the State. Both these bodies had also made a detailed note of the definition of the ‘public purpose’ and in a way completely rejected the definition of the public purpose in 2007 Bill, which was repeated in 2009 Bill and now in 2011 Bill. This is extremely unfortunate that PSC in its report in point 5.38 says –

Committee feel that the definition of public purpose as given in Section 3 (f) of the Principal Act was much better. Besides Part VII of the Principal Act which the amending legislation propose to delete further tightened the definition of public purpose by putting some of the conditionalities.

So, the whole framework on which the 2011 Bill bases itself is completely in contradiction with what we have been asking for past many years now. As you are well aware that we have constantly reiterated that there is a need for enacting comprehensive, ‘National Development Planning Act’ which will ensure a development paradigm which will evolve from the lowest unit of governance and ensure equitable share of developmental benefits.

It is commendable that the Ministry has now agreed to reopen the whole process and focus on the pre-legislative consultations and not introduce such an important legislation in hurry in this Monsoon session  
**Sangharsh is a process comprising of various people movements and organisations working against anti- people policies and working towards a just and egalitarian society.**

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of the Parliament. However, the **proposed draft is NOT a comprehensive draft but mere combination of the earlier proposed Two Bills and fails to take in account the concerns raised by the millions of project affected people.** The Bill focuses on only one concern which is to facilitate land acquisition and serve the land needs of private and public corporations and facilitate urbanization as 'inevitable'. There is no concerted attempt to fulfill the task of land reforms and protect the land and livelihood rights of the communities across the country. Nor does the Bill realize the gravity of urban displacement and its linkages with the enormous corruption of the land sharks builder mafia.

Many grassroots movements across the country have been struggling to protect the land rights of the farmers, forest dwellers and other nature-based communities and ensure their control over natural resources through the Gram Sabha and Basti / Area Sabhas, deciding the development plans for public purpose in their area. **Proposed provision of consent of the 80% project affected people is only required wherever the private entities are involved in the process of acquisition whereas all the acquisitions for the government requires no such consent, keeping intact the 'eminent domain' principle of the state.** This will mean that the proposed projects like Jaitapur, Fatehabad or dams, thermal power plants, airports etc. to be built by the government will not require any consent of the people. **The Bill provides the much needed legitimacy for the acquisitions for the private companies since today only by violating the existing LAA 1894 state governments could acquire land in POSCO, Noida or many other places for the private entities.**

This Bill is regressive that way, since the definition of public purpose covers almost everything from building educational institutions to airports to mining, where a large number of private companies are involved. These companies are not there for the public purpose but for making profit and it is in their private interest. **Housing for any income group and by private entities will mean legitimising the real estate activities in all its forms.** The broad definition of public purpose reduces the process of deciding the public purpose by a committee full of bureaucrats to a farce; it will be reduced to a mere rubber-stamp authority.

We have met in past and discussed the issues together. In this renewed context we do hope there will be chances for more dialogue and opportunity to discuss the various provisions of the proposed amendments. However, we do believe and rightly so endorsed by the Parliamentary Standing Committee in 2008 and by NAC - I and II both that Land Acquisition Act needs to be repealed and a comprehensive Bill planning Development needs to be brought by the Government. It is not only a matter of land but there are other natural resources associated with it water, forests, minerals and ecological system. Everything has to be taken in account before land use is changed and transferred to the industry and most important welfare and development of the people who are dependent on the land, which includes not only the owner but everyone else dependent on it labourers, tenants, share croppers, fisherfolks, potters etc. **Social, economic, and ecological justice has to be the key principles guiding these policies.** We welcome the news that you have agreed to formulate one comprehensive legislation and soon it will be up for comments. While you are in the process of formulation of this here are some suggestions which might be of significance.

In addition, at a time when the scale of development induced displacement has grown to a large number & brutality as well as incapability of the State to rehabilitate those forcibly evicted is established, a fundamentally different yet most reasonable thinking has to emerge.

