

Development Induced Displacement: Issues of Compensation and Resettlement – Experiences from the Narmada Valley and Sardar Sarovar Project

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Abstract

The paper explores the dynamics of the phenomenon of Development Induced Displacement and the theoretical, legal, and policy level issues which have impeded the fluent process of implementation of development projects in India. Modern India has found itself embroiled in this tussle between the development plans of the State at the macro level and their undesirable consequences for the specific project affected people. Though the exigencies of time and the logic of the liberalization policy demand the continuous articulation of development projects, it is equally imperative to transcend the disempowering effects of displacement on its people. Despite recent initiatives by the government, concrete policy statements and laws governing the issues of compensation and resettlement are found wanting. The paper argues that there is an urgent need for the state to reach a necessary balance between its efforts to augur development and to make it sustainable, just, and equitable. The problems encountered in the allocation of compensation and resettlement in such projects form the focus of the article. The experiences of dam-induced displacement at the Sardar Sarovar Project in the Narmada River Valley Project in Gujarat in India are highlighted to serve as illustrations.

Introduction

The landscape of international politics has witnessed the consistent effort of states to adopt suitable models of development for the enhancement and progressively efficient use of resources and infrastructure. The thematic shift from tradition to modernity has led to a greater spree among the nations to launch various developmental initiatives for higher economic growth along with a stable political and socio-cultural environment. The concept of sustainability has qualified the pursuit of development

and rendered its nature more comprehensive and holistic. Sustainable development has, therefore, emerged as a definite strategy. The articulation of development projects and their establishment in suitable areas has been a necessary ingredient of such endeavours of most states. However, the setting up of such projects has triggered the phenomenon of displacement of large populations, citizens, or the residents of the area under consideration, creating the category of the 'development induced displacees'. Viewed within the larger perspective of internal displacement, Development Induced Displacement (DID) has attracted enormous international and region-specific concerns in recent times due to the overwhelmingly negative socio-economic, cultural, and human rights consequences.

In India, the march towards the establishment of a developed economy in the liberalization period has led to the increased articulation of developmental projects such as dams, irrigation projects, mines, and industries by the government. This has been complemented by similar initiatives by non-governmental enterprises. The outcome is that the state is depending on private enterprise to develop new industries and is even disinvesting state equity in profitable state-owned enterprises. While the exigencies of the times demand such policies, it cannot be denied that it also imbues the state with the responsibility to ensure the security and well-being of the displaced population. The literature on DID and the available political, legal, sociological and political economic perspectives have indicated the need for the state to reach a necessary balance between its efforts to augur development and to make it sustainable, just, and equitable. The inclusion of the affected population in the process of development may emerge as a viable policy option. This paper attempts to explore the theoretical, legal, and policy-level issues so far responsible for impeding the culmination of sustainable development in India. The complex issues involved in the articulation of comprehensive compensation and resettlement packages will be discussed in the light of the realities of displacement in the Sardar Sarovar Damming Project in Gujarat, India.

Conceptual remit and models of development: a theoretical study

Development as a concept has been widely interpreted and understood. Its nature is essentially multi-disciplinary. Noted scholars O'Brien and Williams argue that like many concepts in social sciences, the concept of development remains ill-defined and contested. But they also point out that as used in the available literature, development suggests both a process and a condition. It is a process in so far as attention is given to the means whereby a society may transform itself so that it achieves self-sustaining economic growth (O'Brien and Williams, 2004: 254). In the same vein, Anna Dickson opines that development is an 'on-going process of qualitatively ameliorated social, political and economic change' (Dickson, 1997: 16). For the purpose of the paper, it would be pertinent to highlight the gradual changes in this understanding, delineating the scope of development as reflected in the accepted political-economic models and approaches.

As is commonly known, in twentieth-century modern development thinking, understanding of development was essentially pre-occupied with economic growth. Economic variables alone were considered indicators of individual well-being. The dominant modernization theory (which originated in American sociology and economics) adopted an evolutionary perspective on social change, taking the view that the currently underdeveloped societies were at an earlier stage of development from the advanced industrial countries. These countries would develop if they adopted similar attitudes and social structures to the developed world. Rostow's *The Stages of Economic Growth* (Rostow, 1960) presented a clear statement on the essence of modernization theory. Simply put, this approach emphasized economic variables and gave very little attention to the sociological and cultural aspects of development.

Modernization theory was directly challenged by the dependency theory in the 1960s. This school of theorists argued that the lack of development was not the result of poverty and the absence of modern values but the direct consequence of economic exploitation. Sociologists such as Pieterse observed that in dependency theory, the core meaning of development was economic growth under the heading of accumulation. Its distorted form was dependent accumulation which led to the 'development of underdevelopment' and an intermediate form was 'associated dependent development' (Pieterse, 2001: 6).

In the 1970s dissatisfaction with the mainstream approach to development crystallized into an alternative, people-centered approach to development. The model of 'alternative development' which emerged emphasized 'agency' in the sense of people's capacity to effect social change. 'Alternative' referred to three spheres: agents, methods, and objectives or values of development. It envisioned development from 'below', i.e. from the level of community and non-governmental organizations (Pieterse, 2001: 120). It may be discerned from the rise of such a model that there was an urge to understand 'development' beyond the economic initiatives of the government. Variants to the 'top-down model' of economic growth and political modernization had begun to emerge. The changing contour of development thinking was clearly encapsulated in the article published by Dudley Seers, 'The Meaning of Development', which provided the first comprehensive alternative to the traditional definition of development (Seers, 1969). Seers contended that development as a growth model was too restrictive and failed to address the multi-faceted nature of development. He was particularly concerned with equity, and insisted that the definition of development should include social objectives such as employment, health, and shelter.

