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Development, Displacement, Tribal Communities' Rights and Rehabilitation

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ABSTRACT

Development and destruction are two halves of a whole. As nations undertake various development activities for larger public purposes, the inevitable result of such mega development projects is the mass displacement of the people. People are forced to leave their homes in a development-driven form of forced migration which is known as Development-induced displacement and resettlement (DIDR). Historically, the development occurs in the form of construction of dams, mining, agriculture, the creation of military installations, airports, industrial plants, weapon testing grounds, railways, road developments etc.

Although it is universally accepted that every human has a right to just and sustainable development, development processes as they are implemented, affect vulnerable groups in numerous ways. Primary among these groups are the tribals and scheduled castes. When displaced persons lose their connection to historical, religious, symbolic or spatial locations resulting from forced migration it causes psychological stress, helplessness and distrust towards their government and humanitarian groups and diminishes cultural identity. About fifteen million people each year are forced to leave their homes because of public and private development projects and that number keeps on increasing as countries move from developing to developed nations.

Compensation and rehabilitation policies designed to mitigate effects of displacement are often unsuccessful. This is largely due to corruption of bureaucrats, undervaluation of resources, and lack of involvement of displaced persons in the planning process. Tribal community's rights to life, health and dignity are trampled because of land alienation, loss of access and control over forests, enforced displacement due to development projects and lack of proper rehabilitation. The State's right of "eminent domain"—the power of a State to take private property for public use—needs to be balanced with people's right to home and property. Proper measures have to be taken for the compensation, rehabilitation and resettlement of the displaced community. This research focuses, primarily, on how Development-induced displacement and resettlement (DIDR) occurs, Secondly, on the protection of tribal communities' rights against arbitrary development processes and thirdly, on policies adopted by the Government regarding compensation, rehabilitation and

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resettlement. Throughout the paper emphasis is laid on how the State has to balance people's right to just and sustainable development with people's right to home and property.

Keywords: *Development, Displacement, Tribal community's Rights, Rehabilitation and Resettlement.*

I. INTRODUCTION

The following presentation envisages the topic “Development, Displacement, Tribal community's rights and rehabilitation”. The word Development means overall improvement in the welfare of the society economically, politically and socially. Development refers to the situation where the standard of living of the masses increase. The fundamental goal of economic development to advance the welfare and wellbeing of the people. But the process of development had created lot of sufferings and miseries to a vast section of population. Every year, millions of people around the world are relocated and resettled away from their lands, homes and livelihoods for large-scale development projects such as dams, reservoirs, power plants, roads, plantations, urban renewal, and oil, gas, and mining projects³. This type of forced relocation is known as development-induced displacement. So, there is an ethical dilemma the outlook of development showcases overall empowerment and wellbeing of humankind while the practical aspect of development initiated by the construction of various economic and social infrastructure causes large scale forced displacement and miseries to the displaced persons, especially the tribal communities. Although there are rehabilitation policies designed to mitigate the effects of the displaced community, their lives after displacement are traumatic. There are studies showing that these policies are seldom successful. Development seems to be a positive word unless it is viewed from the spectacles of the affected persons. The paper also throws light on the nature, scope and causes of development induced displacement and rehabilitation. The paper will help in seeing the impact of such development on the livelihood of the people the which are mostly tribals. The paper also overlooks the rehabilitation policies framed by the government and issues in implementing it.

(A) Research Objectives

- a) To conceptualise development induced displacement and resettlement.
- b) To lay out the impacts of displacement on tribal community.
- c) To ensure tribal community's rights are protected.

³ Raof Ahmad Lone, Development induced Displacement, Journal of Social Science Research, ISSN:2321-1098 (2014).

- d) To envisage the issues and challenges in implementing rehabilitation policies.

II. THE CONCEPT OF DISPLACEMENT

Displacement is described as dislocation of people from their traditional place and region. It frequently results in economic insecurity, helplessness and alienation. This could mean loss of livelihoods and communities. Historically, migration is of two types-voluntary and involuntary migration. Voluntary migration occurs due to some economic, educational and social reasons in order to have better and enhanced standard of living. Forced migration occurs when people are forced to vacate from their residential places, economic setups, political and social systems. The latter is termed as displacement, which often results in huge economic imbalance, unrest and insecurity in a country.

