

Akhil Bharatiya Vanvasi Kalyan Ashram
Resolution adopted in Kendriya Karyakari Mandal (KKM) Baithak
24th December 2010, Hyderabad

Resolution No. 07. MINERAL RESOURCES And TRIBAL DEVELOPMENT

The proposed amendment to the Mines and Minerals (Development and Regulation) **[M&M(D&R)]** Act by the Central Government relates to reduce the rising protests in tribal areas against mining that brings little developmental gains to the tribals and the region. KKM of ABVKA supports the provisions of the proposed Bill that the **mining companies in tribal areas should give 26% of equity to the affected persons, while individuals and other operators should share 26% of their profits with the Project Affected Persons (PAPs), in addition to the adequate compensation of their acquired land.** Besides, the mining units must pay the environmental levy and other taxes in order to check abnormal super profits as well as run the operations sustainable remains on board despite a spirited attempt by Confederation of Indian Industries **(CII)** and Other Business Chambers against these provisions.

It is surprising that CII has claimed that sharing the profits with PAPs "would be like earned without any effort" and lead to greater inequalities and cause socio-economy "problems besides making the mining operations unviable." The mining companies pay Rs. 30/ as royalty and makes profit of Rs. 9,000/ per ton of Iron ore excluding the expenditure on excavation & haulage. The views of the Chamber are deplorable which does not take into consideration **the fact that the tribals and other stake holders have nothing to fall back upon after losing their land and forests which is their sole source of livelihood- in other words this is compensation for Net Present Value of their Natural Resources which they will be deprived of permanently.**

KKM hopes that the Government of India will reject the arguments of the business chambers and stick to their proposal and not bow down to the pressure of mining sector.

The bill also proposes a **welcome step** to set up a **Regulatory Authority at the Centre to monitor and implement the Act.** This move to set-up such an authority comes at a time when cases of illegal mining have been regularly reported from the states of Jharkhand, Chhatisgarh, Orissa and Karnataka and has become a national issue.

KKM demands the Central Government to pass the proposed amendments to M&M (D&R) Act to protect the tribals without any further delay. KKM further demands that **the multi-national, Indian and Foreign Companies must pay to the tribals 26% of their profits since they started their mining operations.**

This will be a **step towards honoring and executing the directions of the Hon Supreme Court in the SAMATA case,** though belated and **in line with the policy being followed across the world in the matter.**

KKM appeals the mining companies to accept these progressive measures in a positive and healthy spirit to ensure inclusive development of the local people of the mining area.

KKM also calls upon the **elected representatives, particularly those of tribals to ensure that the proposed legislation is cleared in the coming session of the parliament. All Organisations and Activists** working for the welfare of the Janajaties across the country including **workers of ABVKA and the media** should also keep a vigilant eye on the issue and see that the docks are cleared at all levels in passing of the bill. It shall be a leap towards sustainable and inclusive development of the tribals based on the local natural resources.

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**Resolution No. 08. INTRODUCE MINIMUM SUPPORT PRICE SYSTEM For
Minor Forest Produces (MFPs).**

KKM of ABVKA has observed that developmental schemes are announced after almost every major violent incident in the tribal area. But doubt persists whether targeted population benefits from them. Sometimes changes in structure and control of the existing schemes are proposed. One such announcement relates to setting up of a Committee by the Panchayat Raj Ministry under the Chairmanship of T. Haque with representatives from Ministries of Tribal Affairs, Environment and Forest, Rural Development, Home and Planning Commission to recommend a minimum support price (MSP) for Minor Forest Produce (MFP) such as tubers, leaves, seeds, plants, and roots within three months. The Committee will also look at how ownership of MFP can be controlled by Gram Sabhas. At present the trade of MFPs is largely controlled by the Forest Department as it regulates all forest produce transactions.

Importance of MFPs for tribals as livelihood means across the country is an accepted fact. They have been traditionally collecting MFPs which is a source of food, medicine, shelter and economy for majority of tribals. Tribals keep some of the MFP for domestic use and some are sold adding their cash income. Important MFPs are Tendu leaves, Sal, Mahua and Karanj seeds, Mahua flowers, Bamboo, Chironji, forest Castor, Van Tulsi seeds, Tamarind, Myeobalan, gums and resins, lac, Tassar Cocoons, Broom-stick, honey etc.