This trend continued and was even strengthened in the 1980s when Amartya Sen's work on capacities and entitlements led to the emergence of the understanding of development as 'capacitation' (Sen, 1999). In this perspective, the objective of development as such is that it is 'enabling'. Sen argues that development can be seen as a process of expanding the real freedoms that people enjoy. Focusing on human freedoms contrasts with the narrower views of development such as identifying development with the growth of personal incomes or with industrialization, or with technology or with

social modernization. But Sen argues that ‘development requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or overactivity of repressive states’ (Sen, 1999: 3).

In 1990, the *United Nations Development Report* argued that ‘the real wealth of a nation is its people and the purpose of development is to create an enabling environment for people to enjoy long, healthy and creative lives’ (UNDP, 1990: 9). This focus on ‘human development’ went beyond income and so the UNDP invented the *Human Development Index* (which includes life expectancy, education, and income) as a basis for classifying countries. Mehboob Ul Haq mentioned four ways to create desirable links between economic growth and human development: investment in education, health, and skills; more equitable distribution of income; government social spending; and the empowerment of people, especially women (Haq, 1995: 21–2). He proposed a human development paradigm of equity, sustainability, productivity, and empowerment.

In the 1980s, there was a rise in neoclassical economic theory and post-development models which were radical reactions to the dilemmas of development. According to neoclassical economists, the economic stagnation in developing countries was a by-product of poorly designed economic policies and excessive state interference in the economy. They argued that in order to stimulate the domestic economy and promote the creation of an efficient market, developing country governments had to eliminate market restrictions and limit government intervention. This was to be accomplished through the privatization of state-owned enterprises, promotion of free trade, reduction or elimination of restrictions on foreign investment, and a reduction or elimination of government regulations affecting the market. These reform measures collectively were called ‘the Washington Consensus’. In sum, market forces, not government intervention in the economy, would bring about development in stagnating economies (Contreras, 2002). In terms of both theory and practice, the models of sustainable development and neo-classical market economics ran counter to each other throughout the late 1980s and the 1990s. From the standpoint of the issue of displacement, however, neo-classical theory had little, if anything at all, to offer.

While the neoclassical logic of reforms paved the way for liberalization and structural readjustment models, it can be argued that the onus on the expansion of the concept and practice of development to include welfare indicators and sustainability strengthens the case for diminishing displacement alternatives and their resultant negative effects. In other words, *sustainable development makes it necessary to negotiate displacement and mediate its disempowering effects*. The development process has to be inclusive of social and environmental sustainability and hence be mindful of poverty reduction, environmental protection, social justice, and human rights.

Thus, scholars have observed that in recent decades a new development paradigm has been articulated, one that promotes poverty reduction, environmental protection,

social justice, and human rights. In this perspective, development is seen both as imposing costs and bringing benefits.

India's development paradigm

A country of sub-continental proportions, nurturing the aspiration to emerge as a world leader, India has been consciously committed to the goal of development. The conceptualization of the development paradigm through the years has been demonstrated in attempts to retain a fine balance between the exigencies of economic growth and the commitment to social justice and welfare of the people. Development projects have been articulated to serve this dual purpose. Their implementation has spanned the contiguous periods of planned development (1947–1990) and the current phase of liberalization (1991–present).

The era of planned development witnessed a deterministic role of the government in adopting the capitalist model of establishing large infrastructure industries and hydroelectric projects. The Indian nationalists who led the drive for independence in 1947 and who afterwards shaped the formation of the development state adopted the colonialist teleology of modernity. This included the attendant notion of unidirectional social and environmental evolution, irreversible progress, and affirmation of the centralized nation-state's authority (Gupta, 1998; Ludden, 1992). The planned development model drew inspiration from the then contemporary Soviet style of implementing development.

Appropriate land for the development projects was acquired by the state under the 'Land Acquisition Act' (1894). Subject to subsequent periodic amendments (with substantial amendments being made in 1984), the government of independent India retained this colonial legal instrument to establish the principle of 'eminent domain'. Thus, the Act justifies the takeover of land by the state for 'public purpose' under the principle of eminent domain.

The displacement of people by development projects was envisioned to be mediated by providing 'compensation'. The issue of compensation was addressed by the framers of the Constitution under 'Right to Property' in the context of the acquisition of land by the state. The American Constitution provided a clear model in this regard. The 5th Amendment reads that no person shall be deprived of life, liberty, or property without the due process of law; nor shall private property be taken for public use without 'just compensation'. However, *in deference to the need for legislative power to effect land reforms*, the Indian version reads that *property could be acquired for public use only on the payment of compensation*. Accordingly, Articles 19 (1) (f), Article 31, and Article 32 established the Right to Property as a fundamental right and declared that the law must set compensation or principles by which such compensation is provided (Singh, 2004: 19). Though the Right to Property has been abrogated as a fundamental right, the preamble of the Indian Constitution specifically states that individuals whose property

is taken over have a right to receive ‘compensation’, the rules of which are covered under Sections 23 and 24 of the Act (Singh, 2004: 19).

The Narmada River Valley Project: rationale of development

Construction of large dams was envisaged to be crucially essential to the development process in the era of Prime Minister Jawaharlal Nehru who deemed them to be the ‘temples of modern India’. The 1950s witnessed the construction of large river valley projects such as the Bhakra Nangal in Punjab, the Damodar Valley project in Bihar and West Bengal, the Tungabhadra project on the Andhra Pradesh-Karnataka border, and the Rihand dam in Uttar Pradesh. The government of independent India built a consensus around the discourse that looked upon dams as a pre-requisite for development. Displacement was seen as an unavoidable corollary of development, and priority was given to easing the economic impact of displacement through compensation.

