

Key Observations and Recommendations of the Parliamentary Standing Committee on the R&R Bill, 2007 - which have been ignored by the MoRD in the drafting of the R&R Bill 2009

1. **Regarding the numerical bench mark:** The Parliamentary Committee has noted that there is utter confusion on the issue of entitlement of R&R benefits in case the number of families who have been involuntarily displaced is less than 400 en masse in plain areas or 200 or more families en masse in tribal or hilly areas etc. Some clauses of the Bill make them entitled for R&R benefits whereas the other clauses of the Bill indicate that such benefits may be applicable only when the prescribed number of families is 400 or more in plain areas or 200 or more in hilly or tribal areas.

“The Committee strongly recommend that suitable modifications should be made in Clauses 20 (1) and 34 so that it is absolutely clear that rehabilitation and resettlement benefits would be applicable to each and every affected family irrespective of the total number of families affected.”

The Committee also felt that besides Desert Development Programme Blocks (DDP), Drought Prone Area Programme Blocks (DPAP) should also be included in the legislation for the aforesaid purpose.

2. **Definition of family:** The Committee found that whereas minor sons have been included in the definition of family, minor daughters have been excluded for reasons best known to the Government. The Committee strongly recommended that minor daughters should also be included in the definition of family to address the gender concerns. The Committee also recommended that widowed/ divorced/ abandoned/ separated sisters/ sister-in-law, daughter/ daughter-in-law and the physically handicapped family members need to be covered by the definition of family.
3. **Social Impact Assessment Study and Environment Impact Assessment Study (also look at Appendix IV):** The Committee endorsed the view that Social Impact Assessment Study and Environment Impact Assessment Study should be attached equal importance and that Environment Impact Assessment Study should be undertaken in every case where Social Impact Assessment Study is being done.
4. **Composition of multi-disciplinary expert group conducting SIA:** The composition of the expert group also includes a representative of the requiring body to be nominated by the Appropriate Government. To give justice to the persons whose land is being acquired, a representative of the local self-Government should also be considered to be a member of the expert group. Suitable amendments in this regard should be made in the respective Clauses of the Bill.
5. **Involvement of Panchayati Raj Institutions and Municipalities:** Noting that while the Bill provides that the draft rehabilitation and resettlement scheme or plan shall be discussed in the Gram Sabha and in public hearings in urban and rural areas where Gram Sabhas do not exist. Consultation with the Gram Sabha or the Panchayats at the appropriate level in scheduled areas in accordance with PESA also has been prescribed. **However, nothing has been mentioned as to what will happen if the public do not approve the aforesaid rehabilitation and resettlement scheme or plan.** After deliberations the Committee decided that suitable provisions in the proposed legislation should be made whereby the rehabilitation plan and the modalities, content and the agency-conducting SIA studies are approved by the Gram Sabha in rural areas and the equivalent local body in the urban areas.

Further, while discussing a situation where people might refuse to cooperate with the Social Impacts Assessment study, the Committee found that such a refusal will not affect the acquisition of land as per the Land Acquisition Act, 1894. **In this context, the Committee noted that consultations with the local bodies should not be a mere formality. Some sort of provisions should be made in the proposed legislation whereby the quality of consultations can be ensured.**

The Committee has further recommended that that the concerned Gram Sabhas or the Panchayats at the appropriate level in the scheduled areas under the Fifth Schedule or, as the case may be, Councils in the Sixth scheduled areas **should be consulted not only under the urgency clause but for all the cases where the rehabilitation and resettlement is being provided either in the case of land acquisition or involuntary displacement due to some other reasons** like war, natural calamities. (para 4.123)

6. **Appeal in proceedings before the Court:** Noting that no provision of appeal in the High Court/Supreme Court has been made in the Rehabilitation and Resettlement legislation, the Committee has recommended for the making of such a provision in the Bill against the orders made by the Ombudsman.
7. **Rehabilitation where agricultural land has been acquired:** In cases where agricultural land is being acquired, The Committee feel that restricting the area of agricultural land to a ceiling of one hectare of irrigated land or two hectares of unirrigated land or cultivable wasteland irrespective of the size of the land acquired is not appropriate. The Committee further noted that the provision of allotment of such land should invariably be applicable in case of involuntary displacement due to the land acquisition.
8. **Compensation and adequate rehabilitation to precede actual displacement:** The Committee find that whereas as per Clause 29 of the Bill compensation of award, full payment of compensation and adequate progress in rehabilitation and resettlement shall precede the actual displacement of the affected families, Clause 49 (5) provides that at least one third of the compensation amount shall be paid to the affected families at the outset as first installment and the rest at the time of taking over the possession of the land. The Committee would like to recommend to the Government to substitute the words 'at the time' by 'shall precede' in the Clause 49(5) of the Bill in line with the provisions made in Clause 29.

Other key concerns on the draft R&R Bill, which PSC overlooked

1. **Qualification of Ombudsman and Administrator:** Clause 14(1) of the R&R Bill provides for the appointment of an Ombudsman for time bound disposal of the grievances arising out of the matters covered under the Act. The Ombudsman shall have the powers to consider and dispose of all petitions relating to Rehabilitation and Resettlement against the decision of the Administrator or the Rehabilitation and Resettlement Committee and issue such directions to the requiring body as he may deem proper for the redressal of such grievances. However, **no qualification for ombudsman has been provided in the legislation.**
2. **Employment and Skill Development:** Strong reservations were expressed by many who deposed before the PS Committee over the use of words 'preference', 'subject to availability of vacancies and suitability of the affected person for the employment' etc.