

# **People On The Move**

How Governments Manage Moving  
Populations

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## **Contents**

<b>The Indian Scenario</b> <i>Samir Kumar Das</i>	<b>4</b>
<b>The Internally Displaced Women</b> <i>Paula Banerjee</i>	<b>9</b>
<b>The Government Policy of Resettlement and Rehabilitation</b> <i>Madhuresh Kumar</i>	<b>23</b>

# **The Indian Scenario on Internal Displacement**

Samir Kumar Das

India is yet to evolve any separate legal instrument to address the problem of internal displacement and internally displaced persons (IDPs), but there are nevertheless significant provisions in the existing municipal laws that are frequently invoked by the appropriate authorities to deal with the problem. Since the early 1990s the need for a separate legal mechanism has increasingly been felt to not only compile the existing laws together within a single legal instrument but also to plug the loopholes detected in them over the years. This is in conformity with one of the basic ideas that led to the formulation of the UN Guiding Principles. The Principles do not constitute “a binding instrument” although they “reflect and are consistent with international humanitarian law and analogous refugee law.”<sup>1</sup> Its objective was to ‘help create the moral and political climate needed for improved protection and assistance for the internally displaced’.

Another important objective for preparing this note is to relate the Guiding Principles to the concrete cases of displacement in the country so much so that the victims become aware of their “rights” in this regard. In many cases, the authorities are reluctant to fulfill their “obligations” precisely because the victims do not assert their rights often enshrined in and guaranteed by the existing municipal laws and seek remedies against arbitrary encroachment on them. Guiding Principles approach the problem from the point of view of the IDPs and make them (as well as “those responding to their plight”) aware of their “rights” .

## **Definition and Typology**

Several features of the definition of IDPs by the Guiding Principles stand out as important: First, displacement according to this definition is always measured in terms of one’s movement from “home or place of habitual residence.” The definition does not seem to take into account those cases in which the self-employed persons are displaced from their habitual places of work. The workplace displacement sometimes leads to involuntary migration to areas, which offer to them better prospects of livelihood. Secondly, the sources of such displacement spelt out in the definition are by no means exhaustive. The displacement might take place in order “to avoid” the situations described in the list. The IDPs are entitled to the rights and

safeguards enshrined in the Guiding Principles, whether these situations actually take place or not after they are displaced from their homes or places of habitual residence. Thirdly, IDPs unlike the refugees have not crossed an internationally recognized Border.

### **Three Reasons For Internal Displacement**

***Development-related Displacement:*** This again may be divided into two subcategories – direct and indirect. Direct displacement refers to those cases, where the installation and commissioning of development projects lead to a direct displacement of people who have inhabited these sites for generation together. In India alone, between 1955 and 1990 as a result of the installation of such projects as mines, dams and industries, wildlife and others about 21 million people were internally displaced.<sup>2</sup> The Narmada River Valley project envisages the construction of 30 major dams on the Narmada and its tributaries and 135 medium-sized and 3000 minor dams. In all, 297 villages are to be submerged by the reservoir. A minimum of 23,500 people in Gujarat, 20,000 in Maharashtra and 1,20,000 in Madhya Pradesh are expected to be displaced by the reservoir.<sup>3</sup>

Indirect displacement emanates from a process whereby installation and functioning of projects continuously push up the consumption of natural and environmental resources, thereby depriving the indigenous people of the surrounding regions of their traditional means of livelihood and sustenance. Nor can they be accommodated by these projects in gainful ways.

***Conflict related displacement:*** This can be further divided into 1) ethnicity related displacement and 2) border related displacement.

***Ethnicity-related displacement:*** On the one hand, we know of such cases, where an ethnic community lays its exclusive claim to what it defines as its “homeland” on the ground that it is the “original inhabitant” of the land. By the same token, the outsiders have no right to settle there. In the 1960s, several thousand Tamil, Gujarati and Hindi-speaking factory and dock workers as well as small business persons and daily wage earners were forced out of the city of Bombay (Mumbai) by the activists of Shiva Sena.

***Border-related displacement:*** (I) Sometimes disputes over internal and external “borders” i.e. between two or more districts, provinces or constituent states of the Indian Union become so fierce that they often turn into major border skirmishes. As a result, the bordering villages are evacuated at the insistence of the government. (II) Conflicts along the border between two nation-states – at times metamorphosed into full-scale wars (like those between India and Pakistan), have been responsible for major displacement along the Line of Control (LoC) in the west.

**Externally-induced displacement:** (I) As the migrants pour in, they a) put pressures on land, b) cause unemployment particularly rural unemployment, c) create environmental problems and d) foment inter-ethnic tensions by way of disturbing the demographic balance and thereby posing a threat to the language and culture of the native people. As a consequence, they fall prey to explosive nativist outbursts and become soft and easy victims of torture, harassment, deportation and even death. (II) As immigrants from across the international borders pour in, they get themselves haphazardly settled in such public places as railway tracks, fragile embankments (*chars*), reserve forests and sanctuaries, the state finds it imperative – often at the insistence of the “native” people, to evict them and clear these areas of ‘illegal’ settlers. External migrants are thus subjected to some successive rounds of displacement from the land that they had slowly made their own.

**Potentially Displaced Persons (PDPs):** It is necessary to make a separate category of potentially displaced persons in order to refer to those who are invalid or infirm, or people suffering from terminal ailments, orphaned children or widowed women who are basically too weak to move to a new place. A significant percentage of them are too poor to meet the minimum costs of migration. They are in a displaced-like situation and ironically are far less fortunate than those who could migrate to safe and secure areas.

### **Three Recent Cases Of Displacement In India**

1. *There are different ways in which displacement occurs:* Both the communal riots of Gujarat in February 2002 and the new wave of militancy in Kashmir since the early 1990s, firing across the LoC and the military build-up at about the same time (2001-2) have led to a massive displacement of people particularly – though not exclusively, belonging to the minority communities. While in the case of Gujarat, the Muslims had to bear the brunt of internal displacement, in Kashmir, militancy is reported to have evicted the minority of Hindu pundits along with majority Muslims in some areas..

2. *Often displacement does not attract significant public attention:* The phenomenon of displacement in West Bengal, though assumed alarming proportions in recent years, has not attracted any significant public attention. First, while mainstream vernacular media report on displacement of persons as a result of floods, erosion of the riverbanks, eviction as part of urban planning, subway extension and mega-city project, their reporting suffers from some deficiencies. Many of these reports are of one-shot nature. Seldom is there any reference to the post-displacement state of the IDPs and their resettlement and rehabilitation. Unlike West Bengal, both Gujarat and Kashmir have received wide media attention from the national as well as the international press. Secondly, while the poor and the weaker sections of the population are required to bear the brunt of displacement whether in Calcutta or in other parts of West Bengal, displacement here is yet to acquire any overtly communal character. Moreover, in most cases, the displaced persons are reported to have come

back to their homes or places of habitual residence as soon as the dust storm gets settled. Camp life is of extremely short duration. Thirdly, the West Bengal case also shows that left to them, the IDPs are not in a position to raise their voice and assert their rights. As Francis Deng points out:

... many agencies pick and choose the situations in which they wish to become involved; no organization has a global and comprehensive mandate to protect the displaced.<sup>4</sup>

*3. Though internal displacement is neither new nor unprecedented in India, its recognition as a problem is certainly new:* As the nationalist consensus started getting eroded over the years, the development model that was hitherto almost uncritically accepted by the political elite faced criticisms from some quarters of the Indian public. The big dams and assimilating the diverse and heterogeneous sections of people into the so-called nationalist mainstream were two major planks of the development model that received a severe jolt as a result of these criticisms brewing in the body politic since the late-1980s.<sup>5</sup>

### **The Legal Regime**

We have already said that the need for a separate legislation on the problem of IDPs is more deeply felt since the end of the 1980s. The Working Group on Internal Displacement attached to Lokayan, New Delhi, prepared the first draft. While it provided the point of departure, it continues to be debated and discussed even now. New Delhi for example contended for a long time that rights related in the Guiding Principles are also covered by the Indian Constitution and that there are courts and procedures in place to address the rights of the displaced. A noticeable change has occurred in the attitude of the government and in this context, a reference may be made to the draft National Resettlement and Rehabilitation (R & R) Policy prepared by the then Ministry of Rural development (MoRD), which is the first state-led attempt in this direction. In the draft National Policy the “family” includes every adult member, his (her) spouse, along with minor children. A single adult would be treated as half a family, thus eliminating some of the biases inherent in existing R & R policies. Its primary objectives were to ensure minimum displacement, help resettled people enjoy a better standard of life than before displacement and finally enable displaced people to enjoy benefits on the same scale as the beneficiaries of the developmental project. The draft policy treated as owners of land for purpose of R & R, those people residing for more than 5 years before the date of acquisition, who are otherwise termed as “encroachers” on common land. Similarly, forest dwellers residing in forest areas prior to September 30, 1980 shall be considered as the owners. Also, provisions for compensation were made for non-owners, such as, tenants, sharecroppers etc. Other significant features of the draft policy were, community consultation for R & R package, open public hearings, publishing of the R & R plan, fixing of the R & R cost at 10 percent of project cost linking

compensation with gross productivity. It seems that government is planning to promulgate a National Policy on internal displacement.