(A) Development Induced Displacement

Development-induced displacement is characterized by the permanent relocation of all households within a geographic area as a result of the construction or industrialization. In order to construct infrastructure such as mining, roads, dams, power projects and industries, which are intended to serve greater welfare, some land and property is required, which will disturb the life & ecosystem of the affected society. Displacement is seen as the result of a model of development that enforces certain profitable and economic choices without giving any serious thought about those options that would involve the least environmental and social costs¹. It is divided into two subcategories – direct and indirect. Direct displacement occurs in those cases, where the installation of development projects leads to displacement of people who have inhabited these sites for generations together. Indirect displacement emerges from a process whereby commissioning & functioning of projects continuously leads to consumption of natural resources, thus depriving the indigenous people of their means of livelihood and sustenance.

(B) Displacement and the violation of rights

Displacement of people from their houses, affect a number of rights like the right to life, equality, freedom of speech, expression etc. State intervention in this regard is exercised in the form of appropriation of property and forcible eviction of people although, the State is empowered to exercise this power only for 'public purpose'. With regard placed special emphasis on the idea of social democracy, as defined by Dr. B.R Ambedkar which recognises liberty, equality and fraternity as the principles of life. Recognising highest constitutional provision of 'Right to Life' as envisaged in Article 21 of the Indian Constitution, 'the judgment stated that the tribals also have equal rights to social and economic empowerment. As a part of their rights to development, to enjoy full freedom, the lands in the scheduled areas are to be

preserved for social and economic empowerment of the tribals'⁴

(C) Displacement in Indian Context

From 19th century displacement has been occurring because of developmental activities in India. Many of these developmental projects came up in mineral-rich areas, upper stream of the rivers and coastal belts. In post-independent India, approximately five thousand big and small dams have been constructed in the last fifty years which led to the forced eviction of millions of people. A large part of our natural resources lies in the hilly and forest areas mostly inhabited by tribals – one of the most disadvantaged and suppressed sections of the population. Developmental project got more momentum with the adoption 1991 economic reforms; the foreign investors have increased their presence in India. Various joint ventures projects have been initiated. For example, 341 SEZs have been approved and set up across India in the recent years. During early years of independence in order to make India parallel to the western countries' government ignored the negative impact of the development related project. People believed that the development projects will bring back prosperity and happiness and they were happy to give up their land for the overall development of the country. Later the illusion started to disappear and people began to question the pros and cons of the developmental projects. People began to protests, for example, major projects such as Sardar Sarovar, Salient Valley, the Mangalore Thermal Power, the Dabhol power, Maha Mumbai Special Economic Zones (SEZ), the Nandigram etc led to great displeasure among the people who were displaced.

(D) Magnitude of Displaced Tribals

Although making up only 8.6% of India's total population, Scheduled Tribe communities account for 40% of individuals who have been displaced as a result of "development" projects. Many contradictions between development and the relocation of India's indigenous or Adivasi population are highlighted in a recent report. The study illustrates the peculiarities that the indigenous tribes suffer in terms of forced migration, relocation, and land alienation. Around 25 percent of India's tribals become displaced persons (DP) or project-affected persons (PAP) at least once in their lifetime as their regions are flourished with natural resources. The government formed an Expert Group to prevent Tribal Land from being alienated and restored and had estimated earlier that, of the total number of people displaced due to development projects, 47 percent of the people were tribals.

⁴ Samatha V. State of Andhra Pradesh AIR (1997) SC 3297.

III. IMPACTS OF DISPLACEMENT

Land is the centre of tribal life. The effects of the displacement spill over generations in many ways such as loss of traditional means of employment, change of environment, disrupted community life and relationship, marginalization, a profound psychological trauma. It affects kinship and impoverishment and threatens cultural identity of tribal and ethnic minorities. The development process transcends from an informal to a formal economy. They were dependent on agricultural land and forests, both of which they lose to the project. When they receive compensation, it is monetary with which most displaced communities living in the informal economy are not familiar.

