



Development, Displacement and Resettlement

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Abstract

Development activities, without any substitutes, are no doubt significant for nation's prosperity. Such projects, to a great extent results in displacement of certain groups of people. Displacement forms an inevitable segment of all development activities. This paper analyses the strategy adopted in India for the rehabilitation and resettlement of the oustees linked to development activities and how far the policy framework been successful in meeting its legislative intent. Even though, there exist a number of instances of successful resettlement in accordance with the law including Moolampally package of Kerala¹, yet there are a large sector of people who have not been properly rehabilitated after being evicted for facilitating various development projects. The issue connected with raising the height of Sardar Sarovar Dam (Narmada Bachao Andholan) is significant in this regard.

The New Land Acquisition legislation along with other policies to a great extent have been beneficial in providing a better rehabilitation mechanism. But it is of great importance to evaluate as to how far the said mechanisms have been successful in benefitting the oustees. A number of judgment including those of Narmada Bachao Andholan appear to be precedents whereby the Honorable Supreme Court of India has pronounced the need for having an efficient R&R² strategy in accordance with the laws. The paper provides for a cost- benefit analysis of the development project upon the ousted community.

Key words: *Development, Displacement and Resettlement, rehabilitation, strategy, judgment*



Introduction

Development induced displacement is no doubt recognized as a serious concern for nations especially the developing ones. The history extending upto Kasthurirangan report paves way for displacement for development of which displacement of adivasis for raising the height of Sardhar Sarovar Dam (Naramada Bachhao Andholan) being the significant one. Even while expressing concern for the displaced community not properly resettled, the paper admits that no development can be carried out without causing displacement. But the actual question is whether the available legal framework is capable enough to provide a minimum standard in dealing with the displaced sector and also the extent to which the so called minimum standard has been successfully implemented yet.

The well accepted definition of the term "development" is process of transferring labor from low productivity agriculture to high productivity modern industry. Hence, no doubt, acquisition of land is a mandate in almost all

developmental activities. Development-induced displacement and resettlement, subset of forced migration can be defined as forcing of communities and individuals out of their land for the purposes of economic development. It is commonly linked with the construction of dams, other economic activities such including mining, creation of military installations, airports, industrial plants, railways, road developments, urbanization, conservation projects, forestry, etc. Forced migration appears to be a social problem affecting multiple levels of human organization, from tribal and village communities to well-developed urban areas.

Thus a balanced approach towards development and displacement is significant and the one which fixes the minimum conflict of interest between the two concepts has to be adopted. This paper envisages the concept of development, displacement for facilitating development and the scheme for resettlement of the displaced community.



Development Projects and Displacement

All those schemes or activities that are intended for or that has the potential to effect development are in common parlance referred to as development projects. It may be either infrastructure, rural, agriculture or the like. However, there is no particular limit for what can be called a development project. It can range from small or medium scale infrastructure to a mega high power plant construction which can be either public or private.

The recognised potential risk intrinsic associated with Development induced displacement are increased rate of morbidity, loss of occupation, marginalisation³, food insecurity, social disarticulation etc. The impacts of Development Induced Displacement and Resettlement depend largely on how resettlement is planned, negotiated, and implemented. In the cases of China's Shuikou and Yantan dam projects, displacees' incomes and living standards improved owing to

high resettlement satisfaction. However, the Guatemala's Chixoy Dam Project in the late 1970s points to the massacring of hundreds of Maya Achi Indians by local civil patrols and the country's Armed Forces to make way for the dam's construction.⁴ History depicts that the conditions of the evictees is somewhere between the extremes, though examples of positive resettlement is very rare.

The various development projects that has the potential to cause displacement ranges along a wide spectrum. However, the projects can be broadly classified as dams, urban renewal development and natural resources extraction projects.

Dams

Of the types of development projects that bring about physical displacement, dams and their related infrastructure, including power stations and irrigation canals, stand out as the largest contributor to displacees. This is partially a result of the enormous degree of many dam projects – China's Danjiangkou Dam



displaced 383,000 people, while its ongoing Three Gorges Dam project will displace 1.2 million. The high overall level of dam displacement is also a product of the speed with which dams have been built since 1950. The International Commission on Large Dams (ICOLD) reports that the world had 5,000 large dams in 1950 and over 45,000 by the late 1990s. The Narmada Sardar Sarovar Dam Project in India, which is set to displace 127,000 people, has perhaps been the most widely researched and discussed project involving forced resettlement in history. Projects like these are often claimed to be essential for raising living standards in the region or country. Yet if people are displaced by them – as for instance people are displaced from the flood plain of a dam project – and if no attention is given to them apart from removing them, then the effect of the project on these people will be to impoverish them. The overall effect, then, would be to raise the living standards of some while lowering the living standards of others. Thus we seem to be

faced with the following dilemma: if the project goes ahead, people who are displaced by it will be impoverished, while even more people may be left in poverty elsewhere if the project is cancelled.