Whatever be the shape of laws to come, we may conclude that a separate legal regime in India is necessary not simply for compiling the existing provisions but also for plugging their loopholes. First of all, the problem of displacement requires to be treated in a sensitive and discriminatory manner. The same set of laws cannot be applied to all sorts of displacement. The draft laws in this regard, show a definite bias in favour of the development-related displacement. Although a significant percentage falls under this category, ethnicity-related displacement has acquired a certain momentum in recent years. In this connection, it is also necessary to provide for the punishment of the guilty. A penal system has also to be a part of any legal instrument in this manner. Secondly, it is also necessary to treat the displaced person as a legal person. Unless the individual is granted such a right and identity is established prior to displacement, any displacement will not be simply a spatial displacement but a displacement of identity of the one, who is displaced. Thirdly, laws have a tendency of responding to sensational and episodic displacements while the case of West Bengal tells us that displacement can be slow, tacit and dispersed over time and space. The displacement of the hawkers does not amount to a displacement from homes or habitual residences. But the displacement from livelihood has the potential of developing into a fully blown crisis of internal displacement in future. The legal provisions must be geared to the development of data bank on displacement in this connection and will help us in avoiding displacement, in the future.

## Notes

<sup>1</sup> See, 'Introductory note by the Representative of the Secretary-General on Internally Displaced Persons' by Francis Deng in *Guiding Principles on Internal Displacement* (OCHA, February, 2000).

<sup>2</sup> Nancy Gaekwad and Ganesh S. Nochur, eds, *National Conference on Development, Displacement and Rehabilitation: Policies and Strategies: A Report* (Mumbai: Tata Institute of Social Science Science Research and NAPM, 1995).

<sup>3</sup> S. Parasuraman, "The anti-dam movement and rehabilitation policy," in *The Dam and the Nation: Displacement and resettlement in the Narmada Valley*, eds. Jean Dreze, Meera Samson and Satyajit Singh (Delhi: Oxford University Press, 1997), p. 33.

<sup>4</sup> Roberta Cohen & Francis Deng, *The Masses in Flight* (Washington D.C.: Brookings Institution, 1995).

<sup>5</sup> There is rich and growing body of literature on this. A very recent statement is available in Stuart Corbridge & John Harriss, *Liberalization, Hindu Nationalism and Popular Democracy* (New Delhi: Oxford University Press, 2000).

# The Internally Displaced Women

Paula Banerjee

The United Nations defines any conflict where there are more than 1,000 battlefield deaths as a major conflict.<sup>1</sup> As a result of this definition in 1965 there were 10 major conflicts. In 1992 the number went up to 50 with another 84 lesser conflicts. In the post-cold war era what became obvious was that most of these were “civil or intrastate” conflicts. The states were thus looking inwards and hence the major casualties were from the civilian population. “During World War I, civilians made up fewer than 5 percent of all casualties. Today, 75 percent or more of those killed or wounded in wars are non-combatants.”<sup>2</sup> In the 1990s there was a growing realisation that whether it is Kosovo, Afghanistan, India or Sri Lanka, major casualties of war are women and children. The 1990s was also the time for the growth of another interesting phenomenon all over South Asia and that is, while the states were fighting wars against their own errant people they were also creating mechanisms for the safeguard of the human rights of these people who were being brutalised either due to conflict or development. Looking at this phenomenon one observer remarked; “It is unclear why some governments would create national institutions to implement international norms that they routinely violate.”<sup>3</sup> Thus we have the birth of Human Rights Commissions in most of South Asia in the 1990s. While these were being set up South Asia was emerging as one of the most conflict prone zones of the world with thousands killed and many more displaced each year. Among the displaced were those who found refuge in other countries; however, many more could not cross borders. They joined the ranks of the internally displaced, were often forced to live within a system that had displaced them in the first place and there was no treaty or any institutional arrangement that interceded on their behalf.

The category of internally displaced people in South Asia acquired visibility with the escalation of conflict in Sri Lanka. By the end of 1995 more than one million people were displaced in Sri Lanka.<sup>4</sup> Around the same time with increasing recognition that the internally displaced people (hereafter IDP) needed special attention there were efforts to draft certain specific rules to guide their administration. It was recognised that no continent was spared the scourge of internal displacement or the cruelties associated with the phenomena. It was also recognised that the women among the IDP population formed a special category by their sheer number. Therefore unlike with the convention on refugees when the guiding principles on internally displaced people were drafted attention was paid to the fact that “overwhelming majority of the internally displaced are women and their dependent children.”<sup>5</sup>

In the guiding principles a concerted attempt was made to prioritise gender issues. For example, while discussing groups that needed special attention in Principle 4 it was stated that expectant mothers, mothers with young children and female heads of households, among others, are people who may need special attention. In Principle 7 it was stated that when displacement occurred due to reasons other than armed conflict authorities should involve women who are affected, in the planning and management of their relocation. Principle 9 upheld that IDPs should be protected in particular against “Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any other form of indecent assault.” Special protection was also sought against sexual exploitation. Principle 18 stated that special efforts should be made to include women in planning and distribution of supplies. Principle 19 stated that attention should be given to the health needs of women and Principle 20 stated that both men and women had equal rights to obtain government documents in their own names.

Apart from the guiding principles the 1979 Convention on the Elimination of All Forms of Discrimination against Women (hereafter CEDAW) and the 1999 Optional Protocol sets out specific steps for states to become proactive in their efforts to eliminate discrimination against displaced women. Article 2 of CEDAW clearly states that public authorities, individuals, organisations and enterprises should refrain from discrimination against women. Article 3 reiterated women’s right to get protection from sexual violence. Article 6 spoke against trafficking and sexual exploitation of women. Since most displaced women are particularly vulnerable to traffickers this article is of some importance to them. It must be noted that all the countries of South Asia are signatories to CEDAW with some reservations but not of the proportion that it negates the overarching principles and therefore the onus of being gender sensitive in their attitude and programmes is on them. Apart from these there are other international provisions that protect women’s human rights. Article 3 of the Geneva Conventions of 12 August 1949 calls for the halt of weapons against the civilian population and to protect all civilians, including children, women and persons belonging to ethnic and religious minorities from violations of humanitarian law. Article 29 of ILO 1930 Convention concerning forced or compulsory labour also impacts the situation of women. It calls for the end of violations of the human rights of women, in particular forced labour, abuse and torture of labourers including women.

In here I have tried to see whether India has successfully integrated gender sensitivity in their attitude to and programmes for the displaced communities. This note deals with two major categories of displacement: displacement due to conflict and displacement due to developmental projects. Displacement due to conflict may result from inter state or intra-state conflict. Among intra-state conflict we have state vs. community and community vs. community conflicts. Moreover, most of these conflicts are overlapping. Displacement due to developmental projects can be because of building dams, mining, shrimp farming, urban cleaning and other projects that

allegedly bring in modernisation. My intention is to analyse how the Indian State integrated gender concerns in their programmes for the displaced population. I explore whether gender specific violence has contributed in any way towards increasing displacement in the region. In India there are numerous cases of displacement and so my purpose is not to chronicle each and every one of them, but rather to show patterns of displacement and analyse the responses of the state particularly towards women who are displaced and yet are forced to remain within the borders of their own country. We have to recognise that notwithstanding CEDAW the state power in India is largely weighted against women and so women are some of the worst victims of displacement. Yet to look at women as merely victims is to see only half of the story. It is imperative that we recognise how women even in their victim-hood as displaced persons make efforts to organise and create movements to seek justice.

