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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **URBAN PROBLEMS AND LARGE PROJECTS – INSIGHT ON RESETTLEMENT AND REHABILITATION OF PEOPLE IN INDIA**

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## **Research Objective:**

The present article explores the impact of urbanisation and larger development project on the underprivileged people belonging from the tribal and indigenous communities in India, who have been forced out of their centuries old home in forests and villages to resettle in a new places away from their ancestral land. The impact of such resettlement on the lives of the individuals tribal and indigenous communities in India. The right to resettle

## **Research Question:**

The present research is focusing on the narrow concepts of the topic which are as follows:

- The impact of construction of dams on the tribal and indigenous people who have been displaced from their habitat and resettled.
- The hardships and problems that are faced by the displaced individuals because of construction of dams.
- To mitigate the social, economic and environmental impacts of displacement as well as provide affected individuals with improved living conditions.

## **Introduction:**

Human resettlement is not a recent concept. It has been caused by a combination and interplay of various aspects, for example, building dams, hydroelectric projects, Industries, extraction of minerals, etc. Ahead of getting to understand the outline related resettlement and rehabilitation caused by the large development projects, urbanisation, etc. it is pertinent to first comprehend the true essence of

certain terms such as 'development', 'urbanisation' and 'resettlement'. First, the term 'development' involves modifications for the advancement of society. It discusses the concept of progress, growth, uplift and interest of the society. Urbanisation refers to widespread growth in population and the amount of industrialisation of a settlement, which comprises of an increase in the number and scope of cities in geographical area. It represents the step forwarding of people from the rural areas to urban areas. Urbanisation occurs in size and population of the urban areas due to its constant accumulation and increase. Due to rampant urbanisation in India, degradation of environmental resources is taking place at an unprecedented pace, whereby generating various issues such as infertile land, deteriorating water standard, noise and air pollution along with the difficulties in disposal of waste. Resettlement means moving people from the place they used to live to a different place and rehabilitation means the restoration of a particular thing as it used to be. So, we can conclude by saying that displacement, resettlement and rehabilitation are the consequence of urbanisation and the large development projects that takes place and are one of the causes of deterioration of the environment.<sup>1</sup>

## **Development Projects and Resettlement Of People**

During the 1950s, the economic sector of India saw the introduction of numerous large projects which was classified in various heads such as forest and wildlife, irrigation and power; industrial projects; mining, etc. Just like different nations throughout the globe, India too has its fair allocation of numerous projects which displaces people from homes, employment along with tribal community. This can be observed as an outcome of the massive size of dams which contributes to the increased level of displacement of people since 1950s in India.

The development approaches and techniques of India have given primary focus on the irrigation as an essential input for agricultural sector. Vast scale irrigational schemes were essential for the elevated growth rate in agricultural sector besides the setting up of industrial businesses and power related projects. In India, a majority share of the total population continue to rely upon the agricultural sector as a source of employment, the implementation of river valley programmes continues to remain crucial element for growth.<sup>2</sup>

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<sup>1</sup> Leelakrishnan P., "Environmental Law in India", Lexis Nexis, Nagpur, 5th ed., 2019.

<sup>2</sup> Cernea M.M., "Urban Environment and Population Relocation", World Bank Paper, 1993.



The dams projects are constructed practically at the expense of such underprivileged local individuals, who are helpless to fight and show dissent to the decision of Government.<sup>3</sup> The Government is anticipated to find 'right' arable and suitable ground to resettle the displaced families and supply them with a sufficient rehabilitation packages to make progress from such disturbance. Such progress had happened rarely enough to satisfy of such impacted and resettled or relocated families and it has been evident that the Government had failed to take adequate steps. In many cases across the nation, this has not been executed sufficiently for decades.<sup>4</sup>

Resettlement needs alternate fertile acres of land area. But in India, there arose a situation wherein no fertile high-quality land is available for resettlement. Thus, more displaced families are allotted unworkable wasteland and barren and unfertile lands. Rehabilitation concerns not only just providing land to resettle. It is observed in the majority of the situations, it is performed insufficiently. The gravest fight to protect their own special common land and homes have been stripped off from the people of tribal communities residing on the banks of the Narmada River. They have resisted saving their lands for decades. The Narmada Bachao Andolan is constant reminder to how families suffer during the resettlement and construction of dams. The Hon'ble Supreme Court of India has said that the displacement of the tribal people and other families is not to be firmly seen as complete infringement of the fundamental rights that on the rehabilitation of affected people at new places which would make them more satisfied and be better off than what they were. Also it observed that at the rehabilitated places they would have more and better conveniences than those they enjoyed in their original habitat which could provide for incremental assimilation in the mainstream practices of the community would guide to advancement and improvement.<sup>5</sup>

