

networks. This should be the focus, i.e., strengthening social capital, governance, local trust and mutuality.

- With regard to social safeguard policy, the new generation of policies will have to address issues such as consent of the people, implementation and outcomes.
- To address the governance deficit experienced in many projects on the ground the new policies will have to find a system to better monitor implementation and address issues as they arise.
- Policies should reach the *panchayat* level. On social safeguards, there is a need to zero down to minimize displacement. On EA, one aspect that is missing is the focus on urban slums. Also, the public interest litigation (PIL) mechanism in India is slow. A redress mechanism should be fast-tracked and time-bound.
- There are so many dynamics associated with social dialogue and protecting the people's rights. It needs to be made holistic and to take into account all perspectives, including issues of governance and politics, and these should be fully dovetailed.
- Some suggestions on **operationalization and implementation**: (1) Is it possible for Bank projects to benefit both the Bank and the people? If the Bank acknowledges this, then the protesters will be addressed. (2) People know very little about projects prior to losing their assets and receiving compensation. The basics of the project need to be shared with the institutions working in the Project area. (3) If promises are violated, there must be strong consequences. Overall, there should be a move from confrontation to partnership.
- In terms of borrower-Bank relations, people do not have much trust; this needs to be addressed. There are many laws but they have not been implemented appropriately. Because the emphasis is on the preparation of projects rather than on implementation, safeguards are not fully implemented.
- Safeguard policies should be applied during project formulation, i.e., during the Detailed Project Report (DPR) preparation stages. Issues frequently become confused if DPR consultants engage in safeguard processes without assistance from safeguard consultants. Consultants should be in place before the DPR preparation, with clear descriptions of consultant roles and responsibilities. If not, during the operational stage, the environmental assessment, environmental management plans and resettlement and rehabilitation may encounter problems. The core project work runs very smoothly when the safeguard team is in the project unit before the DPR is prepared. This is the best way to move forward smoothly.
- The construction period for road or other infrastructure projects is 12-18 months. But environmental and social measures are long-term and last beyond this period, yet there is no monitoring of these measures once the project is completed.
- In infrastructure projects, technical consultants always try to maximize value. Alignments are always pre-selected. Task managers address issues during the design phase but compliance during implementation and operation also needs to be undertaken. This is important as many incremental changes happen and there is no review in the operational phase.
- The discussion has focused on infrastructure projects. Fiscal reform projects and safeguards relevant to those initiatives should also be reviewed.

Land Acquisition and Compensation

- Social issues related to compensation and land acquisition remain one of the most pressing challenges in project implementation.
- Land acquisition is rather poor in Odisha. Most of the land is forest, and ownership is sparse. Forest laws are becoming more stringent and obtaining the necessary clearances for land acquisition entails a time consuming and very complex process. In considering new policies, the Bank should take factors such as land character, people's nature and distribution into account, and build in flexibility to address different contexts and social situations.
- Some key principles could apply, for example when land is taken from people, livelihood restoration must be ensured; or compensation for the land acquired should be paid as per the actual market value. To protect people's interests, their education, social status and livelihood should be addressed stringently.
- There should be a discussion and analysis of whether safeguard policies should be people-centric or project-centric or a combination of both.

Indigenous Peoples

- It is important to improve the recharge area in the watershed. This has to be done while respecting traditional rights. Involving the local community to be a part of the solution is a key to success.
- There are several tribes in Odisha. They reside in the hilly areas where the rivers have their sources. There are environmental sanctuaries and big reserve forests. Sustainable livelihood is critical for these tribes. Indigenous Peoples and the environment have to be protected.
- By law, the land belongs to the Revenue department and owners are compensated. In community forests, however, the community protecting the forests and the people are not compensated.
- In relation to OP 4.10, there is a need to respect traditional rights. This respect should include restitution. Governments have talked about this for a very long time but to date there is no mechanism in place to address this issue. For example, in Orissa, much of the land is managed by the community. This results in many different names and titles. When these lands are taken, compensation is not offered. Restitution can be done only if people own the land but for tribals this is rarely the case. They use the land which is owned by the Government under an arrangement with the Tehsildhar (revenue officer).
- If there are problems, tribals do not have the ability to use the judiciary process. Institutional changes – for example empowered tribunals - are needed to provide tribals with access to legal aid.
- Encroachment of government land is another pressing issue. The social assessment process should deal with tribal areas and also with tribes who are occupying other areas and consider carefully all the levels of difference that occur in different places.