This can be described as follows:

- a) The British legacy of land Acquisition without Rehabilitation must be left behind. **The Land Acquisition Act, 1894 should be repealed and a new comprehensive legislation** must be enacted spelling 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 as well as (iv) process – legal, humane - for minimum displacement and (v) just and fair rehabilitation – principles, provisions and processes with democratic, decentralised administrative structure
- b) There should be an emphasis on the **resources belonging to people** and the **people's rights** to statutory duties underlined in the Indian Constitution, **not on the principle of eminent domain**, which has created a havoc
- c) The Act, must be **a step towards minimizing the displacement** and not for increasing it. The proposals already on paper (prepared by a large group of activist and representatives of the development project affected) should be taken as a reference, for bringing out a consensual final policy statement for ready reference
- d) The **unit of planning** a project, not only rehabilitation, should be **the smallest social unit, ie: hamlet / village** in the rural areas or **Gram Sabha** and **basti** (of not more than 1000 families) in the urban area or **Basti / Area Sabha**
- e) The change in the utilization pattern of natural resources, including land, can occur without 'displacement', if it is in favour of the contributor of the resource; voluntary and not without an alternative ensuring a better life/livelihood & share in the benefits. This would thus mean some change in the habitat in the location or source of livelihood, but not 'displacement' or even severe deprivation causing migration/destitution, even if at a later point
- f) A large majority, including adivasis, dalits, farmers and laborers require protection from 'evictions' in the present context and hence **no displacement without 'free prior informed consent' of the Gram Sabha / affected populations** should be acceptable
- g) The **options assessment** as a part of the project planning process also can begin at the smallest unit and needs to be finalized, pre-facto to ensure the appropriate option with minimum of overhauling, socio-environmental impacts, displacement to destruction and effective, efficient and just distribution of benefits
- h) **No use of force against the project affected** should be allowed in any development project planning or implementation
- i) **Rehabilitation would mean 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
- j) **This new Act** should be comprehensive and hence any such draft **needs a review by more than one ministry**. A Consortium of ministries including Ministry for Rural Development, Social Justice and Empowerment, Tribal Affairs, Human Resource Development, Environment and Forest, Railways, Mining, Surface Transport among others should be collectively taking this process forward
- k) Linkage with a temporal schedule between the project impact, displacement and rehabilitation should be such as to make **rehabilitation a precondition** to any impact-direct or indirect with a sufficient time gap.
- l) If in any region (district or a ward) there is a substantial number of families affected by plan/project but not rehabilitated, there should be a **declared moratorium on further displacement** until all the affected people are fully and fairly rehabilitated.
- m) The new Act must set up a **National Rehabilitation Commission** which will address the claims of not only those who will face voluntary displacement but also the R & R claims of those Project Affected Families which has not been settled by the project authorities or governments in ongoing projects or completed since independence.
- n) Lastly, with the growing phenomenon of urbanisation and large scale land grab going on the cities and areas around it, there is a need for bringing a **separate legislation for development of land and**

**its management and securing the poor people's rights over the land in urban areas should be enacted.**

It is thus imperative that support is lent to the demand for a NEW comprehensive Act to be prepared with active input from civil society groups, affected peoples organizations and people's movement to be called **NATIONAL DEVELOPMENT PLANNING, MINIMUM DISPLACEMENT AND JUST REHABILITATION ACT.**

**It is towards this end that we suggest the following as urgent steps :**

1. One national as well as 5 widely publicised regional consultations (north, north east, south, west and east India level) to be held BEFORE it is introduced in Parliament, as you did in the case of Bt Brijal
2. A final draft to be thoroughly discussed by a small group selected out of these consultations
3. Declaring one year as an experimental phase for executing / applying the policy, reviewing it at the end of the year and formulating an enactment on its basis within a year's time

It is then only that we will be able to meet the aspirations of the people and also something which will be in the lines of direct and participatory democracy in law making. Hope the Ministry will consider this and change the basic premise on which the current Bill based and lays down a draft which addresses these basic concerns first and then addresses the issues raised by the victims of development and struggling masses.

Warm Regards,