The plan for harnessing the Narmada River for irrigation and power generation in the Narmada basin was initiated in 1946. Narmada is the largest west-flowing river of the Indian peninsula, and is sourced in the Maikal ranges at Amartantak, 1,057 metres above sea level in the Shadol district of eastern Madhya Pradesh. It traverses 800 mile to the Arabian Sea, passing through the three states of Gujarat, Maharashtra, and Madhya Pradesh. A major part (88%) is situated in Madhya Pradesh, involving 20 out of its 45 districts. Situated between the Vindhyas and Satpura Ranges, the river forms a basin by itself (Unni, 1996: 1). This region is home to several distinct though inter-related indigenous groups: the smallest population in this region is composed of several adivasi groups such as Bhil, Bhilala, Gond, and Korku, living primarily in the forested land further downstream from the riparian plains. These tribal groups are differentiated from other inhabitants of the region through their marginal economic and political status, their subsistence resource use, and their distinct cultural and religious practices.

The foundation stone for the Narmada River Valley Damming Project was laid in 1961 and contained the blue-print for the construction of 30 large, 135 medium, and 3,000 minor multi-purpose dams on the Narmada River and its tributaries. The centerpiece of the Project is the Sardar Sarovar Project in Gujarat, which has been constructed to over 90 metres of its projected final height of 130 metres (Gandhi, 2003: 848). At that time, one of the prime rationales for the Project was that Gujarat (formed in 1960) was a substantially industrialized state but it has large areas which are severely drought prone. In the first 36 years of its existence, there had been 11 years of drought. During 1991–92, more than 15,000 villages were declared as drought affected and the Government had to prepare a master plan of Rs.5 billion for drought relief measures. The lack of surface and ground water resources implied that millions of cattle and shepherds had to migrate from Saurashtra and Kachch and North Gujarat to the areas of South Gujarat.

During the initial planning stages of the Project, it was estimated that a total of 297 villages would be submerged by the reservoir; 19 in Gujarat, 33 in Maharashtra, and 245 in Madhya Pradesh. The minimum amount of displacement to be caused was estimated to be that of 23,500 in Gujarat, 20,000 in Maharashtra, and 120,000 in Madhya Pradesh (Das, 2005: 116). However, the development rationale of the government precluded the raising of any doubts about the efficacy and propriety of the Project. Even the affected people did not dare to question their displacement and destitution (Sangvai, 2000: 32).

As the country transcended the phase of planned development to enter a period of liberalization, the justification for the Project remained strong with government authorities. The World Bank had advocated the need for the Project in 1990 on the basis of a cost–benefit analysis. Its argument being that the benefits of the Sardar Sarovar Project are so large that they substantially outweigh the costs of any immediate human and environmental disruption. Without the dam, the long-term costs for people are likely to be much greater and the lack of an income source for future generations will put increasing pressure on the environment. If the water of the Narmada River continues to flow to the sea unused, then there appears to be no alternative to escalating human deprivation, particularly in the dry areas of Gujarat. Further, according to the World Bank, the project has the potential to feed as many as 20 million people, provide industrial water to about 30 million and employ about 1 million, and provide valuable peak electric power in an area with high, unmet power demand. (Farm pumps only get a few hours power per day.) In addition, recent research shows substantial economic ‘multiplier’ effects (investment and employment triggered by development) from irrigation development. Set against the futures of about 70,000 project affected people, even without the multiplier effect, the ratio of beneficiaries to affected persons is well over 100:1 (World Bank, 1990, quoted by the Supreme Court of India: 2000 as quoted in Chakrabarty 2001, p 21).

Displacement due to development-confronting realities

As India practices an avowedly liberal model of development today, there is the understandable acceleration of development projects and the introduction of private entrepreneurs as players in the establishment of industries and infrastructure. Consequently, the proportion of people displaced as a result of these projects has risen phenomenally. Development projects displace over ten million people all over the world annually. In India alone, the total number of people displaced so far, due to such projects, is estimated to be somewhere between 10 million and 40 million. The current phase of liberalization ensures that in the near future, 4.35 lakh families will be displaced in India owing to ten major privately funded projects. The trend of regional politics and coalitional government in India is already having a tremendous impact on DID. In their urge to attract foreign and non-governmental industrial investment, state governments are eagerly assigning cultivable land for development

projects without articulating any proper or informed policy regarding the consequences of any resulting displacement. The finite nature of land as a resource is oddly matched by the rapid growth of the population. The clash ascertains the continuation of the trend of grabbing of agricultural land for development purposes. Displacement is thus made inevitable. What has rendered the issue critical is that attendant laws and policies guiding displacement, compensation, and rehabilitation of the displaced have been lacking. Limited (and in many cases involuntary) resettlement options have impoverished the affected people.

Land acquisitions often lead to traumatic psychological and socio-cultural consequences for the displaced population. They are deprived of their political power to decide where and how to live, local social group lives have been disrupted, control over social institutions has been disturbed, and there is a tremendous loss of resources. Articulating a conceptual *Impoverishment Risk and Reconstruction Model*, Michael Cernea argues that the displacees are exposed to 'a range of interrelated impoverishment risks, which hit them all at once and which simultaneously deprive them of economic, cultural and social resources in a manner which makes recovery very difficult to achieve unless these risks are deliberately anticipated and counteracted even before resettlement takes place' (Cernea, 2000). Cernea argues that the effects of impoverishment can be presented through a model of interlinked potential risks intrinsic to displacement: landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of access to common property, social disintegration, loss of access to community services, and violation of human rights.

