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## ***IHA's Draft Hydropower Sustainability Assessment Protocol (HSAP)***

Experts Find Shortcomings, Omissions and Errors in the Draft Protocol

*(Professor Ted Downing, President, International Network on Displacement and Resettlement (INDR) appointed and chaired a blue ribbon panel of forced displacement experts to review the draft protocol of the International Hydropower Association (IHA). This protocol is proposed to be used to assess the sustainability of future hydropower projects. The Panel, which included Michael Cernea, Thayer Scudder, Susanna Price, Anthony Oliver-Smith, among others, found significant shortcomings, omissions and errors that any hydropower project using them, as they currently stand, would be unacceptable by international forced displacement standards. Some excerpts from the INDR Review are given below. For full review, log on to: [www.displacement.net](http://www.displacement.net))*

Our review found that the current IHA draft assessment guidelines are still fundamentally deficient and incomplete for objectively evaluating the dam projects' social sustainability. Specifically, the IHA draft: totally overlooks the impoverishment risks imposed on the population affected by dam construction; underplays and at times leaves out the displacement-resettlement component of dams from key stages of the project cycle, particularly early on and after the physical displacement (Sections 1 and 4 of the IHA draft); proposes a flawed and imbalanced scoring methodology; and does not include important elements already introduced in internationally accepted resettlement policies and mitigation practices or in some countries national policies in this area. Thus, this draft tool is unable to professionally assess whether or not a dam project will sustainably reconstruct the displaced population's income sources and livelihood -- which are dismantled during expropriation and forced physical displacement, -- and whether the population impacted by the hydroelectric project is socially sustainable...

The most glaring deficiency of the IHA protocol is the omission of resettlement

from Section IV Project Operation. As defined in the Protocol, the implementation period (Section III) comes to an end with project commissioning. Hence the Protocol ignores the fact that the resettlement and the recovery after displacement extends in the large majority of cases well beyond project commissioning, even in the best planned and implemented cases (Laos' NT2 Project, for example). This is because to improve livelihoods and share benefits, which is the intention of the Protocol, takes a longer period of time.

Related to the Protocol's cutting off resettlement implementation during what is arguably the most critical stage is the fact that the Protocol has no requirements for dealing with those components of hydro projects, such as resettlement, which time and again have been unsatisfactorily implemented. The Protocol is therefore incomplete and misleading in its present form, because it misses much of what certainly is the most problematic part of dam construction projects the involuntary resettlement. Instead, the protocol gives governments and hydro project agencies an unjustified "escape window" to bypass and tolerate weakly planned and insufficiently financed resettlement components and avoid information transparency and the attendant compliance with current international best practices.

Equally glaring is the omission of forced displacement and resettlement during the initial strategic assessment (Section I), a point when displacement avoidance or minimization options should be fully considered. Given the substantial costs associated with full mitigation of displacement impacts which may reach over 40 percent of the total project costs in some situations, failure to formally assess this component of a hydro project makes the IHA tool anachronistic and unresponsive to the most important social pathology of dam building. If used, this draft tool will

overlook major project weaknesses and also contribute to significant costs overruns, implementation delays and political unrest.

### *Major Risks to Social Sustainability*

Dam building projects involve land acquisition, expropriation, forced displacement and relocation, which however unavoidable in dam projects indisputably represent an exclusion of large population segments from a development project's benefits, detracting from their basic rights and aggravating their poverty. The upfront recognition of this painful nature of displacement and of the risks it imposes on people is indispensable yet it is absent -- in the IHA Guidelines, as the reason for strengthening the monitoring and assessment mechanisms for social sustainability.

The major risks to people's living standards and basic rights, caused through expropriation and involuntary relocation, are the risks of impoverishment. As resettlement specialists we define this as "new poverty", "project-induced poverty", since it is superimposed on pre-existing poverty. These severe impoverishment risks have been identified as early as 1994 in the World Bank's study "Resettlement and Development" focused on 200 projects causing displacements in countries across the world. These risks were again strongly emphasized in 2001 in the very first paragraph of the Bank's updated OP/BP 4.12 Involuntary Resettlement Policy. There is also a wide international scholarly literature spanning three decades on the Impoverishment Risks and Reconstruction (IRR) model in population resettlement, to guide projects in analysing and counteracting these risks. Yet inexplicably, the IHA draft guidelines are totally silent on this group of crucial sustainability issues and their assessment.