The Tehri Dam is situated in the outer Himalayas, which if completed would immerse the Tehri town along with 100s of surrounding villages. The Dam was approved in the year of 1972, regional families who had been resisting and opposing the construction of the dam. Various environmentalists also opposed the construction of dam. The government has made very vague policies and provided very little information with matters related to giving proper resettlement and compensation for all the

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<sup>3</sup> Fernandes W. and E.G. Thukral, "Development, Displacement and Rehabilitation", Indian Social Institute, 1989.

<sup>4</sup> Mathur, H.M., "The Resettlement of People Displaced by Development Projects Issues and Approaches", 1995.

<sup>5</sup> *Narmada Bachao Andolan vs Union of India*, (2000) 10 SCC 664.

families who would get displaced from their houses as a consequence of construction of the dam, whereby creating a small expectancy of rehabilitation because no alternative land area is available. The forcible removing local families from their homeland is a major cause to induce emotional, psychological and physical trauma.<sup>6</sup>

The resettlement processes also adds stress on the lives of people who are already living in the region that has been chosen for resettlement apart from the impacted people. Therefore, the two societies suffer and endure competition over resources becomes more intense. However, there exist circumstances when residents appeal to be relocated to a new area, which is generally followed where individuals reside inside or on edge of national parks or wildlife sanctuaries. An instance can be seen at the Gir National Park, Gujarat, where the regional families had requested to be allotted an alternate ground to live peacefully and civilly away from lions and other predators that kill their husbandry cattle. Even after decades of appeals and requests the Government is incapable to find appropriate areas where such families can be relocated to.

Not only the green vegetation that was on the verge of extinction but various tribes such as the Jarawa tribe of the Andaman is constantly declining. The governmental actions have deprived this community of their traditional rights over land which has threatened their survival along with their future generations. The Jarawa tribe is forced to give up the customary and ancestral way of life, which resulted in rapid fall in the population of the indigenous inhabitants.<sup>7</sup>

National Rehabilitation and Resettlement Policy, 2007 serves as a framework for the resettlement and rehabilitation of displaced families due to various developmental projects in India. It encourages voluntary and informed participation of displaced families in the rehabilitation process. This policy provides that in the event of large scale displacement, the appropriate government will undertake a comprehensive social impact assessment. An Administrator for Rehabilitation and Resettlement will be designated, tasked with formulating, implementing, and overseeing the rehabilitation and resettlement plan. The legislation delineates the minimum entitlements for families affected by

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<sup>6</sup> *N. D. Jayal vs Union of India*, (2004) 9 SCC 362.

<sup>7</sup> <https://www.thehindu.com/news/national/financial-tourist-complex-on-little-andaman-a-bullet-through-an-islands-heart/article33710255.ece>.

displacement, along with the qualifying criteria. Such entitlements may encompass provisions like land, housing, financial compensation, vocational training, and priority consideration for employment opportunities.

Last year, Mr. Debnath, an environmentalist, filed a petition before the court of law, to argue the location allotted by the government where the people from the Bru community would be resettling is forest area which is a gross violation under Section 2.<sup>8</sup> Section 2 lays down the restrictions upon the use of forest land.<sup>9</sup>

### **Impact of Large Scale Developmental Projects**

The consequences of building dams not only isolated the marine and forest systems but also physically and mentally affects the displaced families and robbed them from their natural ecosystems of forests and water bodies and their rights, where they rely for their conventional livelihood. Analysis on the impact of development programmes indicate that people belonging to the indigenous communities and ethnic minorities are impacted disproportionately. Being marginalised in politics and belonging to underprivileged parts of the society, these people tend to end up unnoticed and become disadvantaged. In the day-to-day practices, it is observed that the people belonging to the indigenous communities and tribes are the real sufferers as they lose their lands, access to resources and titles and get mere amount as compensation and suffer from ill-planned resettlement policies. The impact of development large scale programmes overwhelmingly affects mentally, physically and financially to indigenous people and large dams has led to unfavourable and negative impacts in India. Researchers have surveyed and found that over the past decades around 20 million people have been displaced due to the constructions of such large projects and till date more than 70 per cent of such people have not been rehabilitated by the authorities.<sup>10</sup>

In nearly all of the resettlement processes, it is observed that the majority of displaced people have to live with lower earnings; fewer employment opportunities; less land than earlier; and worse

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<sup>8</sup><https://economictimes.indiatimes.com/news/india/ngt-issues-notice-to-environment-ministry-tripura-government-over-petition-challenging-bru-resettlement/articleshow/83453232.cms>.