The following sub-sections seek to substantiate these claims by throwing light on the consistent weakening of the structure of laws and policies guiding cases of displacement in India. The case of the affected population in the Sardar Sarovar Project highlights the stark implications of the fragility of the system.

Dilution of laws of compensation and resettlement in India

Any incidence of displacement, according to the legal paradigm must be 'compensated' and the displaced persons 'rehabilitated and resettled'. This has been the norm guiding the establishment of development projects. But through the years, the crucial factor worsening the effect of displacement in India has been the dilution of the laws of compensation and resettlement. A series of amendments and judicial pronouncements have gradually diminished the legal sanctity of the scope for claiming land as an entitlement, which when acquired by the state for a larger interest was amenable to an adequate compensation packages for the owner. These changes maybe chronologically enumerated as follows:

First Amendment Act, 1951: By this amendment, *the judiciary permitted the state to take over the properties of Zamindars and Revenue Farmers in the public interest.* Articles 31A, 31B, and the Ninth Schedule were added to the Constitution.

Article 31A permitted the legislation for the state to acquire the properties of Zamindars and revenue farmers and for the state to take over the property for a limited

period either in the public interest or to secure the proper management of the property, and to amalgamate properties. The article declared that such laws cannot be held inconsistent with Articles 19, 31 and 14.

Article 31B protected the various land reform laws enacted by both the centre and the state, by stating that none of these laws, which were to be listed in the Ninth Schedule, can become void on the ground that it violated any Fundamental Right (Singh, 2004: 9–10).

Fourth Amendment, 1953: The authority of the Court over any determination of the scope of compensation was negated.

In the context of a case of *State of Bengal v. Mrs Bela Banerjee*, AIR 1954 SC 170, the validity of the ‘West Bengal Land Development and Planning Act’ (1984) was challenged. The party receiving compensation claimed it to be inadequate and the Supreme Court ruled that compensation must be the just equivalent to what the owner has been deprived of. It ruled that the constitution allows free play of the legislature to determine the principles which should guide the determination of the amount payable, but whether ‘all such principles take into account all the elements which make up for the true value of the property appropriated and exclude matters which are to be neglected, is a justiciable issue to be adjudicated by Court’. However, the Select Committee recommended the Amendment arguing that ‘the quantum of compensation should be determined by the legislature and it should not be open to the Courts to go into the question on the ground that the compensation provided by it is not adequate’ (Singh, 2004: 10–11).

Seventeenth Amendment, 1964: The land reform legislations enacted by the states were removed from the jurisdiction of the Courts and included in the 9th Schedule.

In 1961, the Supreme Court held that the taking of lands under the ‘Kerala Agrarian Relations Act, 1961’ was unconstitutional under Article 14 because a smaller compensation was paid for large tracts than for smaller holdings (*Karimbil Kunhikoman v. The State of Kerala*, 1962 (1) SCR 829ff). In reaction to this judgment, certain State land reform legislations were removed from the purview of the Courts by including them in the 9th Schedule (Singh, 2004: 12).

Twenty-Fifth Amendment, 1971: This Amendment got rid of the legacy of all the judgments that had raised issues of paying just compensation by replacing the term ‘compensation’ in Articles 31 (2) with ‘amount’ and barred courts from questioning this ‘amount’ on grounds that it was inadequate or paid in terms other than cash. A new Article 31C was also inserted which said that no law declaring its purpose to be fulfilling the Directive Principles could be challenged in a Court of law that it did not do so (Singh, 2004: 12–13).

Thus, as is clearly visible, the legal sanction for demanding a monetary return for the acquisition of land has been diluted over the years by the government. This has obviously problematized the articulation of just and effective policies on the matter and also limited the scope for judicial redressal.

Illustrating ground-level problems: experiences of the Sardar Sarovar Project

The difficulties faced by the people displaced by the Sardar Sarovar Project in acquiring compensation and rehabilitation are illustrative of the ground level fallacies which plague the legal and administrative norms. These may be enumerated as follows:

- Compensation is based on the 'land-for-land' principle, but this ran into trouble as land was not readily available. Moreover, the offer of a choice of three sites to choose from became a fiction. The land offered was poor in quality and not irrigable. Irrigation facilities were non-existent. Promises of cluster settlement facilities at the resettlement sites were not fulfilled (Iyer, 2007: 3105–3106). Also, the people who stood to be displaced by the construction of infrastructure and the canal by compensatory afforestation, secondary displacement, and so on, have not been classified as 'project affected persons' or 'oustees' and hence are not entitled to any compensation. Moreover, the compensation package for those in the submergence areas, who are classified as project affected, varies from state to state (Baviskar, 1995: 200).
- Land-based rehabilitation is mandated by the *International Labour Organization Convention 107 on Indigenous People* to which the Indian government is a signatory. The Convention clearly states that in exceptional circumstances, in which indigenous people are to be forcibly removed from their lands, they must be given replacement land that is as good as, if not better than, that from which they are removed (Levien, 2006: 3582). The NWDTA also mandates that all the project affected families must be given two hectares of cultivable land either in the command area of the dam or in their own state (as per the choice of the oustee). According to Clause XI of the NWDTA, the rehabilitation of all project affected families (PAFs) in all three affected states must be provided for one year before each successive increase in the dam height (Levien, 2006: 3581).
- As per the Narmada Water Dispute Tribunal Act (NWDTA) and the International Labour Organization, cash compensation is completely illegal for the Sardar Sarovar Project. The Supreme Court has itself upheld this position in its decisions of 2000 and 2005. The Court's 2005 decision clearly states that, 'In terms of NWDT awards the irrigable lands and house sites were required to be made available to project affected families one year in advance to the submergence and amenities were also to be provided. Further, the notices for vacation of the lands are to be given after completion of Rehabilitation and Resettlement of the PAFs on or before December 31st, that is, 6 months before actual submergence, like on July 1st 2007. In terms of these stipulations, the raising of the dam which would cause submergence would not be permitted unless the rehabilitation programme is carried out' (Levien, 2006: 3582). But the *Group of Ministers in Madhya Pradesh* refuses to recognize this fact and continues to illegally distribute cash instead of land. Amazingly, in Madhya