### **Conflict And Displacement: The Case Of The Line Of Control**

The conflict over the line of control (LOC) between India and Pakistan is an inter-state conflict that has resulted in severe dislocation and displacement of populations from both sides. The border between India and Pakistan has caused four wars (1948, 1965, 1971 and 1999) and many more near war situations. The two countries fought over the fate of Kashmir. In the process Kashmir has been divided into three parts. Today the northern part is known as Azad Kashmir and it is under Pakistani control. The southern part forming largely the State of Jammu and Kashmir is under Indian control and the eastern part is under Chinese control. From 1989 in the Indian side of Kashmir there is a raging state vs. community conflict, which the Indian state has termed “proxy war” by Pakistan. The rebels insist that their fight is a fight for freedom from Indian politics of homogenisation and marginalisation of valley Muslims. The state vs. community conflict in Kashmir resulted in the displacement of over 250,000 Kashmiri Pandits from the valley into Jammu and Delhi.

The National Commission for Women undertook a survey of displaced Kashmiri Pandit women. According to their report the policy of the Government of India (GOI) regarding these Kashmiris is premised on the idea that they will return to the valley whenever the situation is conducive for safe return. The displaced Pandits got some relief in terms of money and ration from the Union Government and the state government of Jammu and Kashmir. Compared to other displaced communities in South Asia their situation is slightly better because they do not face daily harassments from either the bureaucracy or the armed forces. Women of the Kashmiri Pandit community stated that they left Kashmir for fear of persecution in the hands of the Muslims. However a, “majority of women said that they have heard about the victimization of women but personally they do not know.”<sup>6</sup> Most of the women questioned felt that the government did not have a specific rehabilitation policy for women. They felt that if there were policies that helped them to become economically independent they would be better off. Although most of them did not feel any threat to their person in this situation of displacement, they were sad because

they found “themselves completely excluded from this quest for a new Kashmiri identity.”<sup>7</sup>

The more recent IDPs in Kashmir have not been as fortunate as the Kashmiri Pandits. In 1999 India and Pakistan clashed over Kargil and although that war ended, there are intermittent skirmishes between the two armies periodically leading to enormous displacements. In 1999 itself in India between 60,000 to 100,000 people were displaced. The largest towns in the area, Kargil and Dras, were completely deserted. Most of the displaced fled due to heavy shelling.<sup>8</sup> The Indian military campaigns forced another 50,000 to be displaced from their homes in Jammu and Kashmir. After the 13 December 2001 attack on the Indian parliament there has been a steady build up of troops near the border. Around the same time the Indian army ordered 20,000 people to evacuate from more than 40 border villages in Indian-administered Kashmir, while tanks, fighter jets and heavy artillery were moved into place.<sup>9</sup> By 2002 over 100,000 people were forced to migrate from the LOC alone.<sup>10</sup> Displacement also occurred in other bordering states such as in Rajasthan. In a newspaper report the extent of displacement was described as follows:

In Sriganganagar, the hapless people plagued both by preparations for war and a devastating drought last year reportedly resented the Army presence in their neighbourhood. In Hindumalkot area which has 20 villages, a good number of families - ranging from 10 to 96 percent in various villages - have moved out. Many hamlets have only the elderly who either refused to move out or are too weak to risk a journey. In Rohirawali village, an estimated 86 per cent of the people have left their homes while in 16 villages falling under Matili Rathan police station area, 25 to 93 per cent of the families have left. In the Anupgarh sector, 90 per cent of the inhabitants have left villages.<sup>11</sup> The same report also maintained that among the first to be displaced were the women and children.

The shelling of villages had dire consequences for women. Many of them were injured and needed medical attention that was already scarce. In a report discussing the fate of one such woman who suffered leg injuries it was stated “because of the pressure on beds she was moved from a bed with a fan (vital in the searing heat) to one that had no ventilation. Her son complained to the hospital authorities but with no success.”<sup>12</sup> Thus even in hospitals women are the last to be tended to. According to observers, “in the ultimate analysis the women of Kashmir have had to bear the end of the violence that has wracked the valley. It is they who as widows, half widows, rape victims, victims of religious dictates, and victims of displacement have to ensure that the pattern of life continues as normally as possible even when the times are abnormal.”<sup>13</sup> Not only are they the first to be displaced but even in displacement they are pushed into sub human lives. According to one eyewitness report the people relocated from the Indian side of the border were put in relief camps which were formerly storage sheds or condemned factories. In one such

camp for the internally displaced due to war it was reported that 200 people including women and children were packed in a 1800 sq ft. area. These camps had no heating facilities in the bitter cold winter. Due to unhygienic conditions and poor relief many of the inmates fell sick. On their arrival these people were given five kilos of rice per head and four litres of cooking oil. They had no money to buy even wood fuel. "Several women, old persons and children were suffering from cold dysentery and influenza," and they had almost no health care facilities. These displaced including women and children were dumped and forgotten.<sup>14</sup> The camps had no privacy for women and their lives in these camps were extremely harsh. Even an ICRC report discussed the gravity of the situation faced by the internally displaced from villages near the LOC. It stated that these people were "experiencing great difficulty in providing for themselves and their children, especially in the wintry conditions now prevailing in these mountainous areas."<sup>15</sup> The UN guiding principles on internally displaced notwithstanding, the displaced women from the LOC face grave risks to their lives. Many of these women were maimed when they tried to return to their homes that were heavily mined. They are neither consulted nor conferred with before they are displaced. They are not allowed to carry personal items such as enough warm clothes with them because the trucks that transport them do not have enough room. Even now many of these displaced women and children remain uprooted because they can not return to their villages.

### **Genocidal Acts In Gujarat And The Situation Of Displaced Women**

For people in Gujarat, riots are not a new phenomenon. Beginning with 1969, communal violence of varying degrees occurred intermittently between 1985 and 1999. But the acts that took place in Gujarat from February 2002 onwards have been unprecedented in many ways. What was passed-off as riots were actually genocidal acts in nature where one community was slaughtered while the state machinery looked the other way. The cruelty and brutality witnessed in Gujarat was also of an unprecedented level. Few events of contemporary India have shaken the conscience of civil society as deeply as the Gujarat carnage of 2002. The events began with over 1000 *Kar sevaks* travelling from Ahmedabad to Ayodhya by Sabarmati Express on 22 February 2002.<sup>16</sup> On the way they reportedly harassed Muslim men and women in the train and in respective stations. While they were returning on 27 February reportedly there was again some altercation between the *Kar Sevaks* and Muslim vendors in the Godhra station. Soon after near Falia it was discovered that a coach was on fire. As a result about 59 people died of whom 26 were women and 12 children. It is still not clear how the coach caught fire but the supporters of the Vishwa Hindu Parishad (VHP), the Bajrang Dal and the ruling Bharatiya Janata Party (BJP) made this an occasion to mount a massive attack against the Muslims in Gujarat leading to dislocation and displacement of an unprecedented scale. Soon violence spread across Gujarat. In Ahmedabad alone about 50,000 Muslims were displaced. Hundreds were killed in mob attack. In Vadodara, Gandhinagar, Meghaningar, Sabarkantha, Himmatnagar etc. many more were displaced. Reports

kept coming that in Pandharvada village 70 people belonging to the minority community were burnt alive. In Mehsana, 28 farm labourers were murdered.<sup>17</sup> By April 2002 the Government indicated that there were over 98,000 displaced people living in 100 relief camps.<sup>18</sup> In a citizens report it was stated “there are over 100 relief camps scattered all over Gujarat with over one lakh (100,000) victims. There is shortage of food, water and medical help. Most government functionaries, particularly Ministers, do not bother to visit most of the camps, as their only inmates are Muslims. There is urgent need to reach food, water and medical help to the victims.”<sup>19</sup>

While the events were still unfolding it became clear that the attack was not just against the minority community but were particularly against women of the minority community as well as the women of the majority community, if they appeared errant. Among the first group of women to collect testimony of riot-affected women in Gujarat were members of the Vadodara PUCL and Shanti Abhiyan. They came out with a report on the basis of testimonies collected from women from 27 February until 26 March. They found out that between 28 February and 22 March more than 39 Muslim houses were gutted and 19 shops looted only in Baranpura area. There were two police points close by and a fire brigade, which refused to come to the callers’ aid. In Bahar colony when women asked police to help them “the police refused to listen to them and in fact did laathi charge on them to drive them into their homes.<sup>20</sup> Among others an elderly woman Ameena Memon was badly hit in the laathi charge.”<sup>21</sup> In another incident Hamida Bano Ibrahim, a 40 year old woman was hit by a police so hard that her right hand was fractured in three places.<sup>22</sup> One of the recurrent themes of these reports is in fact the anger that women felt at the role played by the police and state machinery. The women were caught up in the reign of terror promoted by the police. Even women from the majority community were suffering from fear psychosis because they were constantly warned that the Muslims might attack them.