- a) **Decline in Joint Family System:** George Peter Murdock says, “Kinship is a structured system of relationships in which kins are bound to one another by complex interlocking ties”. Forced displacement tears apart existing social fabric through the way in which communities are dispersed and fragmented. Similarly, social and kinship connections are disrupted leading to a state of crisis and insecurity.
- b) **Landlessness:** India being a farming country with agriculture as the main occupation, displacement from land, removes the main foundation on which people’s productive systems, commercial activities and livelihood are based. Mostly, land for land, norm could not be followed. But monetary compensation is inadequate to make up for the loss of land.
- c) **Joblessness and increase in the proportion of workers:** People lose their means of livelihood, when they are displaced. Creation of new jobs or alternative sources of income for them becomes very difficult since the tribals do not possess any skill to learn new methods of earning their livelihood.
- d) **Homelessness:** Loss of shelter and house may be temporary during the transition period for most of the displaced persons. But for few, homelessness stays as a permanent feature.
- e) **Food insecurity:** Development is bound to affect their agricultural and forest land which is the primary source of their sustenance. Forced displacement may result in chronic food insecurity.
- f) **Loss of access to common property:** For the poor people, particularly, the landless and otherwise asset less people, loss of access to common property (forest lands, water bodies, grazing land, etc.) leads to a major deterioration in their income and livelihood

levels. Such lost resources are not compensated in the relocation sites by the Government. This also results in frequent conflicts between the new settlers and host population over the use of land and other resources.

- g) **Social Disintegration:** An opening is made in the indigenous people's social structure via forced relocation. Production networks are disrupted, family and kinship networks are frequently dispersed, and people's cultural identities are in danger. Social and communal networks that provide mutual aid, food and clothing exchanges, and other means of assisting those in need to cope with poverty have irreversibly collapsed.
- h) **Increased Morbidity and Mortality:** Loss of ancestral land, less no access to health care facilities, the psychological trauma caused thereby and the food insecurity together often leads to serious diseases. Because of the relocating locations' contaminated water, inadequate sewage systems, etc., there is also a risk of parasite and vector-borne illnesses.

(A) Impact of forced displacement on women

The severe impact of forced or involuntary displacement on women from tribal communities is well documented. search on women's experiences with similar displacements in India has revealed that early marriage and vulnerability to violence are among the hardships they face. The main ways that women from rural and Adivasi groups can obtain the limited resources they need are through kinship ties and community networks. These consist of information access, help with medical conditions or illnesses, childcare, financial support, and other support networks.

IV. TRIBAL COMMUNITY RIGHTS

a) Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

In India, most of the tribes are collectively identified under Article 342⁵ as “Scheduled Tribes”. Since independence, the population of tribals in the country has continuously been increasing. In the current time, the tribal population of India is approaching around 9% of the

⁵Article 342(1)The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

Article 342(2)Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

total population of the country³. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a result of the great struggle by the tribal communities of our country to assert their rights over the forest and lands. It provides for both individual and community rights over their property.

The following are the rights under the Act,

- i. Right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood
- ii. Community rights are also given to them
- iii. The right of ownership and access to use, collect and dispose of minor forest produce
- iv. Rights including community tenures and habitation for primitive tribal groups and pre-agriculture communities
- v. Rights in or over disputed lands under any nomenclature in any State where claims are disputed
- vi. Rights for conversion of Pattas or leases or grants issued by any local council or any State Govt. on forest lands to titles
- vii. Rights of settlement and conversion of all forest villages, old habitation, un surveyed villages and other villages in forest, whether recorded, notified or not into revenue villages
- viii. Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use
- ix. Rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any customary law of any State
- x. Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity

b) Constitutional Provision

Article 342 of the Indian Constitution has identified around and almost 700 Scheduled Tribes, spread across various states and union territories. The constitution has provided basic safeguards to the scheduled tribes which provides safeguards regarding culture, education, social, economic, political and service.

c) Right to Fair Compensation, Transparency in land Acquisition, Rehabilitation and

Resettlement Act

A National Level Monitoring Committee for Rehabilitation and Resettlement has been constituted for the purpose of reviewing and monitoring the implementation of rehabilitation and resettlement schemes and plans related to land acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (RFCTLARR) 2013 and National Rehabilitation and Resettlement Policy, 2007.

