

Comments on NHPC's Draft R&R Policy

July 11, 2007

These are some quick comments on the NHPC draft of the R&R Policy put up on NHPC website (<http://nhpcindia.com>), possibly in June 2007, inviting comments by July 14, 2007, to be submitted to: vnam176@yahoo.co.in). These comments were sent to the NHPC and Union Power Minister and also secretary and Joint Secretary (Hydro) in Union Ministry of Power, before the due date. No response has been received from any of them as yet, a week later.

1. **Track Record** NHPC's track record on R&R issues has been very poor. Before embarking on its own R&R policy, the first step NHPC needs to take is to get an independent, credible assessment done of how the affected people have been treated NHPC in the past, what is their status and what needs to be done to achieve just R&R. Needless to add, such an assessment should include all those *affected* by the NHPC projects, not just those who have been displaced or whose lands have been taken. The assessment can also include if the affected people were treated through "participatory approach and transparent consultation" as NHPC claims.

2. Some of the projects where it is known that the affected people have not been treated properly include: Chamera I, Chamera II, Chamera III (all three in Himachal Pradesh), Uri (Jammu & Kashmir, here even SIDA – the Swedish donor agency – report showed that affected people did not get their due), Loktak (Manipur – the affected people have gone to the High Court) Subansiri (Arunachal Pradesh and Assam), Teesta V (Sikkim), Teesta low dam III and IV (both in W Bengal) and also Indira Sagar and Omkareshwar (both in joint venture in Madhya Pradesh).

3. Here one broader issue that should be noted is that NHPC has never assessed, leave aside compensated the people affected by its projects in the area downstream from the projects. The hydropower projects that NHPC has done have serious impacts in the downstream areas, both in terms of access to water, access to fisheries, access to other livelihood means and safety. In Assam down stream from the under construction 2000 MW Subansiri Lower Project, when the affected people raised the issue, NHPC refused to even assess the downstream impacts.

4. On the last count, NHPC's acts have lead to deaths of large number of people in Madhya Pradesh in 2005 when it suddenly released large quantity of water from the Indira Sagar project, without warning to the downstream areas. NHPC refused to take responsibility for the consequences of its actions. Similar incident also happened earlier in Chamba district in Himachal Pradesh, when sudden release of water from Chamera dam lead to destruction downstream.

5. **Problems at the outset** In the preamble, NHPC states, "In the process, NHPC will explore various viable alternatives and select the one causing least displacement or adverse impacts." This is repeated in Section 1.3 when it says its objective is, "NHPC to the extent feasible and practicable, will avoid or minimize adverse impacts on Unfortunately that is not what NHPC has done in the past or is doing currently. If NHPC really wants this to be implemented, than it will have to show how it will be ensured.

6. **No legal force** Here it should be noted that policy does not have legal force. Hence, there is no legal way to ensure that policy will actually be implemented. Under the circumstances, and considering NHPC's track record, there is little credibility of the policy statement.

7. **Vacuous foundation** The Preamble notes, "This Policy has taken into account the provisions kept in NPRR-2003 along with those proposed in the draft version of National Rehabilitation Policy 2006 (NRP-2006) and concerns of international funding agencies like the World Bank and the Asian Development Bank." The trouble is that this statement appears vacuous in view of the fact that NPRR-2003 remains unimplemented, the draft NRP 2006 remains draft, ADB has no experience in building large dam or large hydropower project in India and the World Bank's track record has remained dismal considering the experiences of Sardar Sarovar Project, among others. A policy that starts on such weak foundation cannot go far.

8. **Non land based impacts** The Preamble notes, "This Policy will be applicable only for those project affected families whose place of residence or other properties or source of livelihood have been affected by the process of acquisition of land for NHPC's projects and the host population where the displaced communities would be resettled." This means that NHPC does not intend to provide compensations to the people affected in other ways that due to acquisition of land. This leaves out a very large number of people affected by the hydropower projects, both in the upstream (e.g. back water impacts), downstream, project vicinity (e.g. affected due to blasting for the project) and elsewhere (e.g. those affected due to material requirement (sand, coarse aggregates, fine aggregates, etc) for the project and for transmission lines, colonies).

9. **Free, Prior, Informed Consent** The Preamble notes, "The implementation of resettlement and rehabilitation process will start with the commencement of the project works and will be completed in all respects before the scheduled commissioning of the project." If the project wants to be participatory, than the process should start before the commencement of project construction work and free, prior and informed consent of the affected people should be taken before hand.

10. **Escape Routes** The policy provides enough escape routes for NHPC not to implement the measures. For example, in section 1.3 (f) it the policy says, "To provide PAFs with Resettlement Colony &/ agricultural land, wherever possible before they are shifted or their assets acquired." The phrase "wherever possible" and "to the extent feasible and practicable," (in section 1.4(c)) would mean that NHPC could say it is not possible/ feasible/ practicable, hence cannot be done. Such phrases are unacceptable in any R&R policy.

11. **No commitment for employment opportunity** Similarly, in section 1.4(f) the policy says, "In view of this, no commitment on employment opportunities for PAFs as a rehabilitation option will be given. However, preference will be given to PAFs while appointing unskilled labour, based on vacancy requirements. NHPC, to the extent feasible, would provide occupational rehabilitation to PAFs by means of petty contracts, vocational training and through promotion of cottage industries." This is also not acceptable that NHPC can make no commitment for employment to the PAFs. This is also against the policy of a number of states like Himachal Pradesh which require that at least 70% of the employment in lower categories must be from affected people/ local area.

12. Not applicable to 11th plan projects? Section 3.1 of the policy says that the policy will not be applicable to projects that have already received environment or techno economic clearance on the effective day. This will exclude all projects in foreseeable future as most projects to be implemented in 11th plan would have already received one of these clearances.

13. No cut off date The definition of family in section 2.17 does not include the cut off date/ at what age major sons and daughters will be considered separate family and what provisions would apply to them.

14. Private negotiations? Section 3.5 has a strange provision, “This R&R policy and its provisions will not be applicable for persons whose land/property shall be purchased through private negotiations for the Project.” Indian law does not allow govt companies like NHPC to purchase land through private negotiations for what is supposed to be a public purpose project, as of today. So why this provision?

15. Unacceptable provisions Section 3.7 is full of strange, contradictory, unacceptable provisions, “The benefits of R&R shall be extended to PAFs only after they have handed over their land or assets acquired for the project. PAFs will not be physically displaced from their existing dwelling unit unless accommodation in a resettlement colony has been provided to them except in cases where PAF is covered under the self-resettlement category. In special circumstances, where the displacement is inevitable before construction of RC, PAFs should be provided with transit accommodation and shifting allowance.” How can NHPC say that benefits of R&R shall be extended only *after* the affected have handed over the land or assets? This is unjust, illegal and unacceptable. What is self resettlement category? Such category should not be there, as NHPC and govt can easily coerce the affected to sign to be in such category. Also there can be no circumstance where displacement is inevitable before the construction of resettlement colony.

12. Consult the affected A trustworthy process would be for the NHPC to appoint a credible team of independent persons to hold consultations about the policy among the people affected by NHPC projects in the past after translating the policy in local languages and circulating at least a month in advance of such consultations.

These are some quick comments, more detailed comments can be sent if we find adequate response to these comments.

Himanshu Thakkar (ht.sandrp@gmail.com)
South Asia Network on Dams, Rivers & People (www.sandrp.in)