

**Report of Workshop on Orissa Resettlement and Rehabilitation Policy -2006,
Held at Hotel Mamata, Deogarh under the aegis of DPG on 22nd July 2006**

As is well-known, Deogarh, which is now one of the smallest and poorest districts of the State has long been serving as the dumping yard of the refugees and resettlers hailing from different parts of the State, especially following largescale displacement by mega projects like Hirakud Dam, Rourkela Steel Plant and Talcher Thermal. Besides Deogarh is the home to a large number of displacees of Rengali and Gohira Dams which fall within the precincts of the district itself. It is also well-known that assurances for resettlement and rehabilitation of both types of the displacees were haphazardly met by the successive governments, and as a result discontent grew and accumulated among them over the years. It is also worth noting that while many people belonging to earlier generations of displacees who had migrated to Deogarh in fifties are already dead by now, the bitter feeling that had pent up in them about the broken promises still lingers on among their younger descendants. And the latter, though thoroughly disgruntled about the role of the concerned governmental agencies for their failure to compensate and rehabilitate them, do still harbour some faint hope that some day their pending grievances might be heard and redressed. Out of this hope, they have assembled under a platform called Deogarh Basachyut Surakshya Manch (Forum for Protection of Displaced People) to carry on their struggle for achieving the promised entitlements. This Forum receives the moral support of the general people and is also actively assisted and guided by the eminent citizens of the district. Specifically speaking, Deogarh Pressure Group (DPG), an alliance of selected NGOs (WORD, Sahayog, Jana Vikash, Award and Yavard) working in different areas of the district has also been doing the advocacy work for this Forum and its charter of demands for last 3 years. In pursuit of its commitment to the displacees, the DPG has been sponsoring an organized campaign through holding of seminars, workshops, media consultations, rallies and Dharnas etc. in and outside the district to draw the attention of the Government for early solution of the pending issues of the displaced people. Special mention may be made of the recent events like State level Media Consultation held on 23rd February 2006 at Cuttack and Rasta Roko agitation on 1st April 2006 at Deogarh itself.

It is in this backdrop that the DPG decided to hold a Workshop on recently announced Orissa Resettlement and Rehabilitation Policy 2006 involving primarily the displaced persons, their representatives and members of civil society as participants. The basic objective of the Workshop, as outlined by **Mrs. Pramila Panda Convener of DPG** at its outset was to find out whether and how far the new Policy, which was published in Orissa Gazettee in the form of a Resolution of the Orissa Revenue Department dated 14th May 2006 was beneficial to the past displacees residing in Deogarh district. To facilitate the discussion, an Oriya translation of Orissa R&R Policy 2006 was circulated among the participants. A copy of the Memorandum addressed to Governor Orissa by a group of citizens mentioning their 18-point critique of the new Policy in the context of the acquisition of their land and property for the proposed POSCO project in Jagatsinghpur district was also circulated for referential purpose.

The Workshop was inaugurated by **Sri Ranjan Kumar Sahu, Advocate who has been serving as the General Secretary of Rengali Basachyut Surakshya Samiti** since 1997. Sri Sahu in his inaugural talk gave a brief background of the phase-wise movement of the displaced people for getting their legitimate dues still pending from the Government who had acquired their land and homestead on account of different projects in the long past. Sri Sahu also informed that whenever the displaced people launched a strong campaign of protest in the form of a Dharna, Rasta Roko or something of the sort, the Government machinery who were otherwise casual and callous about the issues of the displaced people were found to have waken up in response to such campaign and dished out some fresh assurances to fulfill the demands of the displacees. But soon afterwards the