Involuntary Resettlement

- **Involuntary resettlement** will require the following key changes: (1) the concept of inter-generational equity has to be strongly embedded. At present there is a contractual obligation to the head of the family but what happens to the next generation is unclear. Tata introduced the Tata Parivar policy, which goes beyond Orissa's 2006 policy. This focuses on upgrading of skills and employability. People will not accept a new policy if the concerns of the next

generation are not taken into account. (2) There is a need to clearly mention gender issues and include determination of eligibility. There should be no discrimination against women. In certain cases, women have to be older (30+ years) to get the same benefits that a man receives once he turns 18. There should be no gender bias. It is important to do good for women too. (3) There should be a third party grievance redress mechanism. This should be a clearly described forum with enforcement capacity and the ability to resolve issues in a timely manner. It should have the power to issue and implement orders as required by the affected party. (4) Using measurable indicators in the RAP itself should be considered. Certain variables can be identified in the RAP and can help to verify whether entitlements reach the beneficiaries.

- There are **critical areas pertaining to resettlement**, which require consideration. **First, the pre-resettlement.** There has been much progress on transparency, with terminology such as consultative, consent and award becoming common. The use of market price as the basis for compensation is getting established. However, there are many stakeholders and trust is lacking. Finally, there is the question of who will be displaced. The usual procedure is to go to the Gram Sabha. The Rehabilitation Peripheral Development Advisory Committee (RPDAC), is an advisory group with no legal standing. In fact, consultations are very limited. Given the wide range of stakeholders – village committee, sarpanch, etc., there is a possibility of abuse of the system. **Second, the post-resettlement.** While cash is made available, lack of assets makes restoration challenging among poor families or tribals. There is no long view; what will happen 20-25 years later. The possibility of distributing money over a 10 year period should be considered. There are other issues, for example, non-agricultural land is taxable unlike agricultural land. Collecting tax returns is difficult and people are affected by this. And **thirdly, encroachment is a huge issue.** There are certain guidelines on how encroachers, who may have occupied an area for 5-10 years, need to be evacuated. Bank policies should be clear about encroachment.
- The Land Acquisition Act refers to consent awards in a certain way, but the R&R Bill, expected to become an Act, does not use the same language. If the Bank speaks about replacement value, land valuation practices need to be explained. This will be helpful for future projects.
- The revised policies should state that the same people should not be displaced twice if there are two development projects supported by the Bank.
- Valuation of land is done without looking 20 years ahead. The future value of land should be considered.
- Land records pertaining to community property resources are important. There should a separate chapter on this in the revised policies. Social capital and institutions should be preserved when taking government land. This should be considered.
- Replacement value as defined by the World Bank is appropriate for compensation for land.
- Small, marginal farmers need to be safeguarded. It is important to determine the yield value over a period of time, consider inter-generational equity aspects, and recognize future potential in terms of compensation. This is particular relevant for small, marginal farmers who may or may not have land records. Introduction of the term “enterprise value,” which captures this future value, should be considered, as opposed to the replacement value that is presently in use.

Environmental Assessment

- In any project EA, there is a consultative process, sometimes called a public hearing. Frequently, only 5% of the discussion is spent on the environment and the other 95% on compensation, because this is what drives people. This means environmental consultations are not being done.
- Odisha has coal and mineral resources, which means that there are thermal power plants. Assimilative studies are needed to understand cumulative impacts; strategic environmental assessment should be the basis for planning.
- The approach has been to decide on industrial development, then identify the location and following that, undertake an assessment. It would be better to do it the other way around, identifying land prospectively, taking into account environmental sensitivity and economic requirements. Development planning with a focus on the future should be considered.
- Public consultation is a part of the clearance process and should include the environment. Awareness of the general public is very low on environmental matters.
- There is a significant credibility issue concerning environmental data, which is of concern. This should be addressed.