Urban infrastructure and transportation

Urban infrastructure and transportation projects that cause displacement include slum clearance and upgrading; the establishment of commercial and industrial estates; the building and upgrading of sewerage systems, schools, hospitals, ports, etc.; and the construction of communication and transportation networks, including those connecting different urban centres.

Natural resource extraction⁵

Generally this classification is confined to oil and natural gas extraction ventures. Forestry extraction projects also form a subset of Natural resource extraction activities. There is no reliable report as to the actual number of persons displaced for these projects, however, subjective evidence and figures from World



Bank reports suggest that displacement in such projects is much lower than in many dam and urban renewal and development projects.

Scope of Indian Legislations Regulating Development Induced Displacement

Policies and strategies have been framed both internationally as well as nationally to deal with resettlement of those displaced for facilitating development activities. Even though there exist a number of legal framework to deal with development induced displacement and resettlement thereof, the question as to whether the compensation package is upto the mark still forms a major challenge.

The list of regulations and policies that is concerned with DIDR are as follows:

National Rehabilitation and Resettlement Policy, 2007

The NRRP⁶ aims at striking a balance between the need for land for development purpose & the significance of protecting the interest of the landowner who has

provided and the same stipulates the minimum facilities to be ensured for persons displaced due to the acquisition of land for public purposes. The objectives of the Policy are:

- (i) to minimize displacement and to identify an alternative option for non-displacing or least displacing ;
- (ii) to plan resettlement and rehabilitation of project affected families (PAFs) or project affected households (PAHs), including rural, tribal or vulnerable communities;
- (iii) to ensure improved standard of living to PAFs or PAHs; and
- (iv) to facilitate a harmonious relationship between the requiring body and PAFs by guaranteeing a fair compensation deal.

Though NRRP is applicable for projects where over 400 PAFs in the plains or 200 PAFs in hilly or tribal areas are displaced, the basic principles can be applied to resettling and rehabilitating PAFs regardless of the number affected. NRRP's provisions are intended to mitigate adverse impacts on PAFs.



While key principles of NRRP are similar, NRRP excludes linear projects (which acquire only narrow strips of land). Linear impacts and temporary linear impacts are not covered by NRRP. Further, there is no law on resettlement in the country. The law relating to the acquisition of privately owned immovable property is the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Policy provides for Social Impact Assessment of the project in accordance with Chapter IV.

Adequate requirements have also been made for pecuniary sustain to the affected families for erection of livestock sheds, shops, and working sheds; haulage costs, temporary and transitional accommodation, and comprehensive infrastructural facilities and amenities in the resettlement area including education, health care, drinking water, roads, electricity, sanitation, religious activities, cattle grazing, and other society resources, etc.

Chapter VI of the Policy provides for the scheme provides for the

scheme for displacement and resettlement. All sort of displacement as well as rehabilitation of the displaced has to be in accordance with this Chapter.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

The Act that replaced the Land Acquisition Act (LAA) came into force on 1st January 2014. Acquisition of land is the process by which the government or the authorities takes possession of a land property for the public good or the greater interest of the country through various developmental activities. The Act provides for a humane, participative and transparent process of land acquisition for industrialisation, infrastructure development, urbanisation etc and the same is no doubt a result of the militant operations that took place in Singur, Nandigram etc. To address historical injustice the 2013 Act also applies retrospectively to cases



where no land acquisition award has been made. Also in cases where the land was acquired five years ago but no compensation has been paid or no possession has taken place then the land acquisition process will be started afresh in accordance with the provisions of the Act.

The Land Acquisition Act provides a framework for facilitating land acquisition in India. LAA enables the State Government to acquire private land for public purposes. LAA ensures that no person is deprived of land except under LAA and entitles affected persons to a hearing before acquisition. However, it is pathetic to realise that the Act does not protect land rights or deals with historic injustices committed in the name of development and public purposes. The rapacious use of Land Acquisition Act 1894 by the government to secure land for 'development' projects has caused over 100 million people to be displaced from their land, livelihoods and shelters. The 2013 Act to a great extent enables for fair compensation and resettlement

packages for the displaced community.

The 2013 Act aims at diluting the following drawbacks of LLA and to a great extent the same has been effective:

- The Act does not allow for compensation (except for houses) for landless labourers, artisans, and those sharing the use of land but without legal rights to it;
- The scheme of valuation of land considers only the market price of land at the date of notification under Section 4(1) without considering any increase in the value of land at a subsequent date. Compensating for actual market value of land, which will entitle the owner to buy similar replacement land in adjacent areas, is not practicable under the framework of the LAA;
- The value of land is estimated through the sales statistics method, leading to undervaluation of land. Buyers intentionally undervalue the land in sales transactions to



reduce registration fees. This leads to a large number of court cases resulting in further delays and harassment both to landowners and the project authority (PA);

- The acquisition process takes too long and is incompatible with infrastructure project construction schedules.