Pradesh, where 193 out of 245 villages affected by the Sardar Sarovar Project are located, almost no project affected family has been given replacement cultivable land. In contrast, however, studies have also shown that resettlement has considerably worsened the lives of the few families that have shifted (Levien, 2006: 3582).

Scholars opine that there is a vast gulf between the policies and packages, however good these maybe, and what actually happens in practice. Inefficiencies apart, there was bureaucratic indifference and even callousness to the needs and sufferings of the people. For example, in Anjanvara, the first information about the dam came from the Central Water Commission surveyors who came to place stone markers to indicate the reservoir level. Thus, despite the large number of people affected and despite the enormity of change in their lives, there is no government-sponsored system of information that respects the people's right to know. People glean scarce facts from informal conversations with the 'patvari' or revenue officials when they meet on their business (Baviskar, 1995: 201).

The project authorities are essentially interested in pushing construction ahead and tend to regard the conditions relating to environmental and rehabilitation matters as inconvenient external impositions that hinder the implementation of the project. A few cases of 'good resettlement' were carefully maintained as showpieces for visitors, but there were a large number of dissatisfied and aggrieved project affected persons. Many decided to return from the bleak and inhospitable resettlement sites to their original villages. There were protests and demonstrations and the state responded in the only way it knew, namely through the use of force.

There was ample evidence before the Supreme Court to show that there was backlog in rehabilitation to be cleared up before allowing the dam height to be raised further. At one stage, the learned judges warned the authorities that they would not hesitate to stop the project if they found that rehabilitation work was inadequate or incomplete. However, they did not actually do so. Experts thus opine that the Supreme Court has tended to waver between the issue of justice to the project affected peoples and arguments about the economic importance of the projects and the imperatives of development (Iyer, 2007: 3105–3106).

Scholars like Mike Levien argue that in the face of overwhelming evidence that rehabilitation in the Narmada Valley is incomplete, the Supreme Court and the Prime Minister failed in their responsibility to uphold the law and stop construction of the dam. In Madhya Pradesh's own submission to the court it admitted that construction of 11 out of 86 rehabilitation sites was incomplete. The Group of Ministers team appointed by the Prime Minister to investigate the rehabilitation in the valley found upon their visit that rehabilitation was incomplete. The Group of Ministers led by Water Resource Minister Saiffudin Soz released a report on 17 April 2006 in which they noted that there were extreme shortcomings in the resettlement and rehabilitation of the oustees and estimated that it would take at least another year for rehabilitation to be completed, if the government showed the political will to accomplish this gigantic task (Levien, 2006:

3582). The resistance movement against the injustice is spearheaded by the Narmada Bachao Andolan (NBA). In its own brief to the Court, the NBA thoroughly documented the absence of land-based rehabilitation in Madhya Pradesh, the exclusion of thousands of people from the official project affected families lists, and the faulty and incomplete nature of even the 75 rehabilitation sites that the government claims to have constructed.

In 2008, the Supreme Court has taken certain sporadic initiatives to address the glaring lacunae in compensation and resettlement policies. For example, on 10 March 2008, the Court heard the cases regarding the Sardar Sarovar Project and ruled that those PAFs who have accepted the Special Rehabilitation Package and other PAFs who have categorically asked for cultivable land should be given cultivable and irrigable land. In April 2008, the Court directed the Madhya Pradesh Government and the Narmada Hydro Development Corporation Limited to file details of agricultural land to be allotted to the oustees of the Omkareshwar Project in Madhya Pradesh (Narmada Press Release, April 2008).

Identifying impediments in mediating the difficulties of displacement

The conceptual scope of development and the present realities of displacement render identifiable the major obstacles to the transition to sustainable development at the levels of policy making and policy implementation apart from the insufficient legal regime as discussed above. These are also indicative of the social, ethical, and theoretical issues engendered by DID.

Impediments at the Policy level: Weaknesses are evident both at the international and national levels of policy making. Development induced displacees lack any international legal status, even though refugees are recognized as legal entities by the Geneva Convention of 1951. The case of DID finds specific mention in Section II of the 'Guiding Principles on Internal Displacement' (Submitted by the Representatives of the UN Secretary General on Internally Displaced Persons to the Commission on Human Rights at its forty-fourth session) under 'Principles Relating to Protection from Displacement'. Principle 6 read together with clause 2 (c) clearly states that every human being, under the Guiding Principles, has the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence and that such prohibition of arbitrary displacement is inclusive of large-scale development projects which are not justified by 'compelling and overriding public interests'. However, this document does not have legal sanction and the text contains few provisions which are directly applicable to *development displacees*. The important clause of '*compelling and overriding public interest*' remains undefined as does the term 'public' within the scope of the Charter. Such major ambiguities leave much to individual interpretation. For example, since international human rights are universal in scope it follows that the 'public' is the whole population in a given area and not only the economic and political elite. Backing this argument, the World Commission observes that large dams 'produce

benefits that accrue to groups other than those who bear the social and environmental costs. Thus, the requirements of proportionately and necessity are not always met.⁷