It is our firm view that information on (a) whether each dam-related RAP explicitly considers these risks, and (b) whether it includes specific and feasible counter-risk measures, is essential for any serious professionally competent assessment of social sustainability. Therefore, IHA should score dam projects on whether or not they take into account and counteract each major impoverishment risk with effective measures, and should score as unacceptable a dam project when this is not done. Moreover, a hydropower project itself should not proceed if it knowingly generates project-induced impoverishment since it is forcing the displaced to involuntarily subsidize the overall project with what little they have. The lack of an impoverishment risk assessment, in 2010, means that the developers do not wish to know the answer which is a moral decision risking a human rights violation itself.

We must note here as well that this is not a requirement brought up or championed by INDR alone, but that the World Bank itself, in its recent 2004 manual on "Involuntary Resettlement: Planning and Implementation in Development Projects" (World Bank, 2004) has stated, verbatim: "Before a resettlement program is accepted as feasible and implementable, a thorough risk analysis must be conducted" (op.cit, pp. 353, our emphasis).

The most frequent impoverishment risks - recognized internationally as risks to sustainable resettlement but still overlooked in IHA's draft -- are summarized concisely as: landlessness, homelessness, joblessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common property

## 'Avatar' Plot a Reality for an Orissa Tribe

They are an indigenous people struggling to defend their land against mining interests who threaten their homes, culture and sacred deity.

Sounds familiar? No, they are not blue-skinned aliens and this is not the plot for the blockbuster film *Avatar*. Instead, it is the real life story of the Dongria Khonds, a tribe of about 8000 people in Orissa. Many of them are protesting the plans of mining giant Vedanta Resources and its subsidiary Sterlite Industries to mine bauxite in the Niyamgiri hills,

natural resources and social and cultural community disarticulation.

While these eight risks are the most general and severe in resettlement, they are not the only ones that may jeopardize social sustainability. Among these are possible risks to the production systems of downstream riverside populations, which are associated with dam unsafe operation regimes; institutional risks associated with the capacity of agencies conducting the resettlement operations; and risks resulting from particular local conditions in one or another dam project area. Improper procedural, notification and consultation with the project affected peoples may also risk human rights violations, a most serious impoverishment risk that undermines the social status and power of the displaced groups. The IHA draft tool should open up its room for assessing and scoring how these project-specific risks to sustainability are addressed in each dam project. The rationale and the constructive modalities for doing so are the same as those for the above risks, and their repetition is not necessary.

### *The Imposed Nature of the Risks to Social Sustainability*

Both state-financed dams and private-sector financed dams are prone to subject people to the above impoverishment risks to sustainability. Precisely because by the very nature of dams these fundamental risks are imposed on the affected people even if they express an opinion in a survey that they do not oppose the project. INDR firmly states that the evaluators of social sustainability have a particularly high responsibility in the case of dam building projects. These risks are in no way

which they worship as their deity.

In an advertisement in the film industry magazine *Variety*, tribal rights organization Survival International appealed to *Avatar* director James Cameron on behalf of the Dongria Khonds. "*Avatar* is a fantasy...and real", reads the advertisement. "We have watched your film now watch ours," it says, with a link to Survival's 10-minute film 'Mine: Story of Sacred Mountain,' narrated by British actress Joanna Lumley.

voluntarily undertaken by the population itself, which extensive research has shown has low risk-tolerance levels and tends to be risk-averse. We ask that IHA will unambiguously agree with us in this respect.

The owners and the financiers of dam building projects manage their own risks prudently, but do not equally well manage the risks they impose on the displaced

people. The majority of displaced people end up worse off, as for instance in India, where state by state research has statistically established that the overwhelming majority of 60 million displaced people was left impoverished and a large number have not even been resettled.

It is widely and publicly known that this has long been, and still remains, a pernicious source of failures of resettlement components in many dam projects which cause mass pauperization of displacees. The recurrence and socially catastrophic magnitudes of such failures imposes an ethical and professional duty on the IHA to replace its current silence on risks by proposing revealing measurements of whether or not every new dam project openly recognizes social risks. It is primarily these risks which place question marks upon the justification of the entire dam project. We cannot emphasize enough how important this is at the present time, when the construction of dams intensifies rapidly in Asia, Africa, and Latin America.

The obligation to prevent the recurrence of such social failures is a key reason for INDR's conclusion that IHA needs to radically revise its draft assessment matrix, short of which it will remain inadequate and irrelevant.