For the safeguards against displacement, special provisions have been made for Scheduled Castes and Scheduled Tribes under Sections 41 and 42 of the RFCTLARR Act, 2013 which protect their interests. The RFCTLARR Act also lays down procedure and manner of rehabilitation and resettlement.

d) The Panchayat Act, 1996

Additionally, before purchasing land for development projects in Scheduled Areas and before rehabilitating those impacted by such projects, the Panchayats (Extension to Scheduled Areas) Act, 1996 stipulates that the Gram Sabha or Panchayats shall be consulted; the actual planning and implementation of the projects in Scheduled Areas shall be coordinated at the State Level.

(A) How can the tribal community get protection?

Education and technology should reach them but at the same time they should be treated as first-class citizens, so that their confidence, their empowerment and their autonomy and their self-respect must be protected. The central government and the state government must recognize improvement in the health status as their topmost priorities for the tribal people from policy point of view and make sure that an adequate budget allocation is made under the National Tribal Plan. The effort should be directed at protecting tribal population by ensuring access to best quality nutrition and health resources and efforts are also needed to preserve their heritage, culture, art, language, traditions and sensibilities. The policies and programs for the development of the tribals should be tailored to the unique character of the community.

V. REHABILITATION AND RESETTLEMENT (R & R): THE PLIGHT OF THE TRIBALS

Despite prior knowledge of the evils of displacement, those in-charge of development projects pay little attention to the processes of resettlement and rehabilitation of displaced tribal people. The people displaced are uprooted from home and socio-economic life to which they show deep attachment. Rehabilitation is a process that involves understanding of problems involved, proper planning and coordinated efforts of specialists and affected people. Therefore, the challenge lies in approving projects that achieve national or regional development goals while

also generating positive social and economic outcomes for displaced populations. They need to be rehabilitated not only physically and economically but also socially and psychologically as well.

(A) Rehabilitation and resettlement: policy framework in India

Since the 1950s, India has acquired vast amounts of land to construct expansive projects for steel, heavy industries, irrigation, and electricity. Yet there were no proper laws to address the rehabilitation and resettlement issues of the displaced people. After a big and long struggle by people's organisations and environmental groups, the need for a policy and legal framework came into existence in 2007. A national policy for rehabilitation and resettlement was formulated by the Government of India by replacing the earlier policy of 2003.

The Indian Government came up with Land Acquisition and Resettlement and Rehabilitation (LARR) Act, 2013. The 'public purpose' for which land can be acquired by the government is defined in the said act. As per the above legislation, a comprehensive rehabilitation and resettlement package is provided for those people who lost their livelihood which includes the landless and tenants. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Panchayat (Extension to the Scheduled Areas) Act (PESA), 1996, and the Land Transfer Regulations in Schedule V (Tribal) Areas are among the other laws that the government must abide by.

(B) Issues related to resettlement and rehabilitation policy in India

In the past year's resettlement and rehabilitation of the displaced people had been based on ad hoc plans, resolutions and orders, passed for specific States or even projects whenever the need arose. Government followed various policies on resettlement and rehabilitation in the absence of a national Resettlement and Rehabilitation (R&R) policy. The first official position on resettlement adopted by a major development institution was the World Bank's 1980 policy on "involuntary resettlement." This policy has since been updated and improved and used as a model by numerous other international agencies. In India so far, States, such as Maharashtra, Madhya Pradesh and Karnataka, have resettlement legislation. In Orissa, the R&R policy differs among mining, industrial, thermal power and water areas. As a result of this ad hoc approach, many of the displaced were left out in receiving the compensation for their suffering and losses. Till 2004, there was no broad policy which could guide the rehabilitation efforts. A few months after this notification, a Draft National Rehabilitation Policy (NRP) 2006 is under circulation. Policies of Governments on Resettlement and Rehabilitation released over the last few years stand as examples to say that Governments are becoming sensitive to the displacement issue.

The commitment of Governments in establishing “best practices” in resettlement and rehabilitation is yet to be proved. There have been large number of studies conducted on the problems of involuntary displacement and rehabilitation in India during the last 30 years. All these studies highlight that displaced persons normally receive insufficient productive land. Living condition and restoration of affected persons requires sound and long-term plans, but supporting policies for income restoration and living stability of affected persons are typically of short-term nature, especially employment generation policies. Therefore, it can be said that development related displacement may generates “new poverty as opposed to the old poverty”.