Indian Scenario: The policy level lacunae in India involve the following dimensions:

- *Inadequate Compensation:* Compensation is inadequate and lacks any scope for judicial redressal. Landless labourers, share-croppers, and migrants do not get anything at all. The compensation awarded does not account for future appreciation in the value of land. This ipso-facto deprives the owner of the potential worth of the land. Economists point out that since land is a property-based entitlement, rent should be provided over and above compensation. Moreover, cash compensation is replete with problems such as fixed rates of interest, inflation, and unidirectional flow of cash in terms of expenditure. Management experts have also pointed out that in India, providing cash compensation denotes 'myopic thinking' as land is not only considered as a source of employment but also an intrinsic part of the socio-cultural dimension of people's lives.
- *Resettlement projects:* These have largely failed due to weak implementing institutions, lack of clear policy mandate, organizational capacity, and professional and social engineering skills. This in turn has led to recurrent displacement of the affected populations in search of shelter and livelihood.
- *Legal framework:* This has been subordinated to the will of the legislature thereby subjecting it to political pulls and pressures.
- *Policies* have remained mostly without legal sanctions and replete with inadequate conceptualization and limited scope for successful implementation.
- The victims of the development process in India have primarily been the economically and socially marginalized classes. The instances of the plight of farmers, agricultural labourers, and tribal communities find harsh prominence. It has been pointed out that while the modern legal system deals with the individual as the basic unit, *the tribal community* needs a framework that can deal with them as a group, with rights to use natural resources and so on. The modern view holds land as property but the tribal view sees it as a means of livelihood which the entire community has access to. The language in which the legal framework is written, in itself favours the authority which wrote it. Thus, the law speaks of 'entitlements' and right of land to the tiller as if these things were at doubt (Talwalkar, 1991).
- In the 29th Report of the Commissioner for the Scheduled Castes and Scheduled Tribes by B.D. Sharma, it is observed that each development project compels communities of people to leave their houses, villages, and lands to make room for factories, dams, and other such large-scale constructions. Many a times, the project draws people from outside the local community in search of employment and the project grows with more construction work displacing

more people. As per the Report, already 15% of the entire tribal population in India has been displaced. They have been reduced to powerless beneficiaries – they are denied access to the natural resources over which they enjoyed community rights by the threat of legal action (Talwalkar, 1991).

Impediments at the implementation level: The absence of fool-proof policies is problematized further by inadequate and inefficient implementation measures. This has been illustrated by a *model of 'policy practice'* provided by the Centre for Development Studies, University of Wales, Swansea. The model represents policy practice as a three-tier landscape and proposes to explain why there is always an 'implementation deficit' obstructing smooth translation of policy into action (Rew *et al.*, 2000).

According to the analysts, at the '*top of the hill*' are the high level policy makers who are concerned with establishing normative policy frames, rather than any detailed policy. Since policy makers have to reconcile contradictory modernist and welfare positions, at this level, policy is more of a set of frames and broad themes, which needs to be kept general enough to hold together the diversity and tensions it contains. The middle or '*plateau level*' of policy making relates to the government departments and district towns within which resettlement and rehabilitation and other policy lines are coordinated and implemented. This level is characterized by weaknesses in the chain of communication and decision making due to the tremendous work pressure and shortage of capacity on the part of the resettlement administrators and the problems of coordination in multi-agency undertakings. The *bottom of the 'policy hill'* is filled with 'swampy details' of the actual projects and of delivery. Though this level comprises of the lion's share of complexities, it is critical to the actual outcomes and practice of policy making. Both affected populations and policy makers are confronted with the reality of the considerable discretion exercised by ground-level officials and by the local-level operational routines that they develop to cope with the pressure of their jobs. Thus, as the Study succinctly points out, the framework of translating policies into practice allows opportunities for cutting corners; in many cases, the local resettlement officer becomes the ultimate decision maker and cannot be easily controlled from the top (Rew *et al.*, 2000).

The limits and scope of development policies are thus challenged by irreversible incidents of displacement.

Resistance to displacement for development projects

The inability of the DID Projects to accomplish the transition to sustainable development and the powerlessness generated by displacement in such cases of ill-articulated and implemented development policies has spawned the resistance movements in different parts of the world. Scholars like Balaji Pandey argue that the projects undertaken by the government agencies continue to display a 'stubborn engineering bias' and thus ignore the social consequences of their proposed designs (Pandey, 1998: 9–11). In a similar vein, Michael Cernea writes that it is significant that the problem of resettlement of the uprooted people never featured in the feasibility studies

or in the cost estimates of the project designs. Popular resentment against this state of affairs gradually built up with increased awareness on the part of the people of their rights. This has resulted in frequent resistance movements against forced displacement. It has thus been argued that though at the commonsense level resistance may be seen as a response to the often appallingly bad baseline research, planning, and implementation of the project, highlighting the serious shortcomings in policy frameworks, legal options, assessment methodologies, and expertise in implementation at the deeper level, it is resistance as a discourse about rights. The perception is growing that the most vulnerable are forced to bear an unfair share of the costs of development, which is seen as a violation of basic human rights. To mitigate this, political commentators have observed that social security is an inalienable right of the people and should be provided its due scope within the policy framework. Similarly, a *'Rights and Risks' approach*, advocated by the World Commission on dams (2000) allows for the inclusion of not just material concerns but also of symbolic and affective issues (Oliver-Smith, 2001). The same project may affect different constituencies by gender, age, wealth and so on, in different ways eliciting varied responses, with those who resist coming from sections of the population which perceive they are at greatest risk. Risks are politically and socially constructed and so perceived differently across constituencies. The moot point remains that the absence of sustainable models of development have given rise to the avenues of resistance, signifying that development can no longer be considered as a top-down monologue but rather an argument involving many voices and perspectives, especially those who stand to be displaced (Oliver-Smith, 2001).