same Government machinery relapsed into the old state of apathy and inaction forgetting blissfully its own assurances. Sri Sahu further said that even the high-level committees formed at State level following the resolution of the Orissa Legislative Assembly to redress the pending grievances of the Rengali-displaced families have behaved in a very casual manner, in the sense that they failed to pursue doggedly and ensure thereby the implementation of the declared R&R package for the displacees. It is therefore imperative that the displaced people should keep up their struggle and that too in a re-invigorated manner in the days to come if they at all wanted that the Government should address to the long pending matters concerning compensation and rehabilitation benefits due to them. The next point that Sri Sahu made was that the new R&R Policy of the State Government has not mentioned any provision for the people displaced by the past projects, and all its provisions were meant only for the future projects for which the land would be acquired by the Government. Thus the new Policy held no positive prospects for the displaced people residing in Deogarh district. On the contrary, Sri Sahu continued, if the new Policy would be adopted in its present form, it would seal the fate of the past displacees altogether. Moreover, in regard to its other provisions, the new Policy should be critically examined by all concerned, so as to find out what sort of entitlements it offered against the acquisition of people's land and homestead by the Government in the name of projects funded by private and foreign companies. Concluding his talk Sri Sahu observed that if the new Policy, on a closer analysis, would be found to be deficient and regressive from the standpoint of the displaced people, then the latter should voice their loud protest against it and call for an appropriate kind of alternative R&R Policy to be framed by the Government on the basis of public opinion gathered through wide-scale debate and discussion involving the displaced people across the State.

Then the displaced persons who had come from different parts of the district were called upon to place their views on the topic of the workshop. Barring a few, most of them were illiterate or literate only name's sake. However, each of them described his harrowing tale of how he has been harassed by the concerned Govt officials in respect of getting their compensation dues from the latter despite repeated visit to their offices times without number. In course of their deliberation, they pointed out different excuses given by the officials to justify the delay in providing the R&R benefits. For instance, the Additional Tahsildar says that due to lack of forest clearance his office was not able to provide the ROR to the concerned land allottees. Another, serious hurdle that the descendants of the original displacees have been facing is due to a so-called legal provision that says that only those persons whose age was above 21 years of age as on 23rd December 1973 would be entitled to lay any claim to the R&R benefits. Another displaced person wondered, it was beyond their comprehension as to why the Government without having settled the old, pending claims of the past displacees was eager to bring out a new Policy for the would-be displacees in future? Thus the displacees expressed their deep disgust over the ambivalent attitude of the Government and apathetic behaviour of the officials towards their cause, but they however expressed their determination to carry forward the ongoing movement of theirs until their grievances are properly and adequately redressed.

The Additional District Magistrate (ADM), Deogarh Sri Premanand Samal who had arrived sometime after the deliberation had started, gave a small talk on his perception of the pending issues of the displaced people. He said that since he has remained ADM of the district for last 4 years with effect from 21.8.2002, he was fairly conversant with the R&R issues of the displaced people. He admitted that several cases still remained pending for disposal and owing to this unfortunate fact, the condition of the displacees was worsening day by day. As he knew, two meetings of High Power Committee on the subject were held and the RDC was following its decisions up. Discussions were also being held between RDC, Collector, Revenue Department and Water Resources Department as regards how to dispose of the pending matters. The Government

was well aware about the demands of Memoranda submitted on different occasions by the forums of displaced people, and the district administration was sincerely concerned with how to meet those demands at an early date. But somehow the issue was still dragging on for reasons beyond the control of district administration. On the new R and R Policy announced by the Government, he observed that it was beyond his competence to comment on a policy which was framed by the State Government in the best of their wisdom. However, he would forward the suggestions on the new Policy, if any recommended by the ongoing workshop to the concerned authorities of the Government for the due consideration at their end. Having thanked the organizers of the Workshop for having invited him to talk, the ADM departed from the venue of the meeting due to his preoccupation with other agenda of his office.