<sup>9</sup> The Forest Conservation Act, 1980.

<sup>10</sup> Fernandes W., "Power and Powerlessness: Development Projects and Displaced Tribal", Social Action, Vol. 41, 1991.

nourishment, physical and mental health. The people belonging to the tribal community are most importantly stripped of their ancestral land and robbed of their rights of fair compensation and rehabilitation safeguards as per the statutory provisions of the Land Acquisition Act, 1984 because those families do not possess any legal papers or certificates to support their claims and rights on the land they inhabit and earned means of subsistence for centuries. The most severe impact on such families has been the deprivation of both the fertile agricultural and household lands, followed with the loss of the conventional occupations.

### **Issues Regarding Resettlement and Rehabilitation**

Post-Independence, there were no exhaustive policies developed by either the Union or State governments for handling the matters pertaining to the displacement and resettlement of people. In the past, resettlement and rehabilitation of the displaced people was founded on ad-hoc or temporary policies such as executive rules, notifications and orders, which were enacted by certain states for specific projects. Few State governments and ministries of the Union Government pursued limited guidelines and policies on the resettlement and rehabilitation in the unavailability of a concrete national Resettlement and Rehabilitation (R&R) policy.

Many State administrative authorities do not depend on legal enactments or universal approaches but rather ad-hoc rules and guidelines which are in accordance with the executive for a specific “case-by-case approach”. Few states such as Maharashtra, Karnataka and Madhya Pradesh have enacted resettlement legislations. In Orissa, the Resettlement and Rehabilitation R&R policy varies among various fields such as agricultural, industrial, mining, power, water, etc. The consequence of such ad-hoc approaches had made many displaced families completely lose in acquiring the legal and reasonable settlement for the losses they bore and eventually leading to the violation of their human rights. Until 2004, there were by no means any specific policies that could direct the rehabilitation measures of governmental schemes in water, agriculture, mining, etc.

Guidelines of state administrative authorities in matter pertaining to resettlement and rehabilitation over the past few years set an example to say that the governments are recognising and turning sensitive to such matters. The responsibility of Governments in implementing the “best methods” in resettlement and rehabilitation is a vital action. Several objections have been made to such policies.

Although certain guidelines and area specific policies are formulated to protect the displaced persons from loss of income and land rights due to expansion projects, cruel guidelines for hydro-electricity and dam projects. Such policies consists of loopholes and flaws in terms of inadequate compensation packages to displaced families which leads to slow income rehabilitation pace.<sup>11</sup>

Various observers have condemned the resettlement rules and polices are not uniform, compensation packages and allied services are distinct from projects leading to diverging views of disadvantage or advantage comparison among the displaced families themselves. Problems such as social equality, income losses, deprivation commercial activities, access to forest goods are not brought into account while compensating for displacement. This happens due to vulnerability of the displaced communities to numerous kinds of threats and dangers.

## **Conclusion**

In India, a dam is constructed not only at the financial expenditure but also at the cost of people from tribal communities who are the most vulnerable and lose the most. Their ancestral homes are immersed, their livelihoods are ruined and their free ingress to common resources like water, forests and land is snatched away from them. The displaced families are never sufficiently compensated by the authorities and suffer major trauma, which eventually push them below the poverty line. Threats like malnutrition, basic sanitations, poor education, poverty, poor healthcare and death haunt them for many generations. Poverty and beggary have now become the usual consequences for such people. Comprehensive adjustments with regards to the Resettlement and Rehabilitation policies are required at all the three levels of the government to ensure a quick, responsive and sensitive actions. The nationwide protests especially during the Narmada Bachao Andolan had brought significant stress on the government to act upon such policies. It is evident that certain rules and guidelines are issued on resettlement and displacement along with compensation packages but its execution continues to remain illusionary till date.

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<sup>11</sup> Pandey B., "Depriving the Underprivileged for Development", Bhubaneswar, 1998.