Resistance in the Narmada Valley: demand for revisiting the 'development' paradigm

The states of Orissa, Gujarat, West Bengal, and Andhra Pradesh in India have witnessed very strong and continuing protests. But the resistance movement in the Narmada Valley has been inarguably the most prolonged and intense involving a wide array of protestors who deem the Narmada River Valley Project to be world's greatest planned environmental disaster.

The first stirrings of protest against the Sardar Sarovar Project started in 1978 in Nimar, while the second attempt occurred in 1985 under the leadership of Medha Patkar. From 1988 onwards, protests against the dam started gaining momentum as the inhabitants of the submergence area demonstrated their determined refusal to move from their land. As mentioned earlier, at the forefront of these protests, movements were the precursors of the Non-governmental Organization called the Narmada Bachao Andolan (NBA). The protests gradually became international in nature and the legal action by the Andolan and state parties resulted in the stoppage of the construction of the dam at various points.

It has been observed that the resistance in the valley has been a part of a larger movement to chart out an alternative to the prevalent policy of development. In the 1980s, the nationalist consensus on the construction of development projects began

to get eroded. The development model that had so far been accepted by the political elite began to face criticisms from certain sections of the public. Internal displacement was no longer being seen as an unavoidable problem of national development but as a problem that could be surely taken care of if not completely avoided had an alternative model of development been followed in India (Banerjee *et al.*, 2005: 121). The evolution of people's struggles all over India in the 1980s and 1990s manifested the convergences of various issues and concerns regarding development and alternative aspirations. The Narmada Bachao Andolan thus symbolized the spirit of the 1990s when the issues of displacement, inequality, destruction of natural resources, and the violation of people's right to livelihood were all considered to be organically linked, presenting a unified picture of challenge ahead and of the alternative path of true development and democracy (Sangvai, 2000: 5). Scholars like Amita Baviskar point out that the NBA views the large development projects as symbols and synecdoche of the more gradual processes of commodification, resource-intensive industrialization, and urbanization. These processes are believed to be informed by a paradigm of development which glorifies them as progress and modernity. While raising questions about social justice and ecological sustainability, the Andolan challenges this ideology of development which inspires projects such as the Sardar Sarovar Project (Baviska, 1995: 231–234). The situation at Narmada River Valley is argued to be entirely illegal, inhuman, and is deemed to be the product of a flawed development paradigm coupled with a government which at its highest levels refuses to respect law and human rights. This automatically jeopardizes not just the lives of the people but the very nature of democracy and the meaning of development (Levien, 2006: 3585).

In this respect, the most valuable contribution of the NBA has been bringing together mass-based organizations from all over India. The NBA shapes its protest from primarily three vantage points (Gandhi, 2003: 484):

- It opposes the displacement of 40,000 people from adivasi (tribal) and other communities in three states, mostly without adequate rehabilitation and resettlement provisions.
- Massive and technically unwieldy water transport and energy distribution infrastructure cannot be achieved without incurring significant foreign debt.
- Large-scale environmental effects, mainly the result of reservoir flooding, which includes over 37,000 hectares of submerged land and the loss of large tracts of forests, are deeply resisted.

Direct action and protest, principally through Satyagraha but also by physically refusing official entry into villages and blocking roads into the valley have been a consistent method of countering displacement.

Impact of the resistance movement : As a response to the worldwide nature of protests which were targeting the poor resettlement and environmental considerations of the project, the World Bank commissioned an independent review of the Sardar Sarovar Project in 1992. In 1994, the NBA filed a Public Interest Litigation (PIL) in the

Supreme Court of India stating that the government should restrain from proceeding with the construction of the dam on the grounds of the height of the dam, extent of submergence, environmental studies, clearance, hydrology, seismicity, relief, and rehabilitation.

On 18 October 2000, the Supreme Court of India gave its final order regarding the PIL of the NBA in which it supported the continuation of the Sardar Sarovar Project in the decision 2 to 1. The PIL was rejected and the stay order on the dam was removed as the rehabilitation measures undertaken by the government were found to have been improved and satisfactory.

In April–May 2006, the Narmada Bachao Andolan's opposition to the raising of the Sardar Sarovar dam from 110 to 122 meters and Medha Patkar's fast brought the rehabilitation issue prominently to the nation's attention. But by October 2006, the governments in Gujarat and Madhya Pradesh started the construction of the dam, in total violation of the legal rights of those affected by the dam (Narmada Press Release, 2006). In 2008, the NBA has consistently staged marches and 'dharnas' by the oustees. It has organized the 'Jal Satyagraha', wherein the project affected people threatened to drown with the submergence of the valley but not flee (Narmada Press Release, 3 August 2008).

The struggle of the NBA is not an isolated example. Similar voices of protest are rising in the case of several other development projects.

Negotiating with development induced displacement: exploring options

In India, the Draft National Development, Displacement and Rehabilitation Policy of January 2006 is a recent policy document by the present Government (Public Policy Paper, 2006). The policy makes it the objective of the development projects 'to ensure that all those who are displaced are brought above the poverty line and made significantly better off than they were prior to displacement not just in economic terms but also in terms of human development and security, in a reasonable time frame and in accordance with their aspirations.' Further, the nature of displacement in cases of development projects is explained extensively. Accordingly, the Draft Policy holds that:

- Displacement should not be forced.
- People should be assured that it is their legal entitlement and that despite inevitable losses, they are on the whole going to be better off.
- Displacement should be based on the 'prior informed consent' of the community.
- Forced displacement of the people should be permitted only in the rarest of rare cases and only after it has been established by independent and credible evaluation that the displacing project has the sorts of social benefits that indisputably make it desirable despite its social costs.