Survival's director Stephen Cory says: "Just as the Na'vi [of AVTAR] describe the forest of Pandora as 'their everything,' for the Dongria Khonds, life and land have always been deeply connected. The fundamental story of AVATAR if you take away the multi-coloured lemurs, the long-trunked horses and warring androids is being played out today in the hills of Niyamgiri

Source: *The Hindu*, New Delhi, Wednesday 10 February 2010 (page 3)

## ***The INDR working with the Orange Coalition to Change Eminent Domain Laws in State of Arizona, USA***

Amendments to the United States of America Constitution (Article 5 and Article 14 of the Bill of Rights) require the government give “just compensation” and due process when property is taken. Federal laws, most notably the Uniform Relocation Assistance and Real Property Acquisition Act provides other protections but only when a project has federal funding. The US Constitution leaves the issue of what is just compensation ambiguous and subject to a juridical interpretation. States can and do set higher standards, as a gesture of goodwill, to avoid harming property owners. As a result, there is considerable state-to state variation in the rights of the displaced.

INDR President Ted Downing, a former State Legislator, did an analysis of Arizona eminent domain laws and found them surprisingly weak and antiquated. He found that they were based on flawed economics that leave a property owner in the way of development impoverished and disadvantaged. He discovered that the

expansion of the Interstate Highway System under President Eisenhower, airport expansions, and subsequent urban development left impoverished peoples in their wake.

Downing (downing@u.arizona.edu) joined forces with another former legislator, Laura Knaperek (lkneperek@cox.net) of the “Orange Coalition” to strengthen eminent domain laws in Arizona. Orange here is the short form for Organized Residents Against Needless Government Encroachment) The coalition, which formed two years ago to oppose the misuse of eminent domain, is urging the Legislature to pass bills that would create more protections for people whose property is taken forcibly by the government, and guarantee more relocation assistance for those who are displaced when the government takes property. Downing puzzled over why the entitlements of a property owner differed, depending on which state agency or jurisdiction took one’s property. From the property owner or

tenant's point of view, this made no sense.

Downing and the Orange Coalition found a champion in Arizona Senator Chuck Gray (cgray@azleg.gov) who is sponsoring two eminent domain bills S 1363 and S1366 (www.azleg.gov ). The bills would expand the relocation-assistance requirements in eminent domain actions. It would, for instance, ensure timely disclosure to project affected peoples, risk assessments of a project to those in the way, and a vote on any taking by an elected official. It would standardize the rights of peoples regardless of which agency is taking their livelihoods.. It also requires relocation assistance to be provided for owners of property near an eminent domain project to compensate for financial injury caused by the project. After extensive hearings with lively opposition and amendments, the two bills were voted out of committee and will soon be up for a vote of the full Arizona Senate.

*For more information contact Downing at downing@u.arizona.edu*

### ***New Publications***

#### **FAO 2008 Compulsory Acquisition of Land and Compensation (Land Tenure Studies No 10)**

Rome: Food and Agriculture Organization of the United Nations

Abstract This guide on Compulsory Purchase and Compensation is written for people who work in land administration and all those with an interest in land, land tenure and their governance. Compulsory acquisition is the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society. This power is often necessary for social and economic development and the protection of the natural environment. Compulsory acquisition requires finding the balance between the public need for land on the one hand, and the provision of land tenure security and the protection of private property rights on the other hand. Compulsory acquisition is inherently

disruptive. Even when compensation is generous and procedures are generally fair and efficient, the displacement of people from established homes, businesses and communities will still entail significant human costs. Where the process is designed or implemented poorly, the economic, social and political costs may be enormous. Attention to the procedures of compulsory acquisition is critical if a government's exercise of compulsory acquisition is to be efficient, fair and legitimate.

This guide explains what compulsory acquisition and compensation are, and what constitutes good practice in this area. It examines the consequences of poor legislation, procedures and implemen-

tation in compulsory purchase and compensation and looks at how they can be improved in general, as well as in some specific areas in which compulsory purchase and compensation can be problematic. It draws out the lessons learned from the extensive experience and field programmes of FAO and the World Bank, and from parallel work in urban areas. The focus of the guide is broad, covering the widest range of possible situations. The guide is likely to be of most use in countries that are seeking to understand good practice in this area and to improve their own legislation, procedures and implementation in compulsory purchase and compensation in the interests of society as a whole.

#### **Sharing the Benefits of Large Dams in West Africa**

Edited by Jamie Skinner, Madiodio Niassé, and Lawrence Haas.

London: International Institute for Environment and Development 2009

This report reviews the experience with displacement of affected people in West Africa over the last 40 years and examines mechanisms for distributing the

benefits of dams more equitably and ensuring that affected people are better off. Making affected people a direct beneficiary of dam projects promotes public

acceptance, reduces risks to developers and reduces the risk of long term conflicts between those displaced and the villages that host them.