Contract system in MFP products was abolished all over India in mid-eighties of the last century after independence and Co-operatives or Co-operative Corporations were set up in states having substantial tribal population and forest. A net work was created from LAMPS to State Tribal Development Corporations (TDC)/Forest Dev Corporations (FDC) and linked to TRIFED at all India level with the basic objective of ensuring proper remuneration to the tribals. However, in practice the rights of LAMPS, TDCs/FDCs were sublet to private traders and industries to maximize revenue of Forest Departments. The industries and other large end-users got the products at low and subsidized rates. The interests of the tribals and poor were relegated to the back ground. In other words, the prime objective of eliminating the middlemen was almost defeated. Parliament enacted Panchayats (Extension to Scheduled Areas) Act 1996 which vested Gram Sabhas with ownership rights over MFP. Unfortunately no state Government concerned translated it into action. On the contrary, KKM has to note with regret that state like **Maharashtra deleted Tendu Leaves and Bamboo from its state list of MFP.**

Looking the situation, TRIFED submitted a proposal to the MoTA for adoption of a MSP system for items of MFP on the pattern of the scheme adopted by NAFED and FCI for Agro Products with no response from the MoTA.

Considering all the above facts, KKM of ABVKA **demands the Central Government to expedite the matter and introduce System of Minimum Support Price (MSP) for MFP in line with Agro Products without any further delay.**

KKM further demands that:

- 1. The MSP for MFP should be declared before the commencement of the season of collection of MFP;**
- 2. The role of TRIFED and State Forest Development Corporations should be redefined in the changing scenario and for effective implementation of the MSP System,**
- 3. TRIFED should be entrusted responsibility to intervene in the markets in the event of fall of prices below the minimum announced by the designated authorities and Central Government should provide adequate funds for the Scheme and**
- 4. Gross injustice committed by Government of Maharashtra and other States, if any, by removing Tendu Leaves and Bamboo from its state MFP list contravening provisions and spirit of the PESA Act, 1996 and the historic Forest Rights Act should be settled immediately by itself, else the Prime Minister's Office should intervene to ensure that the interests of tribals of Maharashtra and other states are not jeopardized.**

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Resolution No. 09.

CLEAR DOCKS FOR LAND ACQUISITION (AMENDMENT) Bill 2007
AND REHABILITATION (R&R) of PROJECT AFFECTED PERSONS Bill, EARLIEST.

KKM of ABVKA expresses concern at the inordinate delay on the part of Central Government to enact two important legislations which will go long way to protect the interests of Scheduled Tribes (STs) and other stakeholders. These legislations were introduced in the last Lok Sabha in 2007. The much delayed Land Acquisition (LA) Bill, 2007 and related Rehabilitation and Resettlement (R&R) of Project Affected Persons (PAPs) Bill have not come up for discussion in Parliament even after four years due to the reasons best known to the Central Government itself.

Superficially the **LA Amendment Bill 2007** has a few good points;

- public purpose is being redefined,
- Government acquisition of land for private parties is being reduced. The deletion of all references to companies gives us impression that land acquisition by State for private parties is being eliminated, but that is not the case. The LA bill has the wording "for a public purpose or for a company"; the word "or for the company" are now being omitted; but the definition of "public purpose" itself is being changed to include in the supplementary draft as "acquisition for a person (including a company)".
- If the private party purchases 70% of land, the Government would only help facilitate the remaining 30% land. It is now proposed to reduce it to 10%. The power to acquire 10% land by the government is to maintain states' sovereignty for those who may not willingly sale their land in future, but it means at the same time that states' patronage for industrial houses may still continue.
- KKM is of the considered view that the amended Act should provide fair price to the landholders taking into account the future development potential of the land and the district collectors should not fix a conservative market price as compensation to ensure that rural communities are not taken advantage of by corporate bodies in unequal negotiations. The land should be purchased at guaranteed market rates, there is no such provision in the bill.
- The rehabilitation of displaced PAPs including tribals, thrown out of their villages for construction of dams, mega industries and other developmental projects has remained patchy. The Amended LA Act makes provision for Social Impact Assessment Studies and cost related resettlement of PAPs. Central Policy on R&R had been long overdue and the R&R Policy was issued in 2004-05. The policy incorporates "special package for tribal families over and above the package available to other PAPs". Tribal families to be given preference in allotment of "land for land" and to be resettled close to their natural habitat in a compact block. Tribals settled out of the district/taluka are to get 50% more of R&R benefits in monetary terms.