The document, however suffers from the lacuna of the lack of legal sanction. Though the objectives and principles are comprehensive in both their nature and

approach, proper implementation is crucial for their realization. As the policy itself points out, ‘These changes both in the Policy and law would be effective if accompanied by a change in the mindset of the implementing authorities. Therefore administrative mechanisms will have to be set up which translate the spirit of the intended Policy and legislation into action.’

Prominent politicians, academicians, and management experts have opined that negotiating the current impediments to DID would require a three-fold strategy (views elicited from personal interviews with Hon’ble Basudeb Acharya, Member of Parliament; Mr P.S Bhattacharya, Chairman, Coal India; Prof. Ramanuj Majumdar, Indian Institute of Management, Calcutta). First, politicians should engage in more fervent deliberation to formulate a comprehensive national policy, guiding displacement, compensation, and resettlement. Second, provide training in skills and employment to those displaced by the projects presently underway. Third, ensure strict adherence to corporate responsibility by private entrepreneurs and multi-national companies which seek to launch development projects.

Certain specific options which may be explored at present to ease the impact of displacement are as follows:

- In a personal interview, *Mr Basudeb Acharya* (Hon’ble Member of Parliament) observed that the Draft National, Development, Displacement and Rehabilitation policy had been formulated almost a decade ago. It still has not been formalized as yet. Political consensus on this issue is thus a pre-requisite for articulating a comprehensive policy.
- In terms of options in the post-displacement phase of development projects, compensation must be supplemented by avenues of ‘alternative engagement’ in value-added activities and employment opportunities. *Prof. Ramanuj Majumdar* during another interview stated that cash compensation represents ‘myopic thinking’. Hence, additional employment must also be arranged for the displaced. Here the participatory model can be introduced by allowing the people to decide who would get a job. *Mr P.S Bhattacharya* pointed out that this model has already been implemented in the Sonpur Bazari region of the Eastern Coalfields Limited (ECL). Here, for every 50 hectares of land acquired by the government, 25 people are employed but the landlords decide which 25 among the displaced will get the jobs.
- Community engagement for facilitating the rehabilitation process would ensure higher level of involvement and participation by the affected people. This has been adopted by ECL in the tribal belt of Ishwarmarandi Nagar, Godda District, Jharkhand to rehabilitate the tribal population displaced by a mining project. In this context, it maybe mentioned that a democratic and participatory approach to project planning and implementation has been demanded by social activists and the projected affected people to make the process of development akin to a dialogue between the state and the displacees. They attributed most of the failures of development projects to the fact that

the populations concerned were kept out of all the processes related to their design, formulation and implementation. Hence, they started to advocate the end of top-down strategies of action and the inclusion of participation and participatory methods of interaction as an essential dimension of development. At the other end of the line, the *Development Establishment* has been obliged to recognize a structural crisis. Donors and recipient national governments admit that the billions spent on development projects have failed to produce the expected results. Following the recommendations of a number of major international aid organizations, it has been agreed that development projects have often floundered because people were left out. It has been found that wherever people were locally involved and actively participating, in major projects, much was achieved (Rhanema, 1997: 156–157).

- Private entrepreneurs who are seeking land for industrial projects should be allowed to compete for the land by formulating comprehensive compensation and rehabilitation packages. This would help the oustees to improve their terms of trade, thereby facilitating sustainable transition and such criteria for land acquisition would generate a demonstration effect for future development projects.

Concluding arguments

It must be recognized that at present there are no mandatory policy or legal guidelines for relief and rehabilitation measures that must necessarily accompany development projects. What is more important, attempts by the government to formulate such policies have been intermittent and weak. The strategy of developing modern industry and infrastructure is likely to continue in the years to come and is unlikely to transcend the dilemmas of DID. Therefore at present, it would be pertinent to evaluate the suggestions which are being proffered to ease the transition to sustainable development. Sagacity of political leadership would ensure the necessary political willingness for the formulation of comprehensive and uniform policies at the national level. The implementation mechanisms must keep scope for suitable modifications demanded by the individual development projects.

Citizens are increasingly demanding transparency in the dealings of the government and greater civic participation in the proceedings and negotiations of projects involving displacement of population. Those directly affected have vied for higher compensation, alternative options of livelihood and resettlement in places near the new job sites. The impact of technology has been favourable on the social movements and organized social action at the sub-national, national and trans-national levels. Greater channels of communication, higher dissemination of information and easier access to transport networks have enabled the incorporation of the local cases of displacement into the wider forums.

Thus, articulation of equitable compensation and resettlement policies prior to the initiation of displacement, clarity in the overall objectives of development and

the specific role of the policy makers in implementation, adoption of a participatory approach to make the process more inclusive and transparent and greater judicial enactments and legislation are certain suggested frameworks which the government needs to negotiate to carve out the best possible trade-off between the needs of development and displacement. This must involve authentic participation by the representatives of the displaced so that they have the ability to influence decisions. Decision-making criteria must move away from purely economic to more dialogic, consensual considerations. The projects must provide a wide range of resettlement and compensation options. This must be complemented by adequate information flow at all stages of the proceedings and transparency. The need of the hour is thus the enunciation of a comprehensive policy of compensation and rehabilitation which addresses the genuine concerns of the population being displaced. Sustainable development would be best served through the establishment of a more level playing field via the adoption of an inclusive approach.

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