Recommendations with respect of any of the emerging areas described in the paper (i.e., disability; labor and occupational health and safety; human rights; land tenure and national resources; free, prior and informed consent of Indigenous Peoples; gender; and climate change)

- All emerging areas should be considered during the review and addressed in the next generation of safeguards. The key issue would be to ensure that the policies can be implemented on the ground.

Disability

- In the Bank's environmental and social safeguard policies, the voices of the disabled are simply not heard.
- Interests of the disabled are not taken into account. The disabled are the most marginalized and vulnerable section of society. About 2.1% of people in Orissa are disabled and this is higher than the national average. In a recent survey, it was learned that only 22.2% earn a living.
- Wherever development activities are undertaken, disability should be addressed in a holistic manner. Everything should be disability-friendly, from infrastructure, to education, health, and employment opportunities.
- The link between disability and development needs to be understood. Vulnerability should be recognized. Disability mainstreaming should be done and inclusive development ensured. Protection of the rights of the disabled should be included. Language from the Convention on the Rights of Persons with Disabilities (UNCRPD) should be used. World Bank staffers should be inclusive of disability concerns. This will go a long way in empowering the rights of the disabled.
- There is a lot of trafficking of women, especially those who are deaf. There is a lot of sexual abuse in tribal areas. Health is a major concern. There are no toilets for the disabled. Even if

there are toilets, they are not user-friendly, so no one can use them. This situation is very bad.

- In schools that are intended to have inclusive education, trained teachers are not available. In schools for the visually impaired, there are no Braille books or computer education, so people have to rely on audio services. All educational facilities should be disability friendly.
- Employment of the disabled in the private sector is very low. Lecturers, teachers and stenographers are the only jobs that appear to be available for the disabled.
- Rights of the disabled should be recognized. Additional rehabilitation measures should be provided.
- The Orissa Rural Livelihood project covered 10 districts, many panchayat and 300,000 families. How many disabled were affected during the project? From research it appears that there have been no consultations on the design and implementation and the disabled are not included as beneficiaries of the project.
- There are two other issues the Bank may wish to address: (1) health sector – sterilization of women with disabilities; and (2) Electro-convulsive therapy that is being used for mentally disabled/mentally ill. These are being done in hospitals that receive partial funding from the Bank.

Climate change

- Climate change is an important issue; the safeguard review should address it and look at the ramifications. For instance, the promotion of solar energy has implications for land availability, water availability and utilities. Climate change can also have ramifications between nations and within the state.

Gender

- An emphasis on gender mainstreaming and providing rights for women is welcome. In India, only 1-2% of women own land. Therefore, the question of compensation for women doesn't arise.

Labor, occupational health and safety

- In Odisha, the construction sector is very active. However, there is no job safety at all for people.
- Supply chain activities are seldom considered. This is where impact can be maximized, so that worker safety is not ignored. Stringent measures should be taken if safety compliance is not done. Non-performing contractors should be terminated and should not be pre-qualified for subsequent projects. Safeguards are hardly respected in the supply chain. ILO standards should be integrated. Also, fair trade practices should be built into the safeguard policies.

Any additional comments or suggestions

- Consultations for the new safeguard policies should be held in local languages as well. At the least, there should be translation so that the feedback from the non-English speaking population is also gathered.
- There is a Planning Commission report on the development challenges in extremely affected areas. This should be read, reviewed and used in the context of the policy revision.

- Although the Bank provides support, the project process is sluggish. Outcomes should be effective. Quarterly assessment, more evaluation, mid-term review and other monitoring should be more rigorous.