The Citizen’s Initiative of Ahmedabad sponsored the first fact-finding visit by a women’s panel. Between 27 March and 31 March the six-member team visited seven relief camps in both urban and rural Gujarat. These were in Ahmedabad, Kheda, Vadodara, Sabarkantha and Panchmahals district. The team found compelling evidence of extreme sexual violence against women during the days of mayhem. In every case of mob violence there was evidence of pre-planned targeting of women. There were gruesome testimonies of how violence against women was used as an instrument to displace people. In one such testimony from Naroda Patia minor girls said that mobs started chasing them with burning tyres: “We saw about 8-10 rapes. We saw them strip 16 year-old Mehrunissa. They were stripping themselves and beckoning to the girls. Then they raped them right there on the road.” In another camp a rape victim spoke of her experiences. She said that while running away from the mob she fell behind as she was carrying her young son, Faizan: “The men caught me from behind and threw me on the ground. Faizan fell

from my arms and started crying. My clothes were stripped off by the men and I was left stark naked. One by one the men raped me. All the while I could hear my son crying.” The fact-finding team also found evidence of police complicity in this carnage. Not only were women forced out of their homes and targeted in the streets but also the police helped the attackers. The report said that in the vast majority of the cases the police refused to lodge First Investigative Reports. When questioned about violence against women even the District Collector of Panchmahals said, “maintaining law and order is my primary concern. It is not possible for me to look into cases of sexual violence.” Women hid in the forests for 3 to 4 days before they could reach the safety of the camps. The report said the relief camps were organised by Muslim community leaders with hardly any help from the government. The report also stated that an “immediate impact of the violence is the creation of female-headed households. In many cases entire families have been killed. Women testified to having witnessed several members of their family dying. They were dealing not only with the trauma of this loss, but facing a future with their life’s savings and livelihood sources destroyed.” Many women in the camps stated their fear of going back to their homes, where they might be targeted again.<sup>23</sup> Other groups such as Citizens Tribunal and All India Democratic Women’s Association corroborated these evidences.<sup>24</sup>

There were other initiatives where women visited Gujarat to find out about the situation of the riot-affected women. Among the last to visit Gujarat was a team set up by the National Commission for women, which is mandated as the apex body for the protection of women’s rights. This women’s team visited Himmatnagar, Ahmedabad, Godhra, Kaiol and Vadodara between 10<sup>th</sup> and 12<sup>th</sup> April 2002. One of the members of this team wrote about her experiences of camp life. She said:

How long could anyone stay in the camps? The temperature was already 43 degrees. In the next few weeks it would soar to 47 or 48 degrees. There were babies, infants and newborn under the canvas. There were pregnant mothers, the old, and the ailing. Water, sanitation and privacy were in short supply. There was no privacy during waking or sleeping hours, to feed the baby or change one’s clothes. The situation was mired in pathos and humiliation.<sup>25</sup>

The National Commission for Women reported that many of the camps “were not up to the mark” and they asked the government to carefully supervise relief. The team revealed that in the camps organised by the government had no representation of women in the organising committee. With several pregnant and lactating women and children they felt there should be adequate representation of women in these committees. They also felt that security arrangements for women and children were inadequate and both of these groups reported to feeling “extremely insecure in the present circumstances.” There were no special provisions for pregnant women. The committee observed that, “sanitary towels and other personal items of clothing such as undergarments, footwear etc. also need to be provided.” They also observed that there was a lack of lady doctors and gynaecologists. More

importantly there were no facilities for women and girls to who have been widowed or orphaned to get any special training to earn their livelihood. No efforts were made to make women aware of the compensations that were promised to them. Although inadequate, these compensations could at least give some confidence to women who are traumatised by their own destitution.<sup>26</sup> What the members of the committee were most concerned about was that, “no one seemed to have asked questions related to rehabilitation. What efforts were being made to make their homes and localities safe? Or to determine, in consultation with them, where the women without men folk or children without parents would go?”<sup>27</sup> The displaced women in Gujarat were thus truly “nowhere” people. Even today they remain in hostile environment and as the evidence in the Best Bakery case suggests that these women, if they seek justice, are displaced once again.

### **Development Related Displacement: Dams And Displaced Women**

India has one of the highest development-induced displacements in the world. There are however, no reliable official statistics on the number of development related internally displaced in India. According to an official figure in 1994, about 15.5 million internally displaced people were in India and the Government acknowledged that some 11.5 million were awaiting rehabilitation. But calculations, on the basis of the number of dams constructed in India and its associated displacement, show that the number of development-related displacement in India may be as high as 21 to 33 million people. Dam building is one of the most important causes for development-related displacement. According to one report, “during the last fifty years, some 3,300 big dams have been constructed in India. Many of them have led to large-scale forced eviction of vulnerable groups. The situation of the tribal people is of special concern, as they constitute 40-50 percent of the displaced population.”<sup>28</sup> As in any other kind of displacement women and children are also particularly vulnerable in development-related displacement. Usually displacement is forced upon communities who are already marginalized by systemic injustice such as the indigenous people.<sup>29</sup> “Women as marginalised entities within marginalised communities are often forced to shoulder the ordeal of displacement far more intensely.”<sup>30</sup> The brutality of displacement due to the building of dams was dramatically highlighted during the agitation over the Sardar Sarovar Dam. It has been called “India’s most controversial dam project.”<sup>31</sup> A woman, Medha Patekar, spearhead the anti-dam movement known as the *Narmada Bachao Andolon*. This movement for the first time systematically revealed how building dams can result in total dislocation of tribal societies. Whereas the beneficiaries of the dam are meant to be large landowners, tribal people are paying the price. In such situations it is common that women from these communities will be worst affected. As one observer points out,

Relief programmes tend to overlook women’s crucial roles as producers, providers, and organisers, and have delivered assistance directly to male heads of households,

whether it is food, seeds and tools, or training. This reduces women's influence over areas previously controlled by them — such as the production and provision of food — undermining their position within the household and the community.<sup>32</sup>

Before discussing methods of eviction and forced relocation of tribal men and women in the Sardar Sarovar project I will look into the building of another dam and the discuss the effects of forced relocation on women in the context of this other project. It is important to discuss this other project first because the National Commission for Women, for the first time, decided to undertake a study on the effects of development-related displacement on women specifically in the case of this other project. The project in question is the Tehri Dam. Before we discuss the case of the Tehri Dam we must first acknowledge that only recently has there been recognition of the fact that such development related displacements may affect men and women differently.

The Tehri project is a multi-purpose irrigation and power project in the Ganges valley 250 km. north of Delhi, located in the Tehri Garhwal district of Uttaranchal state. Initially in 1969 the Tehri Dam Project Organization (TDPO) estimated that about 13,413 persons would be affected by the construction of the dam. But a working group for the Environment Appraisal of Tehri Dam established in 1979 put the figure of expected internal displacement to 85,600 persons. According to the 1995 report of TDPO out of 135 villages affected, 37 would be fully submerged once the dam is completed. The total land affected by the project is 13,000 hectares.<sup>33</sup> The National Commission for Women conducted a survey on displaced women in the Tehri project. In that survey they found that although the terms of rehabilitation was extremely modest, “even this was not fully implemented.”<sup>34</sup> As for women who were displaced most often they lost their share of livelihood and the area where they are relocated did not provide them with any possibilities of supplementary sources of income. Even the government had no programmes for their skill enhancement and so their chances of economic independence were severely restricted. Thus, displacement resulted in their disempowerment. According to the survey, projects such as these displaced people from their traditional habitat resulting in “profound economic, psychological, environmental and cultural disruption.”<sup>35</sup> The women were severely affected because of breakdown of social units. Displacement resulted in mental trauma and loss of mobility because they were relocated forcibly to an unknown place. All this contributed to women's sense of powerlessness.<sup>36</sup>