## Development and Dispossession: The Crisis of Forced Displacement and Resettlement

Edited by Anthony Oliver-Smith Santa. Fe: School of American Research, 2009

More people were involuntarily displaced in the twentieth century than ever before, and not only by war and natural disasters. Capital-intensive, high-technology, large-scale projects compel the displacement and resettlement of an estimated 15 million people every year in the process of converting farmlands, fishing grounds, forests, and homes into reservoirs, irrigation systems, mines,

plantations, colonization projects, highways, urban renewal zones, industrial complexes, and tourist resorts. Aimed at generating economic growth and strengthening the region or nation, these projects have all too often left local people permanently displaced, disempowered, and destitute. Resettlement has been so poorly planned, financed, implemented, and administered that these projects end

up being "development disasters." Because there can be no return to land submerged under a dam-created lake or to a neighborhood buried under a stadium or throughway, the solutions devised to meet the needs of people displaced by development must be durable. The contributors to this volume analyze the failures of existing resettlement policies and propose just such durable solutions.

## India Infrastructure Report 2009: Land-A Critical Resource for Infrastructure

3iNetwork Infrastructure Development Finance Company, New Delhi: Oxford University Press 2009

The acquisition and use of land is emerging as the single largest constraint to India's infrastructure building endeavour. Land acquisition is a very sensitive issue since it affects the livelihood of displaced households and those who have difficulty in transitioning from traditional skill sets. It also adversely impacts the sociocultural canvas of those affected. Attempts by the government to use eminent domain powers to acquire land are increasingly facing resistance from displaced people across the country. Legal, policy-related, and implementation deficiencies lie at the heart of such ongoing contestations. In an effort to walk the balance between the interests of the displaced, and the acquisition of land for infrastructure,

policymakers are increasingly turning their attention to compensation, resettlement and rehabilitation (R&R), and other land-related issues to provide potential resolutions. Using land as a means of financing infrastructure and overcoming land constraints are other challenges being explored.

The India Infrastructure Report 2009 with multidimensional contributions by social scientists, researchers, environment specialists, independent consultants, academics, and bureaucrats discusses: land markets, acquisition policy framework and processes, compensation, rehabilitation, and resettlement, innovative solutions to overcome urban land constraints,

leveraging land as a financing instrument for development, international experiences in land management.

The IIR is an invaluable resource for policymakers, academics, business persons, and finance professionals. It is a collaborative effort by academics, professionals, providing infrastructure services, and policy makers under the aegis of the 3iNetwork. The network is managed by the Infrastructure Development Finance Company (IDFC), Indian Institute of Management, Ahmedabad (IIMA), and Indian Institute of Technology, Kanpur (IITK).

## Land Acquisition, Displacement and Resettlement in Gujarat: 1947-2004

by Lancy Lobo and Shashikant Kumar, New Delhi: SAGE Publications, 2009

This book is a first ever analysis of the land acquired for development projects and their impact on the displaced and project-affected people of Gujarat from 1947 to 2004. It begins with debate on the meaning of the term 'development' and focuses on displacement, marginalization and impoverishment as direct consequences of admittedly debatable methods of progress adopted in Gujarat in the name of development.

The book presents a comprehensive account of land acquired for water resources, industries, mines, HRD, transportation/communication, and urban development projects and focuses on the people displaced and affected by them. Additionally it pays special attention to the legislative hurdles of rehabilitation and compensation procedures which follow displacement, analyzing the behaviour of

officials towards people, the role of village leaders and the impact on people, especially tribals, dalits, the 'backward' castes, women and children.

The information presented covers 139 sites and 1,937 households from different regions of Gujarat. The book is special in that it discusses the issue of the current and future state of land acquisition in Gujarat as a Special Economic Zone (SEZ), thereby contributing to the debate on the necessity and the significance of SEZs.

The book is an important addition to the available resources in the field of economics and development studies and political sociology. It will be useful as a reference book to researchers and academics working in these areas as well as professionals involved in the field.

**RESETTLEMENT** News published twice a year in January and July reports on current operational, research and capacity building work in resettlement from around the world. The aim is to disseminate practical experience, information and ideas among those working for resettlement agencies, development research centres, and management training institutes. It is published by the Resettlement News Network- an informal network of individuals with a concern for the fate of people who are forced to relocate due to development projects.

The submission of material relating to any aspect of development-induced resettlement is welcomed, and should be addressed to:

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