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Shri Jairam Ramesh,

Minister for Rural Development,

Govt. of India, New Delhi

August 31, 2011

Dear Shri Jairam Ramesh,

Sub: Recommendations for the Draft LA and RR bill

In response to your call for public consultation on the Draft Land Acquisition Bill, we at the [National Centre for Advocacy Studies \(NCAS\)](#) made an earnest attempt to draw together leading voices on the subject and activists from the field for a National Consultation on the above bill on the 24th of August in Pune.

NCAS is a social-change resource centre, strengthening people-centred and rights-based advocacy in order to empower people and their struggles for the creation of a just and humane society.

The consultation was attended by important social leaders and activists who constitute our General Body, from all over the country, from Arunachal Pradesh, Assam, Punjab, Maharashtra, Madhya Pradesh, Rajasthan, Himachal Pradesh, Gujarat, Andhra Pradesh, Chhatisgarh, Odisha, Karnataka, Kerala and Tamil Nadu. The list is attached to the document.

The house warmly welcomed the righteous move to include all those affected by acquisition and not just land owners among those entitled to receive compensation. The proposed Bill 2011 was construed to be a progressive document, but it was felt that it still failed to protect the interests of those from whom land will be taken away.

We earnestly feel that much more needs to be done and done differently to minimize acquisition, optimize land usage, and ensure that people affected by it come through it better off and not worse off than before. That alone will give legitimacy to such acts of acquisition.

We feel that this is a historic moment where it is possible for you to put people first, and rescue the acts of acquisitions from being unjust and repressive state acts as they have been perceived until now.

We are happy to send to you the main points of consensus that emerged in the meeting. We do hope that you will respond to these. In addition, we would greatly appreciate it if you could give us an appointment to present our arguments in person, as it is difficult to include discussions and arguments in a brief note.

Our best wishes for your conscientious and righteous efforts for a more just and transparent dispensation and best regards,



Sehjo Singh
Executive Director, NCAS

Recommendations for the draft LA and R&R bill emerging out of the Main Points of Consensus Arrived at, at the National Consultation on Land Acquisition and Land Redistribution hosted by NCAS , Pune

August 24, 2011

LAND ACQUISITION

- The definition of 'Public Purpose', for which land could be acquired, is too vague in the draft Bill. Will the acquisition for private companies also come under the definition of Public Purpose? This term must be defined in such a way that all possible activities which are valid get enlisted, and there are no ambiguities of which private companies can take advantage.. **The house strongly felt that private profit can in no way be justified as "Public Purpose"**.
- There must not be any acquisition without a true, pre-informed and representative Public hearing. There must be a sincere attempt at reaching the illiterate population that cannot be reached by newspapers and internet. The grievance redressal mechanism should be clearly articulated and accessible.
- Though the draft Bill says that if the acquired land remains unused for 5 years, then it will be returned to the original owners. But what will be the terms and conditions for returning such land, is not clear. Again, if at any place land is acquired for a specific purpose, and after fulfilling that purpose some part of land remains unused, then what will happen to that land? This must be clarified and proper procedure for returning such land to the original owners must be laid down.
- The question of Eminent Domain the State over all lands must be resolved. This provision directly conflicts with the provision of PESA, under which the Gram Sabhas have been given the total ownership of land under their areas. The provision of consent of 80% affected persons is problematic. Such decisions should be taken by Gram Sabha with consensus even in non scheduled areas. Efforts at consensus building should not be given a short shrift.
- The element of coercion evident in the provision for imprisonment and fine for people opposing acquisition do not fit into the spirit of the act and should be done away with.
- Possibility of lease instead of outright acquisition should be explored.
- The bill does not seek any intervention in land transaction in the market. The house underlined the urgency to create mechanisms to check the unbridled growth of speculative capital in the

land market which has resulted in distorted land use patterns. A regulatory mechanism and appropriate policy measures are required to check these as well.

- Most agriculture especially those that sustains poor farmers is rain fed. Acquisition cannot merely be justified on the ground that the land to be acquired is not irrigated. It must be justified on other technical grounds including demonstration of lack of any other alternative.

REHABILITATION AND RESETTLEMENT

- The provisions for R&R should apply not on the basis of the area of land acquired but on the basis of the number of people affected. The poor have smaller land holdings, and there is a possibility that many people get affected but do not get the R&R benefits.
- All monetary dispensations mentioned in the act should be clearly linked to the price index in order to avoid losses due to price rise.
- Proposed law is only concerned with individuals, it does not deal with communities. In many areas, especially in scheduled tribal areas, land is owned by communities. The new law must come with clear provisions for compensation and rehabilitation for such cases. In fact it would not be too farfetched to suggest setting up an expert body that acts as a buffer between the uprooted tribal communities and the rest of world, to reduce the trauma that they would face.
- Land is acquired not only by invoking the Land acquisition Act, but also under many other Acts, such as Railways Act, Atomic Energy Act, etc. There is no provision for R&R in those Acts. Therefore, now it must be legislated that all acquisitions in future will follow the provisions of R&R of the proposed Law. This must be legislated along with the Act, so that there is no displacement until full and satisfactory rehabilitation and resettlement is completed.
- As far as R&R is concerned, the fundamental principal, that standard of living of displaced people should be better at the new site in comparison of earlier settlements must be included in the new Act. If there are state laws which provide for better dispensation on some counts, the more favourable of the two must be followed.
- The whole displaced community should be resettled at the same place. At the resettlement site, all basic facilities like hospital, school, etc should be provided in advance of resettlement.
- Repeated displacement of the same community should never be allowed as has happened to some tribal communities in the past. Uprooting people more than once is criminal.

Most importantly, it was felt that the large trust deficit has to be addressed. People would want to know what has been done with the land acquired since independence. Therefore, the govt. must first come out with a white paper detailing the acquisitions and how they have been used. This would reveal the amount of land still lying unused, the misuse and abuse of original public purpose, the scale of profiteering, etc.

Such a paper can only be compiled if the Home Ministry sets up a task force or an institution that is permanently empowered to collect data from across the country on the following:

- 1) Area of land acquired under the 1894 Land Acquisition Act and all such similar instruments created by different State governments.

- 2) The number of households displaced.
- 3) The number of households officially rehabilitated.
- 4) The number of households displaced more than once.
- 5) The number of households still to be re-settled, and the date on which they were displaced.
- 6) The number of cases filed for revision of compensation which were upheld by the courts, directing the authorities to enhance the compensation amounts substantially, etc.

This White Paper must also contain detailed information on the value of assets created in comparison to the value of assets lost. While calculating the value of assets lost, the principle of “replacement cost” should be applied. This principle is logical and rational, and avoids all problems related to under-valuation/ biased valuation, depreciation, etc.

[Note: “Replacement Cost” is equal to the amount of money required to buy the same (similar) commodity in the open market].

What is needed is a development Policy, outlining the aim of development, and how the displaced people could be made stake holders in the proposed development. Finally the house strongly felt that the question was far bigger than that of acquisition and rehabilitation. Unfortunately, India still does not have a national policy on Land Use. This lacuna has to be bridged immediately.

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Date 24TH AUGUST 2011

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