Then **Sri Chitta Behera, a social activist hailing from Cuttack** took up the discussion on some salient provisions made in the new policy. While it was expected that the new Policy would provide for more and better entitlements to the displaced people compared to Land Acquisition Act-1894 and National Policy on R&R-2003, on a critical analysis it would be found that it was much worse than either. First of all, as per the new policy a family losing agricultural land and occupation won't be considered 'displaced' and thus entitled to R&R benefits, since its definition of 'displaced family' is confined only that family which loses 'homestead land' [**vide Para 2(d)**]. Consequently, there is no provision for 'land against land' or 'proportionate monetary compensation to be paid to the landholder against the land lost by him' under any type of projects. Only in case of Type C (Water Resources, National Park and Sanctuary) Projects, there is a mention of the so-called 'Assistance for Agricultural Land' [**vide Para 8 –III (c)**], which in nutshell says that the Government may provide some amount of land if the land is available, and alternatively may provide cash equivalent at a certain rate in lieu of land, but that rate again depends on 'what the Government decides from time to time'. The established principle of providing compensation payable to the landholder whose land has been acquired has been badly confounded by the contradictory definitions of 'compensation' given in the Policy. While at **Para 2 (b)** 'compensation' has the 'same meaning as assigned to it under LA Act 1894', it means altogether a different thing at **Para 6** that says, 'Procedure prescribed by Government shall be followed in acquiring land and other property and for payment of compensation/award', and the confusion becomes more glaring when one comes across the definition of 'Government' ('Government' means the Government of Orissa in Revenue Department') given at **Para 2(g)** of the Policy. If these provisions are read together, the intention of the Policy comes out clear, that is, the Revenue Department of the State which is the land acquiring authority shall for all practical purposes decide whether compensation shall be paid at all and if so how much. In the name of clearing ambiguity concerning the 'cut-off date' (**Vide 'Orissa R&R Policy 2006 -Key Features'**, a separate document brought out by the Government), the new Policy has mentioned, "'Cut-off date' for the purpose of compensation shall be the date on which the notification declaring the intention to acquire land under the relevant Act or under the provisions of this Policy is published" [**vide Para 2 (c)**]. It means that a landholder can't advance any additional claim for compensation beyond the amount of market value as existing on the date of notification made under Section 4(1) of LA Act 1894. But as is well known, as per the prevalent practice followed under **Section 23 of LA Act**, a landholder can claim a composite package of compensation against the land acquired from him, and the said package consists of (a) full market value, (b) compensation against 5 additional grounds arising from damage and compulsory nature of the acquisition of the said land, (c) 30% of market value as ex gratia and (d) 12% of interest per annum on the market value for the period commencing from the date of notification to the date of physical possession of the land/award of compensation by the Collector. Thus the new Policy by way of declaring a rigid cut-off date seeks to take away at one go the right of the landholder to claim before the concerned court for his other entitlements in addition to the market value of the

land. The next ominous feature of the new Policy is its conspicuous lack of an independent appellate mechanism, which is otherwise barely necessary for redressal of grievances of the displaced people relating to compensation and rehabilitation matters. While the LA Act left these matters for disposal by the Court, the new Policy has ironically vested all the powers of arbitration to the State Revenue Department itself (**vide Para 22**) which being the land acquisition authority invariably turns out to be the source of the grievances by the displaced people. In contrast the National Policy for Resettlement and Rehabilitation- 2003 provides for appointment of a Commissioner for R & R, whose job shall be to supervise the formulation and implementation of plans/schemes and to redress the grievances relating to R&R matters (**vide Section 4.10**). Strangely enough, the new Policy has also gone against the letter and spirit of the Constitution when it shifts the burden of R&R from the State to the land requiring project authorities, who may be private companies based in or outside the country. For instance, the Policy says, such benefits as employment, one-time cash assistance in lieu of employment, training for self-employment, shops and service units etc. shall be provided by the project authorities [**vide Para 8 (I)**]. But the Constitution says, 'No person shall be deprived of his property save by authority of law' (**vide Article 300A**). And every body knows, the law referred to here is the existing Land Acquisition Act 1894, which while making no pretense about acquiring the people's land in the interest of private companies, does however categorically entrust the obligation to pay compensation to the displaced persons on the concerned Collector and State Government on one hand and to adjudicate the disputes if any in such matters on the Court, on the other. But as per the new R&R Policy of Orissa, the Government who may acquire the land for and on behalf of the private companies is not bound to provide compensation/ rehabilitation to the displaced persons. And there is neither any definite provision in the Policy that binds the private companies to pay the compensation to the displaced people in a proper and time-bound manner. Thus the Orissa's new Policy leaves the people in absolute dark as to how they shall approach the private companies for achieving their entitlements and what they shall in turn do if they are ignored or even maltreated by these companies. Again, the LA Act 1894 for all its colonial ancestry contains a provision for penalty against the Collector in the form of costs to be paid by him, if the latter, in the opinion of the Court, failed to pay an appropriate award of compensation to the landholder [**vide Section 27(2)**]. The new Orissa Policy for R&R has no provision at all for penalizing any official of the Government or the land requiring private company on account of non-compliance by them to the provisions of law. Last but not the least, recently the people of Orissa were shocked to learn that the State Government had always been playing a dirty game at their back, that is, acquiring the land from the public at a throw-away price in the name of development and selling it subsequently at a very high price to the private companies. And nobody knew who pocketed the big margin between these two prices. This very sordid story about the role of the State as a land-speculator middleman had in fact fuelled the phase-wise determined resistance offered by the displaced tribal families in Kalinga Nagar Industrial Complex area, which culminated into the notorious bloody episode on 2nd of January 2006. It was expected that the new R&R Policy would provide for a completely transparent process in which all the financial deals between the Government and land requiring private companies over the acquired land could be exposed to the public at each stage, and all the money paid by the company against the said land straightaway go to the landholders themselves. But that expectation has been completely belied since the new Policy provides for no scope for the concerned people to access the secret land deals that would be transacted between the land acquiring Revenue administration on one hand and the land requiring private companies on the other. Thus the new Policy seeks to legitimize the very role of a speculative middleman that the Government has been playing in a clandestine manner so long.