Now, I return to the case of the Sardar Sarovar Dam project. The displacement and relocation process in the Tehri Dam project was not as violent as the Sardar Sarovar Dam project, which is a part of the Narmada Valley Development Project (NVDP). The NVDP is supposed to be the most ambitious river valley development project in the world. It envisages building 3,200 dams that will reconstitute the Narmada and her 419 tributaries into a series of step-reservoirs. Of

these, 30 will be major dams, 135 medium and the rest small. Two of the major dams will be multi-purpose mega dams. The Sardar Sarovar in Gujarat and the Narmada Sagar in Madhya Pradesh, will, between them, hold more water than any other reservoir in the Indian subcontinent. The official figure indicates that about 42,000 families will be displaced but non-governmental organisations such as the Narmada Bachao Andolan (NBA) puts the figure to about 85,000 families or 500,000 people. They argue that the official figure has not counted people who will lose their livelihood as a result of these dams as Project Affected Families (PAFs). The official figure counts families who will lose their land or homes as the only PAF. According to one report “the Narmada Valley Development Project will affect the lives of 25 million people who live in the valley and will alter the ecology of an entire river basin.” The first dam that was built as part of this project displaced 114,000 people but provided irrigation for only 5 percent of the land that it was meant to irrigate.<sup>37</sup> According to one observer:

Dams are built, people are uprooted, forests are submerged and then the project is simply abandoned. Canals are never completed... the benefits never accrue (except to the politicians, the bureaucrats and the contractors involved in the construction). The first dam that was built on the Narmada is a case in point - the Bargi Dam in Madhya Pradesh was completed in 1990. It cost ten times more than was budgeted and submerged three times more land than engineers said it would. To save the cost and effort of doing a survey, the government just filled the reservoir without warning anybody. 70,000 people from 101 villages were supposed to be displaced. Instead, 114,000 people from 162 villages were displaced. They were evicted from their homes by rising waters, chased out like rats, with no prior notice. There was no rehabilitation. Some got a meagre cash compensation. Most got nothing. Some died of starvation. Others moved to slums in Jabalpur. And all for what? Today, ten years after it was completed, the Bargi Dam produces some electricity, but irrigates only as much land as it submerged. Only 5 per cent of the land its planners claimed it would irrigate. The Government says it has no money to make the canals. Yet it has already begun work downstream, on the mammoth Narmada Sagar Dam and the Maheshwar Dam.<sup>38</sup>

The building of the Sardar Sarovar dam was stopped in 1995 when the NBA petitioned the Supreme Court that no further building of the dam could be undertaken without rehabilitation of those who had already been displaced. But in February 1999 the Indian Supreme Court through an interim order permitted the Gujarat government to resume the building.<sup>39</sup> Then again in October 2000, the Supreme Court gave a go-ahead for the construction of the dam. From that time the Gujarat government with increasing brutality has undertaken forcible eviction of the tribal people. One of the prime methods of eviction followed by the police is to enter a village and beat up women and children. This has been reported from most areas that have been cleared. In one such news item it was reported that, “on 20th July 2002, about 400 police people entered the Man dam project affected village Khedi-Balwari (Dist. Dhar, M.P.) and forcibly evicted the village using terror tactics. The women

and even children were severely beaten up, the houses looted and the people were picked up and dumped at the so called 'resettlement' site Kesur, 75 kms away, where they remain under a virtual arrest with large number of police guarding them. The whole Khedi-Balwari village is now under the control of the police.”<sup>40</sup> Not only are women harassed and physically dumped in resettlement sites, which are totally unplanned, women face severe problems in these sites. These problems start from something as apparently small as no toilets for only women, to bigger problems such as refusal to give women-headed-households the status of PAF. Obviously, women are the worst sufferers in this process of displacement and relocation. Even when relief is given it is in the form of cash handed over to the male heads of households. Thus women are much less able to influence decisions of how the money ought to be spent. If women protest the police often physically abuse them. The lands that are handed over to them are often of very low quality and cannot be cultivated.<sup>41</sup> Sometimes, “gender bias in resettlement is often manifested through non-recognition of women’s ownership of land. For example, in Sardar Sarovar project, women with land titles (*patta*) were not given land for land.”<sup>42</sup> Often people are displaced multiple times and each time they are displaced they become poorer.<sup>43</sup> One observer clearly states. The most culpable aspect of state-induced impoverishment of displaced populations is the phenomenon of multiple displacement. It has been documented, for instance, that as a direct result of the lack of co-ordination between the multiplicity of irrigation, thermal power and coal-mining agencies ... most oustees have been displaced at least twice, and some three or four times in a matter of two or three decades and with each displacement the villagers were progressively pauperised.”<sup>44</sup>

The dalit and adivasi women often do not have deeds to the land that they have lived on for years. Because of lack of deeds these women and their families are not treated as PAF and so they cannot claim compensation. Often these women become destitute and easy pray for traffickers. Many of them end up in brothels. The government has no programmes for either their skill enhancement or for their protection. These are the women who are worst affected by development projects. The UN Guiding Principles have no meaning for them. Thus the processes of dam building in India have displaced not just thousands of people, mostly tribals, but have also caused severe disempowerment of women through displacement.

### **Displacement and State Responses**

The cases that I have dealt with in this paper are cases of displacement due either to conflict or developmental projects. The one category of displaced that I have omitted are calamity-induced displaced or those displaced as a result of natural disaster. One reason why I have considered only conflict-induced and development-induced displacement is because in both these forms of displacement the hand of state power is obvious. In most of these development and conflict induced cases state policies result directly in displacements. Even in displacement related to community vs. community conflicts, the state can play a partisan role as is obvious from the situation

in Gujarat. In perhaps all states of South Asia women are relegated to the margins of citizenship. They are hardly ever equal partners in the process of state formation. State machineries seek to create a “unified” and “national” citizenry that accepts the central role of the existing elite. This is done through privileging majoritarian, male and monolithic cultural values that deny space for difference. Such a denial has often led to the segregation of minorities, on the basis of caste, religion and gender, from the collective we. Thus displaced women are often doubly marginalized since state policies are weighted against them both because they are women and also because often they are members of minority ethnic, religious and linguistic groups. In situations where the state is not an actor, the majority group imitates state behaviour thereby victimising women as in the massacres by Bodo militants. That the states of South Asia at best infantilise women and at worst abuse them will become obvious if one looks into their responses towards displaced women. When in the Indian parliament the issue of torture of women in Gujarat came up, the Minister of Defence commented that in civil war such things happen.

Notwithstanding the UN Guiding Principles or CEDAW, states in South Asia have no set policies for the internally displaced. They treat each case on an ad hoc basis. Therefore certain groups such as the Kashmiri Pandits, because of their proximity to state power, are able to get a certain amount of relief and rehabilitation packages; but the Muslims or the Santhals in Assam do not get even one fourth of what is allotted for the Kashmiris.<sup>45</sup> When state policies result in displacement then getting any redress becomes even more problematic. Therefore often in development-induced displacement before rehabilitating the previously displaced the state moves on to displace even more people. In most South Asian societies women live under rigid patriarchies that control their mobility and value them only as symbols of group honour. In such situations women are often distanced from the public domain. Thus when state policies make them destitute they remain unprepared by their training to deal with the administration and thereby become further victimised by the system. It has to be recognised that the situation of women IDPs will change substantially only when states in South Asia identify women as equal partners in governance. We need to understand that in already unequal context disparities get further exacerbated. Thus, in conflict as in developmental processes in South Asia it is often the indigenous people and the minority communities who get displaced. Among these communities, the more victimised such as women, children, old and the infirm get further abused and marginalized. Government and non-governmental agencies should consider addressing structural causes that discriminate against women. Programmes should be evolved that addresses questions of equity in sharing responsibility, resources and rights between women and men. Women should not be viewed only as victims because that negates women’s experiences and agency. Only when women are accepted as agents of social change can the gamut of their lived experiences be considered crucial. Without such recognition any programme for women IDPs will only touch the surface and not make changes that are effective over longer periods of time.

## Notes

<sup>1</sup> I thank Dr. Roberta Cohen and Dr. Ranabir Samaddar for their extremely helpful suggestions in writing this note.

<sup>2</sup> "From Ashes of War: Women and Reconstruction," *Gender Reach Information Bulletin*, 11/30/1999, No. 6, 1.

<sup>3</sup> Sonia Cardenas, "Adaptive States: The Proliferation of National Human Rights Institutions," Working Paper, Carr Center For Human Rights Policy, Harvard University (2001).

<sup>4</sup> In December 1995 there were 1,017,181 estimated internally displaced people in Sri Lanka, *Report, Ministry of Rehabilitation and Reconstruction / Commissioner General of Essential Services*, 2 January 2002.

<sup>5</sup> David A Korn, *Exodus Within Borders: An Introduction to the Crisis of internal Displacement* (Brookings Institution, Washington D.C., 1999), 14.