So long as the **second namely Rehabilitation Bill** is concerned, the provision for Social Impact Assessment (SIA) seems very good, but the impacts are rather narrowly confined to physical assets (buildings, temples), institutions, facilities, etc. Loss of identity, disappearance of a whole way of life, dispersal of close-knit communities, loss of centuries old relationship with nature, loss of roots, and so on are also a part of social impact.

- The provision for review of SIA by a multi-disciplinary expert body is a welcome step, but it should first be prepared by a similar body.
- The provision for a SIA clearance is good, but not enough; it should be part of an overall clearance for displacement. **KKM emphasizes that if the felling of trees and interference with life and nature in general require statutory clearances, should not the displacement of people subject to a similar requirement?**

- Such a clearance must come from an independent statutory authority and not from the bureaucracy, the clearance must of course be revocable in the event of non-compliance or lapses and revocation clause should be actually used.
- The terms 'minimum displacement' and "non-displacing alternative" are music to ears, but execution of this criterion is left to a later stage when the consideration of option may no longer be possible and the decision left to the bureaucracy-Administrator for R & R.
- The provision for One-man redress grievances and a National Rehabilitation Commission seem to be good. But 'grievance' has been narrowly defined to cover only the case of "not being offered the benefits admissible". KKM feels that grievances relate to many other things.
- Taking all these points together, it appears that the legislation will work in practice will be entirely determined by the delegated subordinate legislation - the rules which will be made under the Act and the experience of the same is very bitter as in the case of Forest Rights Act, 2006.
- The National Monitoring Committee (NMC) seems totally bureaucratic except for the non-mandatory association of some experts (the operative word is 'may'). No civil society or NGO participation seems envisaged.
- In the case of Sardar Sarovar Project the basic principle in force (though it may not always be complied) is: rehabilitation must proceed submergence. The LA Amendment Bill, 2007 retreats from this position and requires only 'adequate progress in rehabilitation' prior to displacement which is a retrograde step. Besides, who will decide the adequacy of the progress?
- The elements of the rehabilitation 'package' seems to be inferior to the policies already adopted in projects such as Sardar Sarovar and Tehri. Moreover, cash in lieu of land is envisaged in several places. This is fraught with danger. It has been seen that cash is fritted away by the displaced persons and they join the ranks of land laborers. "Land for land should be the guiding principles as for as R&R of Janajaties is concerned.

In short, there are many weaknesses and questionable features of these two Bills which need to be rectified. Opposition to the bills is therefore, warranted.

KKM of ABVKA therefore resolves and demands that:

1. While determining the price of the land proposed to be acquired, the future development potential of the land must be taken into consideration in the LA Amendment Act,
2. The provision of Social Impact Assessment must also take into account not only the physical assets but also Social Rehabilitation in the R&R Act,
3. The Scope of grievances to be looked into by the Ombudsman (One-man Authority) and the National Rehabilitation Commission should include non-participatory project decisions, failure of consultation, non-compliance with the minimum displacement/non-displacing alternative, non-inclusion of a person in the 'affected' category and so on,
4. That at least two representatives or reputed NGOs working in the field of tribal welfare should be members of the NMC and
5. Rehabilitation must proceed displacement and 'Land for Land' must be made mandatory.
6. And lastly, **KKM demands the Central Government to enact the Land Acquisition Amendment Bill, 2007 and the Rehabilitation and Resettlement of Project Affected Persons Bill removing all the weaknesses and resolving and considering all the solutions (1-5) mentioned above without any further delay.**

7. **All the elected representatives including MPs particularly those from rural and tribal areas, cutting across the party line should left no stone unturned for achieving this task successfully at earliest.**

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