After giving an exposition on the above facets of the new policy, the Resource Person suggested that the new R&R Policy of Orissa 2006, which not only falls short of the standards of National

Policy of 2003 and LA Act 1894, but also militates against the letter and spirit of the Constitution, needs to be recast thoroughly and reformulated taking into account inter alia the genuine R&R needs of the displaced communities.

Then based upon the consensus of the participants, it was announced by the Convener of the Workshop that a Memorandum should be addressed to the Governor Orissa with intimation to the Secretary Ministry of Rural Development, Government of India with a request to ensure an early revision of the Orissa R&R Policy in the interest of the displaced communities. She further indicated that the said Memorandum should deal inter alia with the following suggestions for incorporation into the new policy:

- The all-round development of the resettlement zones should be a prime concern;
- The displaced people who lose land, homestead, occupation and other property due to land acquisition for a project should be provided with shares in the capital of the project without having to invest anything in the shape of so-called Convertible Preference Share as proposed in the new policy; and they should be thereby entitled to the proportionate share in the profits of the project from year to year on a permanent basis;
- A person once displaced should not be generally subject to any further displacement; and if he is further displaced, then he should be awarded 5 times the value of the compensation against the land and property that he had lost in the first case;
- Not only consultation, but also recommendation of Gram Sabha should be made mandatory before initiating any proposal for land acquisition or implementation of any R&R programme;
- As a matter of rule, the displaced people should be resettled in areas irrigated by water sources, since there is no justification at all in providing hilly and rocky areas having no water sources for resettlement purposes;
- The R&R Policy should provide a time-frame within which every benefit shall be admissible to the displaced people along with a strong penalty provision to be applied against those officials who deviate from the stipulated time-frame;
- While computing the compensation amount against the land acquired, the highest rate prevalent in the district should be taken as the basis for the same;
- The Compensation Committee shouldn't be headed by a Government official, but by an independent person, and majority of its members should be drawn from the displaced communities;
- The Policy should provide for an independent appellate mechanism, by which the displaced people can lodge their grievances and appeals against the concerned administration in the event of the latter's failure to deliver the R&R benefits in a proper and timely manner;
- The Government shouldn't play the role of a middleman acquiring the land from the public at a throw-away price and selling it to the private companies at a much higher rate, but play the honest role of a facilitator on behalf of the displaced people in the process of open and direct negotiation between the landholders and the land requiring private companies.

The participants unanimously endorsed the above suggestions. And then the Convener thanked the resource person and the participants for making the Workshop a success, following which the Workshop came to a close.