<sup>6</sup> "Kashmiri Migrants" in *Impact of Displacement on Women*, National Commission for Women, New Delhi, 2001, 95-96.

<sup>7</sup> Asha Hans, Women Across Borders in Kashmir: The Continuum of Violence," in *Women In Conflict Zones*, Vol. 19, No. 4 (York University Publication), 79.

<sup>8</sup> U.S. Committee for Refugees (USCR), 2000, *World Refugee Survey 2000* (Washington, D.C.), 166.

<sup>9</sup> "Villagers Flee India – Pakistan Border," BBC Report, 29 December 2001,

[http://news.bbc.co.uk/go/em/fr/-/1/hi/world/south\\_asia/1732865.stm](http://news.bbc.co.uk/go/em/fr/-/1/hi/world/south_asia/1732865.stm)

<sup>10</sup> Displacement in Kashmir due to military tensions and armed clashes between India and Pakistan (1999-2002), [www.idproject.org](http://www.idproject.org)

<sup>11</sup> *The Hindu*, 6 January 2002,

<http://www.hinduonnet.com/2002/01/06/stories/2002010600661400.htm>

<sup>12</sup> Kashmir: Asian sub-continent on the brink of catastrophe (An eyewitness account from a socialist in Pakistani Occupied Kashmir), Committee for a Workers' International, May 2002, [http://slp.at/cwi/infos\\_int/neu\\_0205\\_kash.html](http://slp.at/cwi/infos_int/neu_0205_kash.html)

<sup>13</sup> Sumona Das Gupta and Ashima Kaul Bhatia, "Women in Conflict Resolution: The Road Ahead in Kashmir," <http://www.ipcs.org/issues/newarticles/671-kas-sumona.html>

<sup>14</sup> Tapan K. Bose, "A Kargil War Refugee Camp: Reporting from Gagangir," *Refugee Watch*, No. 7 (September 1999), 7-9.

<sup>15</sup> 1-Feb-2002 Press Release 02/09 ICRC aid for the internally displaced in Jammu and Kashmir,

[http://www.icrc.org/Web/eng/siteeng0.nsf/html/57JRKW?OpenDocument&style=custo\\_final](http://www.icrc.org/Web/eng/siteeng0.nsf/html/57JRKW?OpenDocument&style=custo_final)

<sup>16</sup> Kar sevaks are volunteers who raise money and work for the extreme right wing organisation such as the VHP.

<sup>17</sup> "Communalism Combat," March-April 2002 in Basudeb Chattopadhyay, Ashis Ranjan Guha and Ramkrishna Chatterjee eds., *Communalism Condemned: Gujarat Genocide 2002* (Progressive Publishers, Kolkata, 2002), 3-16.

<sup>18</sup> "We Have No Orders To Save You" State Participation and Complicity in Communal Violence in Gujarat, Human Rights Watch (HRW), April 2002, 6

<sup>19</sup> Onlinevolunteers, 30 May 2002, [www.idproject.orgIndia](http://www.idproject.orgIndia)

<sup>20</sup> lathi means baton.

<sup>21</sup> “Gujarat Carnage: Women’s Perspectives on the Violence in Gujarat,” By PUCL Vadodara and Shanti Abhiyaan, Vadodara, 27 February-26 March, 7.

<sup>22</sup> Ibid, 8.

<sup>23</sup> Syeda Hameed, Ruth Manorama, Malini Ghosh, Sheba George, Farha Naqvi and Mari Thekaekara, *How Has The Gujarat Massacre Affected Minority Women?: The Survivors Speak*, Fact-Finding by a Women’s Panel, Citizen’s Initiative Ahmedabad, 16 April 2002.

<sup>24</sup> The Concerned Citizens Tribunal reported “A distinct, tragic and ghastly feature of the state sponsored carnage unleashed against a section of the population, the Muslim minority in Gujarat, was the systematic sexual violence unleashed against young girls and women. Rape was used as an instrument for the subjugation and humiliation of a community. A chilling technique, absent in pogroms unleashed hitherto but very much in evidence this time in a large number of cases, was the deliberate destruction of evidence. Barring a few, in most instances of sexual violence, the women victims were stripped and paraded naked, then gang-raped, and thereafter quartered and burnt beyond recognition.” *An inquiry into the carnage in Gujarat*, Citizens Tribunal - Gujarat 2002, Published by: Citizens for Justice and Peace, <http://www.sabrang.com/tribunal/vol2/womenvio.html>

<sup>25</sup> Vasudha Dhagamwar, “The Women in Gujarat’s Camps –I” *The Hindu*, 22 May 2002, (online edition)

<http://www.hinduonnet.com/thehindu/2002/05/22/stories/2002052200351000.htm>

<sup>26</sup> “Report of the Committee Constituted by the National Commission for Women to Assess the Status and Situation of Women and Girl Children in Gujarat in the Wake of Communal Disturbance,” in *The Gujarat Pogrom: Indian Democracy in Danger*, Compilation of Various Reports, Indian Social Institute, New Delhi, June 2002, 48-56.

<sup>27</sup> Vasudha Dhagamwar, “The Women in Gujarat’s Camps –I” *The Hindu*, 22 May 2002, (online edition)

<http://www.hinduonnet.com/thehindu/2002/05/22/stories/2002052200351000.htm>

<sup>28</sup> National development in post-colonial India based on mega-projects often displacing large numbers of rural population (1999-2002), [www.idpproject.org/India](http://www.idpproject.org/India)

<sup>29</sup> E. Thukral, *Big dams, Displaced Peoples: Rivers of Sorrow, Rivers of Joy* (Sage Publications, New Delhi, 1992).

<sup>30</sup> Lyla Mehta and Bina Srinivasan, “Balancing Pains and Gains: A Perspective Paper on Gender and Large Dams,” A Working Paper of the World Commission on Dams (unpublished), Prepared for Thematic Review, Cape Town, South Africa,

<http://www.dams.org/>

<sup>31</sup> “Narmada: A history of controversy,” BBC News, 16 November, 2000,

[http://news.bbc.co.uk/1/hi/world/south\\_asia/1026355.stm](http://news.bbc.co.uk/1/hi/world/south_asia/1026355.stm)

<sup>32</sup> Tehmina Rehman, “Internal Displacement: Atrocities on Women in India,” *Gender Issues*, [http://www.punjabilok.com/india\\_disaster\\_rep/issue\\_significance/gender\\_issues.htm](http://www.punjabilok.com/india_disaster_rep/issue_significance/gender_issues.htm)

<sup>33</sup> “Tehri Dam Project,” in *Impact of Displacement on Women*, National Commission for Women, New Delhi, 2001, 1-2.

<sup>34</sup> Ibid, 7.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid, 1-25.

<sup>37</sup> Development Induced Displacement in Narmada Valley (2000-2001): A Case Study, [www.idpproject.org/India](http://www.idpproject.org/India)

# The Government Policy of Resettlement and Rehabilitation

Madhuresh Kumar

The government of India after discussions for nearly two decades over various draft policies announced National Policy for Resettlement and Rehabilitation for Project Affected Families (NPRR) in February 2004, which was pushed forward in near secrecy without allowing little debate or discussion prior to its approval (Palit, 2004). The policy very high on principles - as mentioned in its preamble - is hollow in reality and regressive in comparison to previous drafts and also some of the existing state or project R & R policies. The policy has also not accommodated the government's own experience of R & R in the past 50 years of dealing with development, disaster, and ethnicity induced displacement. It does very little to address the issues raised in an alternative draft policy submitted on October 5 1995 in response to the proposed draft policy document by the ministry of rural development in 1994. The alternative policy draft<sup>1</sup> prepared by an alliance of thousands of displaced persons (DPs), PAFs, social movements, civil society organisations and researchers advocated land based settlement as key to restoration of livelihood, participation of PAFs in project planning, R & R process and other measures for making it sustainable. This policy, as we shall see later, is far from that and has a strong cash-based component, provides space only for consultation with PAFs and has no provisions for addressing second generation problems (Sah, 2003)<sup>2</sup> and making the livelihood sustainable<sup>3</sup>. At best the policy has provision for 'resettlement' or 'relocation' but attempts no 'rehabilitation'<sup>4</sup> even though it admits that displacement has other traumatic psychological and socio-cultural consequences. The policy is nothing more than a document to appease the guidelines laid down by various loan/aid-giving international financial institutions which would ultimately provide legitimacy to the government's power to acquire land at a fast pace and hand it over to big multinational companies, all in the name of *development* and *public interest*. Certainly, it is not aimed at providing a just and quick relocation/resettlement process<sup>5</sup> and opportunity for development to DPs or PAFs who ultimately lose in this game of development and pay the price it.

