



# National Conference on the **Five-Year Journey of** **THE RFCTLARR ACT, 2013** **THE WAY FORWARD**

October 25–26, 2018 | India Habitat Centre

## **Background Note on 4<sup>th</sup> session: 'Rehabilitation of Project-Affected- Families: experience of livelihood restoration'**

One outcome of India's tryst with development has been the large scale displacement of its population. It has been estimated that 50 million people have been involuntarily displaced in the last fifty years (Roy A, 1999)<sup>1</sup>. Another report contends that development-induced displacement accounts for 60 million people if the number of those who lost their livelihood by virtue of their dependence on the acquired land are also included (Fernandes, 2007)<sup>2</sup>. The risks most commonly associated with involuntary displacement are landlessness, homelessness, marginalization, joblessness, increased morbidity, food security, loss of access to food security and social disarticulation (Cernea. M, 1995; 1997)<sup>3</sup>.

Prior to the enactment of The RFCTLARR Act, 2013, India did not have a national law on Rehabilitation and Resettlement. Several state governments such as Haryana, Jharkhand, and Odisha, as well as some Public Sector Undertakings that required land for their business operations had framed R&R policies. However, R&R planning and execution lacked focus, resulting in unsatisfactory outcomes for the affected people. This was a result of various factors – non-involvement of displaced people in the planning and execution process, flawed planning, poor provision of basic amenities such as safe drinking water and sanitation, lack

of foresight in the choice of host communities resulting in conflicts, grant of unproductive land at new locations and the challenge of creating income generation activities.

Before a discussion of the R&R provisions of The RFCTLARR Act, 2013, it would be useful to understand the issue in its historical context.

### **The Land Acquisition Act, 1894**

Prior to the coming into effect of the new land acquisition legislation on 1.1.2014, land was acquired under the Land Acquisition Act, 1894. The colonial law relied heavily on the Doctrine of 'Eminent Domain' to acquire land across the country, using a process shrouded in opacity that denied fair compensation to the land owners, conducted forceful evictions and ignored the need for proper relocation of displaced families or restoration of their livelihoods. In the absence of legally mandated requirement for rehabilitation and resettlement (R&R), states followed their own policies, or in their absence, court issued guidelines or project-specific schemes were adopted.

The Sardar Sarovar project, an inter-state project involving Maharashtra, Gujarat, Rajasthan and Madhya Pradesh, was the first instance where a project – specific R&R Policy was framed under The Narmada Water Disputes Tribunal Award, 1978. Clear guidelines were provided with respect to the rehabilitation villages in which oustee families were to be relocated. Further, irrigable lands and house sites for affected families had to be prepared in advance. The Narmada Control Board (NCB), in 2006 decided to adopt the National Policy on Rehabilitation and Resettlement for Project Affected Families, 2003, for all its future projects in Narmada Valley. However, the R&R efforts drew mixed response in terms of the actual benefits to the displaced.

<sup>1</sup> In Singh, R.S & Shrivastava, M.P, 2006. 'River Inter-Linking in India: Dream and Reality'. D&D Pvt Ltd, pp-144

<sup>2</sup> In Cernea. M & Mathur, H. M, 2008. 'Can Compensation prevent Impoverishment? Reforming Resettlement through Investment and Benefit sharing'. OUP, pp-181-207

<sup>3</sup> In Zheng, T, 2017. 'From Landlessness to Homelessness: Exploring landless farmer's loss of belongingness after land expropriations in Urban China'. American Journal of Engineering Research, Vol-6, Issue-10, pp-281-284.

## **National Policy on Rehabilitation and Resettlement, 2003; National Rehabilitation and Resettlement Policy, 2007**

The first national level rehabilitation policy was made in 2003 - the National Policy on Rehabilitation and Resettlement for Project Affected Families. It provided that if there was a displacement of 500 families or more in the plain areas, and 250 or more in certain specific areas such as hilly area or those falling under Schedule V and VI of the Constitution, then the District Collector would be appointed as an administrator to oversee the preparation, and implementation of an adequate rehabilitation plan for project oustees. The Policy favoured consultation with representatives of the project affected families, including women and members of elected Panchayati Raj Institutions within which the project area is located.