For example, Maharashtra passed an Act called “Restoration of affected persons within development projects” in 1986. The Act provides the framework for sharing benefits from the project between beneficiaries and affected-persons. However, proposed policies have been inadequate for income restoration and living re-establishment (World Bank, 1994).

VI. CASE STUDY

Damning the dam: Case of Narmada Bachao Andolan⁶

Narmada Bachao Andolan (NBA) is a major anti-dam movement in the world. It is a struggle against several major dams across the Narmada River in the states of Gujarat and Madhya Pradesh. The government went with the decision of the Narmada Water Disputes Tribunal (NWDT) in 1979 for the construction of 30 major, 135 medium and 3000 small dams. The locals have opposed as the government didn't have a sound and proper rehabilitation policy for the construction of dams. The dams were displacing large numbers of poor including the Dalits and the tribals. The main point of this movement was the height of the Sardar Sarovar Dam in Gujarat. The dam proponents were pushing it because it would generate water (for irrigation and drinking water) and needed power for development purposes. An Activist Medha Patkar who set up NBA in 1989, provided a strong critique to the project by the Narmada Valley Development Authority (NVDA). They questioned about the project's cost-benefit analysis, and had a feeling that it was iniquitous and did not give fair compensation to the displaced. The World Bank was forced to do an independent review of the project in 1991 which is also called as Morse Commission. This Commission gave a report following which the Indian Government pulled out of the loan agreement with the World Bank. The building of the Sardar Sarovar Dam was prompted by the Supreme Court's 2000 ruling to raise the dam's height for the "interest of the nation." The court additionally ruled that tribal people's and other people's rights would not

⁶ Narmada Bachao Andolan V. Union of India (2000) 10 SCC 664 AIR 2000 SC 3751

be inherently violated by their displacement.

VII. POLICY RECOMMENDATIONS

The government should promote employment opportunity among the project affected people in order to promote a smooth transition of the displaced person. The government as well as project authorities should ensure delivery of training facilities and easy availability of credit. The selection and development of resettlement site is done in such a manner that the basic needs are taken care of. The government should make sure that there is proper function of the employment guarantee schemes and other government benefits. When a population is agrarian, the government ought to buy and distribute agricultural land so that the people can begin earning a living. At most, forced relocation ought to be avoided. His life should be able to be rebuilt by the displaced individuals. In addition, they ought to receive replacement cost compensation for their losses. The resettlement place which is chosen by the government should be accepted by the settlers and also it should have the capacity to make way for the population growth. The government should seek participation from the local political parties, panchayats, NGOs and other self-help group to help assist and counsel the displaced people into adapting the new mode of life.

VIII. CONCLUSION

Displacement has emerged as an outcome of modern development globally. It causes trauma which cannot be measured. Land is the most important natural and valuable asset from which the tribals derive their sustenance, social status, economic and social equality, permanent place of the abode and work and living. It is a security for the tribes and they have great emotional attachment to their lands." The Supreme Court said that "Ninety per cent of the Scheduled Tribes predominantly live in forest areas and intractable terrains 95 per cent of them are below poverty line and totally depend upon agriculture or agriculture-based activities." The forced acquisition of land for development projects drives people from their customary homes and lands.⁷ Compulsory acquisition of land for construction purposes forces people to leave their traditional abodes and land. Thus, development projects have often become a major threat to the people without alternatives. Many of the development projects have been set up in tribal areas and on the lands owned by tribals. It has been pointed out that a large majority of those displaced belong to tribals and deprived classes. Displaced Tribes are never adequately compensated. They do not have resources to make their lives fall back at the same way. They

⁷ Sarapu Chinna Potharaju Dora and Anr V. The District Collector, East Godavari, (2002) (2) ALD218, 2002(1) ALT699.

suffer major trauma. Malnutrition, disease and death stalk them. Impoverishment is the normal outcome for them. They are the worst sufferers since most development projects such as dams and industries are located in inaccessible tribal areas. Nearly 50-60 million people have been displaced by development projects as a whole and tribals constitute at least 40% of them in India. Development and displacement have direct link with Scheduled Tribes Population. The government should formulate the plans and policies for resettlement of these people on the priority basis. But the truth of the institution is that government is paying little attention to resettlement plans and policies. The resistance is largely due to State's failure to provide adequate compensation to the land holders and unable to ensure resettlement and rehabilitation of displaced.

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