NPRR extends its mandate to include landless agricultural workers, forest dwellers, tenants and artisans in its definition of PAFs, but on the whole remains gender blind. Contrary to the centrality of the idea that, 'avoidance of involuntary resettlement where feasible or minimising it by exploring all alternatives' (Robinson, 2003)<sup>6</sup> should be an integral part of any R & R policy, the policy accepts

displacement<sup>7</sup> and then appoints the Administrator for Resettlement & Rehabilitation who will work to minimise displacement of persons and identify non-displacing or least displacing alternatives in consultation with the requiring body. The overall policy is poor in details and specificity of provisions of R & R and rich only in ambiguities and probableness, leaving much to the interpretation of officials concerned. It has a very restricted mandate and covers only development induced displacement in rural areas and has no provisions for disaster induced or conflict induced displacement. The whole vocabulary of the document is one of welfare and relief rather than of promoting rights to resettlement of PAFs, and create a situation for their empowerment and a better standard of living. Ironically, it fails to introduce provisions which would allow participation of DPs, IDPs and civil society in the process of planning of the project, seeking non-displacing alternatives, or in sharing intended benefits accruing out of the project.

### **Displacement, Resettlement And Rehabilitation Policy In India**

Displacement due to 'Development' in India is not new, though resettlement and rehabilitation as a policy measure certainly is. The colonial period has produced a vast segment of displaced people. The forest resources, river systems and mineral base that attract the 'developmental projects' have already seen a 'displaced' segment of the Indian society. In the Indian context, it is of interest to note that most of the developmental projects are located in the most backward areas and populated by various small nationalities – otherwise called tribals. These segments, with the enactment of land settlement laws, forest laws and commercialisation of forest products and minerals, have undergone a metamorphosis, where legally the access to the various natural resources are denied and these segments are treated as hostages within their environment. Another productive segment was also a part of displacement due to the process of de-industrialisation and forced commercialisation of agriculture – these comprise the differentiated peasantry, the artisanal groups and the traditional service groups. (Bharathi and Rao, 1999) Any resistance to the displacement was treated as a 'law and order' problem, so no question of R & R policy. Land was acquired by the draconian provisions of Land Acquisition Act 1894, which still continues, with some amendments in 1967 and 1984, to be a weapon in hand of independent Indian state for acquiring land from its citizens.

The situation just after independence was not much different. Independent India's Nehruvian development model based on development of heavy industries<sup>8</sup> found a nationalistic fervour with planners and its privileged citizens. That there would be large-scale displacement was not a hidden fact and Nehru while speaking to displaced persons of Hirakund Dam in 1948, said, '*If you are to suffer, you should suffer in the interest of the nation*'. Barring a few exceptions, most pre-1980 projects did not have a clear-cut resettlement plan. Resettlement was undertaken on a case-to-case basis. To mention a few, there were projects like the Nagarjunasagar, Hirakud, Tungabhadra and Mayurakshi dams; the Rourkela, Bhilai and Bokaro steel plants,

several defence establishments, coal mines, etc, which did offer resettlement in the form of house sites to the displaced. Only National Thermal Power Corporation (NTPC), and Coal India Limited (CIL), two government undertakings have formulated an R and R policy and constituted R and R departments to administer it. In addition, resettlement colonies have been demarcated near all their project sites to resettle the displaced (Asif, 2000). As a result of this ad hoc approach many of the displaced were left out of the process and even though there is an absence of accurate national database studies on displacement a study for 1951-1995 completed in six states and other research show that their real number 1947-2000 is probably around 60 millions (Fernandes, 2004).

At the national level, the first policy draft was prepared in 1985 by a committee appointed by the department of tribal welfare when it found that over 40 per cent of the DPs and PAFs 1951-1980 were tribals (Government of India 1985). The next draft came from the ministry of rural development eight long years later in 1993 and the third in 1994. In response to which the civil society alliance struggling for a national rehabilitation policy proposed its own draft to the ministry in 1995, as mentioned earlier. There was silence till 1998 when another draft came out but the ministry that prepared it also prepared amendments to the Land Acquisition Act 1894. The above alliance found about 50 of the policy acceptable but thought that the amendments rejected all the principles enunciated in the draft policy. So they came together again to dialogue with the ministry and work on alternatives. Many principles evolved out of this interaction. A meeting convened by the minister of rural development in January 1999 ended with an implicit unwritten understanding that a policy would be prepared first and that any amendments to the Land Acquisition Act would be based on the principles it enunciated. However, the newly promulgated policy seems to ignore the whole process (Fernandes, 2004). In the scenario of growing unemployment the policy could have revived one of earlier practices where till 1986, the T. N. Singh Formula (1967) stipulated that the parties concerned give one job to every displaced family. But increasing mechanisation has reduced the number of unskilled jobs (Fernandes, 2000). This is another instance where the government has failed to take responsibility for PAFs and also making them beneficiary to the supposed benefits of development.

### **NPRR Vis-à-vis Vulnerable Communities**

NPRR in its preamble says, ‘the Policy essentially addresses the need to provide succour to the asset less rural poor, support the rehabilitation efforts of the resource poor sections, namely, small and marginal farmers, SCs/STs and women who have been displaced. A close study of the various provisions, however, doesn’t say the same.

To mention the provisions for **women**, the NPRR defines a family as PAFs consisting of such persons, his or her spouse, minor sons, unmarried daughters, minor brothers or unmarried sisters, father, mother and other members residing with him

and dependent on him for their livelihood. It makes provisions for adult sons to get compensation but not for adult females. This has been more or less same in previous drafts of NPRR and also in awards made by Narmada Waters Dispute Tribunal (NWDT) Award<sup>9</sup> of 1979, a landmark in R & R policy innovation, which has recognised the male as the head and sole deciding factor for compensation and rehabilitation but, remained completely 'gender blind' (Sahaee, 2003). There has been demand that the policy must address itself specifically to the gender question and enunciate the rights of women. The absence of such a provision has meant that the women headed households, unmarried-daughters, widows, and deserted or divorced women are not liable for compensation. There are studies which show that in the villages of Gadher, Kathkadi, Mohkhadi, Surpan, and Vadgam in Gujarat in the submergence zone of SSP there was cases where widows were not taken care of by their sons. Without land or alternative sources of income generation, they were the most vulnerable sections of the society (Bhatia, 1997)<sup>10</sup>. This results in further marginalisation and disempowerment of women and decline in their social, physical and economic status. In fact, women suffer the most because of loss of their customary rights over land and supplementary income from the CPRs (Modi, 2004). The loss of customary rights over forest and land means they have to work hard to collect fuel wood, and water which was earlier easily available in surroundings but is not in the rehabilitation sites where hand pumps for providing water are few in number.

The World Bank, one of the first in developing and initiating wide ranging socio-economic studies on the cases of displacement and rehabilitation, also did not include any special provision for land allotment to women in studies conducted in the early nineties (Modi, 2004). In a study by TISS, 1993 it was pointed out that the absence of employment opportunities and adverse conditions at the rehabilitation sites in Gujarat where PAFs of SSP were resettled forced women to join casual labour market to earn and supplement family income, mainly in the sugar plantation, where they were paid less than male workers. The experience also shows that since most of the tribal communities are not familiar with the monetary economy more often than not their money is wasted on buying consumer goods or liquor which increases the burden on women. Though (Sudha Dhagmawar et al 2003) writing, before the policy was finalised do hint that land for adult daughters did not find much favour either with the PAFs or activists which may be true in some areas but is not desirable. The policy also fails to address the issues of gender equity and provisions for empowerment of women. To pay lip service, however, it makes provision for a representative of women residing in the affected zone to be included in the R & R Committee to monitor and review the progress of implementation of scheme/plan of R & R of PAFs.

NPRR has special provisions for PAFs of **Scheduled Tribes**, but treats **Schedule Castes** families with general PAFs. The policy merely reiterates the fact that the PAFs of Scheduled Caste category enjoying reservation benefits in the affected zone shall be entitled to get the reservation benefits at the resettlement zone.

For STs the policy says each Project Affected Family of ST category shall be given preference in allotment of land and will be re-settled close to their natural habitat in a compact block so that they can retain their ethnic, linguistic and cultural identity and very generously mentions free of cost land for community and religious gathering.