In 2007, the National Rehabilitation and Resettlement Policy was notified by the Ministry of Rural Development. Under this, employment or cash compensation or a one-time cash grant or financial package was available to those whose land was acquired, as decided by state governments. In lieu of employment, a monetary compensation was to be given. Through this policy, provisions were made for assessing the social impacts of the project on communities residing in the area to be acquired. The preparation of a rehabilitation plan required the consideration of the socio-cultural characteristics of the affected people. The provisions of the National Rehabilitation and Resettlement Policy, 2007 were applicable if a project affected 400 families or more in plains, and 200 or more families in tribal or hilly areas, and certain other specified areas.

### **R&R policies of state governments and PSU**

Several public sector undertakings, state governments and project authorities had designed their own R&R policies much before the National R&R Policies were framed. For example, Coal India Ltd (CIL) had formulated its R&R policy in 1994, which was modified in 2012, by inserting the provisions of National Rehabilitation and Resettlement Policy, 2007, and the Land Acquisition Rehabilitation and Resettlement Bill, 2011. The National Thermal Power Corporation (NTPC) developed its R&R Policy in 1983, which was later revised in 2017, after adding the benefits mandated under The RFCTLARR Act, 2013. Odisha framed the 'Orissa Resettlement and Rehabilitation Policy', in 2006, prior to which it responded to problems of displacement through project specific R&R policies and plans. Haryana formulated a 'Policy for Rehabilitation and Resettlement of Land Owners-Land Acquisition Ousteas' in 2007. This policy laid down guidelines for the allotment of plots by the Haryana Urban Development Authority (HUDA) to land losers. On its part, HUDA had framed its Oustee Policy in 1987, in 2010, it adopted the provisions of the Haryana R&R policy of 2007. In 2008, Jharkhand formulated the

state R&R Policy, by incorporating the provisions of the National Rehabilitation and Resettlement Policy, 2007.

### **RFCTLARR Act, 2013**

The RFCTLARR Act, 2013 incorporated several provisions of the aforementioned R&R policies. The Act provides that the Collector shall pass the R&R awards with respect to each affected family in accordance with the R&R entitlements mentioned in Schedule II and III of the Act. A list of 25 infrastructural facilities and amenities have been identified for provisioning in the resettlement area, to ensure a reasonable standard of living for the relocated families. The Second Schedule of the RFCTLARR Act, 2013 offers the following entitlements to the affected families (which is defined to include families whose land are acquired as well as families whose livelihood is primarily dependent on the acquired tract of land), depending on the nature of the projects: housing units, land for land (as far as possible in irrigation projects, and in lieu of compensation), offer of developed land (in case of urbanization projects), choice of one-time payment of Rs 500000/- or annuity for twenty years or employment to one family member, subsistence grants to displaced families for a period of one year etc.

Though, The RFCTLARR Act, 2013 has enacted comprehensive measures for the rehabilitation and resettlement of P-A-Fs, but this aspect of law has not quite received the attention it deserves. There are not too many stories of successful rehabilitation of affected people. For the most part, the land acquisition process is deemed to be complete, particularly from the standpoint of Project Proponents, when the possession of land is obtained. However, for uninterrupted operations, businesses would do well to win the trust and acceptance of the local communities, a significant part of which would come from restoring the income earning capacities of the affected families. With scarce resource base, limited education and inadequate skills, the tribal and rural communities affected by land acquisition require special assistance to become economically self reliant.

In this context, it is pertinent to consider the following issues:

1. What tools and processes are required to formulate and implement technically sound R&R plans to ensure that displaced families do not face unemployment, lack of access to basic services, and rising poverty levels at resettlement sites?
2. What are the inter-linkages between social and environmental impact assessments, and the R&R strategies which are formulated? How can site-specificity be incorporated into R&R plans?
3. What is the nature and extent of compliance with the R&R provisions of The RFCTLARR Act, 2013, by states and Union Territories?
4. What are the lessons to be learnt from best practices at the state level, as well as internationally on R&R?