ADB⁷'s Safeguard Statement, 2009 (SPS)

ADB has adopted SPS⁸ in 2009 including safeguard requirements for environment, involuntary resettlement and indigenous people. The objective of the SPS is to avoid involuntary resettlement wherever possible; to minimize involuntary resettlement by exploring project and design alternatives; to enhance, or at least reinstate, the livelihoods of all evicted persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.

The involuntary resettlement safeguards covers physical displacement (relocation, loss of

residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of

- (i) involuntary acquisition of land, or
- (ii) Involuntary restrictions on land use or on access to legally designated parks and protected areas. It covers them whether such losses and involuntary restrictions are full or partial, permanent or temporary.

Followings are the basic policy principle of ADB's Statement:

- (i) Identification of past, present, and future involuntary resettlement impacts and risks and determination of the scope of resettlement planning.
- (ii) Carry out meaningful consultations with affected persons, host communities, and concerned non-government organizations.
- (iii) Improvement or at least restoration of the livelihoods of all displaced persons,



(iv) Ensure physically and economically displaced persons with needed assistance.

(v) Improvement of the standards of living of the displaced poor and other vulnerable groups.

(vi) Development of procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement,

(vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.

(viii) Preparation of a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.

(ix) Disclosure of resettlement plan, including documentation of the consultation process in a timely manner to affected persons and other stakeholders.

(x) Execution of involuntary resettlement as part of a development project or program.

(xi) Payment of compensation and provide other resettlement entitlements before physical or economic displacement.

(xii) Monitoring and assessment of resettlement outcomes, their impacts on the standards of living of displaced persons

The project recognizes three types of displaced persons namely:

(i) persons with formal legal rights to land lost in its entirety or in part;

(ii) persons who lost the land they occupy in its entirety or in part who have no formal legal rights to such land, but who have claims to such lands that are recognized or recognizable under national laws; and

(iii) persons who lost their occupied land either fully or in part who have neither formal legal rights nor recognized or recognizable claims to such land. The involuntary resettlement requirements



apply to all three types of displaced persons.

Thus the ultimate objective of every development induced resettlement is to provide a better

Development induced displacement vs. Sustainable development

Development without an alternative to provide sustenance to the effected is not worthy. It results not only in poverty and structural degradation, but also in the weakening of the culture that ensured renewability. Every developmental activity should be carried out taking into consideration the basic principles of Sustainable development. But unfortunately, the statistics proves contrary and represents that atleast 310 lakhs have been displaced thereby deprived their livelihood by such projects from 1950-2010.

Most of the problems connected with displacement, resettlement and rehabilitation can be traced to the "Unbalanced growth strategy". Development, which has entailed many large-scale forced evictions of

vulnerable populations, without the countervailing presence of policies to assist them to rebuild their lives, has only accentuated the negative aspects of displacement, such as lack of information, failure to prepare in advance a comprehensive plan for rehabilitation, the undervaluation of compensation and its payment in cash, failure to restore lost assets or livelihoods, traumatic and delayed relocation, problems at relocation sites, multiple displacement, and neglect of the special vulnerabilities of the most disadvantaged groups. The Supreme Court in a series of judgement including Haryana Urban Development Authority v. Sandeep and others⁹, State of Madhya Pradesh v. Narmada Bachao Andolan¹⁰ etc have reiterated the need for having and implementing an effective Rehabilitation and Resettlement package.

Conclusion

The three broad theoretical perspectives that can be used to test the justification of development induced displacement are the public interest, equality and



self-determination. The public interest perspective has to be given concrete expression by cost-benefit analysis. The criterion is that of net benefits to the population as a whole. Negative side effects, including displacement, are treated as costs and the question is whether the benefits of the project or policy exceed such costs. Questions of compensation and distribution are treated as separate, political matters. It is possible for those displaced to become worse off, for these costs to be taken into account, and yet for the project or policy to generate positive net benefits. Such a line of reasoning lay behind the statement of Jawaharlal Nehru, India's first Prime Minister, that people displaced by dams had to make such sacrifices for the good of the country. However, while making such a sacrifice for the development of the nation, the ousted community should also be given some benefits by way of proper rehabilitation. ie, No development activity should be made at the cost of sacrifice made by the poor

section who are often displaced in the name of development.

Every rehabilitation strategy should aim at empowering the evictees to facilitate a long term solution to their needs around resettlement by providing them best available options. The real issue today is with regards to the implementation of the legislation as well as other strategies facilitating efficient rehabilitation. Recently, there has been great criticism that the Bhakra Dam oustees even after 50 years from being displaced are still not yet rehabilitated effectively¹. Let us hope that the Government come up with a more effective implementation mechanism for effecting its Resettlement and Rehabilitation Strategy in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and other related policies

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- ¹
- ² Rehabilitation and Resettlement
- ³ occurs when families lose economic power and slide downwards
- ⁴ WFP report (1996)
- ⁵ Mining induced displacement having the lion share
- ⁶ National Rehabilitation and Resettlement Policy
- ⁷ Asian Development Bank
- ⁸ Safeguard Policy Statement
- ⁹ Decided on 25th April 2012
- ¹⁰ (2011)7 SCC 639