The price paid by the government for the loss of CPRs and customary rights/usages of forest produce to each tribal PAF shall be additional financial assistance equivalent to 500 days minimum agriculture wages, i.e., Rs 43,310. It is difficult to think of a sustainable livelihood for tribals without forest. The forest is not just the source of fuel wood or other minor forest products, but is their natural habitat and central to their existence and cultural heritage. The government probably expects them, who are not used to monetised economy and urban ways of living to buy cooking gas stoves and build concrete houses with the money provided. We shall see later the instance where the previous attempts at rehabilitating tribals have failed miserably. This is enough to show the ignorance of the tribal way of life and their culture and the government on its part has learnt nothing from its own R & R experience of dealing with various kinds of displacement in the last 50 years. The government's sincerity in resettling tribals in their natural habitat is visible from the fact that it would have to pay only 25% higher R&R benefits in monetary terms if it fails to do so.

The policy very categorically mentions that the rehabilitation grants and other monetary benefits proposed would be *minimum*<sup>11</sup> and applicable to all project affected families whether belonging to BPL<sup>12</sup> or non-BPL category. States where R & R packages are higher than proposed in the Policy are free to adopt their own packages. However, it is a known fact that the states would always prefer to choose where their obligation is minimal. So, no doubt if Gujarat government which has a provision for maximum 5 acres of land backtracks on its promise, and MP government, which has a ceiling of 50 families, chooses to use it only when a project displaces 500 families in the plains and 250 in hilly areas, DPD, and scheduled areas.

The government's sincerity and the cash component of the policy are further visible in these provisions. It says any PAF owning house and whose house has been acquired may be allotted free of cost house site to the extent of actual loss of area of the acquired house but not more than 150 sq. mts of land in rural areas and 75 sq. meter of land in urban areas<sup>13</sup>. However, only PAF of BPL category shall get a one-time financial assistance of Rs. 25000/- for house construction and Non-BPL families *shall not be* entitled to receive this assistance (*emphasis added*). There is no compensation for loss of the house except for the fact that government would provide one-time financial assistance of Rs. 5000/- as transportation cost for shifting of building materials, belongings and cattle etc. from the affected zone to the resettlement zone.

It is a commonly known fact that BPL families are generally landless, casual labourers, and sharecroppers and still the policy makes provision for a one-time financial assistance equivalent to 625 days- of the minimum agricultural wages. In case of displacement a Displaced PAF<sup>14</sup> shall get a monthly subsistence allowance equivalent to 20 days of minimum agricultural wages per month for a period of one year up to 250 days of MAW. A generous estimate of minimum agricultural wage at the rate of Rs 86.62<sup>15</sup> per day would add up to Rs 37,500 or Rs 15,000 depending on the category to which one belongs. This is the price the government proposes for livelihood of its citizens who are already at the margins of development. There is no attempt on part of the government, visible from these policy guidelines at making the life of DPs or PAFs sustainable, except for increasing their risk of impoverishment and disempowerment. The past experience has been that many a time the small-scale farmers, sharecroppers, and casual labourers in absence of any employment, adequate land, credit facilities, technology, seeds, etc. fail to adapt to the new conditions at the resettlement zones and are forced to marginalisation and become casual labourers at the project itself, if nearer, or further migrate to any other place.

The policy provides no safeguard against double or triple displacement which has happened in the past due to poor planning of resettlement process and project assessment, especially in the Dam related submergence and displacement. This is one of its major lacunae, in absence of such a safeguard chances are that these communities can be displaced again and again over a period of time.

The instances above suggest a greater thinking and study on the part of the government towards R & R measures of the tribals and other vulnerable sections to understand their needs better. The policy needs to be made more participatory and transparent in order to instil self-confidence and pride<sup>16</sup> within PAFs because more often than not displacement and R & R has been a disempowering process due to sheer apathy of the officials and absence of a genuine effort on the part of the state in helping rebuild and rehabilitate their livelihood. In fact the whole process needs to be seen not as welfare and relief, as in times of natural disasters, but as their **R**ight to resettlement and rehabilitation.

Absence of any provision of penalisation for R & R officials in the policy is another serious lacunae and is clearly visible where it says, “It is expected<sup>17</sup> that the appropriate Government and Administrator for R&R shall implement this Policy in letter and spirit in order to ensure that the benefits envisaged under the Policy reaches the Project Affected Families, especially resource poor sections including SCs/STs” (NPRR-1.5). Where as the Land Acquisition Act, 1894 categorically mentions that ‘any person or agency obstructing the process of acquisition on conviction before a magistrate is liable to imprisonment, for any term not exceeding one month, or to fine not exceeding five hundred rupees or both.’ What are we supposed to make of this ? Simply interpreted, it means the government can displace its citizens whenever it wants on the pretext of ‘development’ or ‘public interest,’ but is not accountable for their resettlement.

The NPRR in turn sets up a 'Disputes Redressal Mechanism' and 'Grievance Redressal Cell,' the terms of which is to be fixed by the appropriate government. Even there, only the Disputes Redressal Mechanism has provisions for accommodating the representatives of PAFs and specifically mentions women, SCs and STs, NGOs and MP/MLA of the area, but *not* in Grievance Redressal Cell. In a way no PAFs can move to court unless and until government decides to give them the power to do so or at the most they can appeal to the National Monitoring Committee at the Centre.

### **NPRR Vis-à-vis Development (Rural And Urban), Disaster, And Ethnicity Induced Displacement**

Displacement in India has been caused by various kinds of development projects, ethnic conflicts, and natural disasters such as earthquake, cyclone, flood, riverbank erosion, drought, landslide, desertification, etc. The displacement by dams is only one kind which contributes around 50% of the total DPs and IDPs population. But the provisions of the National Rehabilitation Policy drafted by the *ministry of rural development* are in no way appropriate to address all kinds of displacement and subtle differential impacts of displacement in each of the cases. The policy draws heavily from the existing rehabilitation policies for water resources PAFs of Gujarat, Orissa, Rajasthan, Maharashtra, MP and Karnataka and covers only development projects and leaves others. The policy privileges the displacement by dams and fails to address the issues arising out of other kinds of displacement-related cases. Unfortunately, dam related displacement has been mistaken to be coterminous with all development-related displacement and this error has influenced the provisions for rehabilitation (Dhagamwar, De, Subrata, and Verma, Nikhil, 2003).

The policy makes no provisions for dealing with urbanisation and semi-urban situation arising out of projects such as railways, highways, mines, industrial townships etc. It mentions, 'In case of projects relating to Railway Lines, Highways, Transmission Lines and laying pipelines wherein only a narrow stretch of land extending over several kilometres is being acquired, the Project Affected Families will be offered an ex-gratia amount of Rs. 10,000/- per family, and no other Resettlement & Rehabilitation benefits shall be available to them'. The policy gives no guidelines of calculating the cost or damage to a family but arbitrarily fixes an amount which given the past experience would ultimately harm the interests of the affected family.

The PAFs, especially vulnerable groups in absence of any social security measures in general and in R & R provisions are left to themselves and are directly exposed to the market-like situations. The fact that most DPs and PAFs, especially vulnerable groups of SCs and STs, are CPR dependent and are service providers to the villages and exist precariously in a semi-monetised informal economy, sudden overnight change to a monetised economy often makes them vulnerable to outsiders

influence spending their money on cheap trinkets and forces them in to dominant economy as cheap labour in mines, household, market, construction work, etc. leading to further disempowerment and impoverishment.

It has further been observed that even though projects like NTPC and CIL (Coal India Limited) did allot land for houses for PAFs around its own township. Many a time tribals refused to settle themselves there. An example would be the resettlement colonies of the Mayurakshi dam project in Dumka district of Jharkhand (erstwhile Bihar), which was completed in the 1950s. Whereas one finds DPs from other social groups residing in the Mayurakshi resettlement colonies, not a single tribal family is to be found there, though more than half of the displaced were tribals. Similarly, the efforts of the Orissa forest department to shift two tribal villages from within the Simlipal wildlife sanctuary to resettlement colonies located outside the sanctuary boundaries proved futile because the tribals returned to the forest villages after some time (Asif, 2000). This suggests a greater thinking required in dealing with displacement of different kinds and socio-economic aspects of DPs and PAFs. It also needs to assess the differential changes brought by projects other than the dams in the region which sometimes raises the standards of living of the DPs and provides new opportunities of social mobility but also brings in to associated evils of development.

### **NPRR Vis-à-vis Economic Liberalisation**

There are indications that the previous draft policies in 1985, 1993 and 1994 formulated by the centre and other state policies and Acts, except the one by Maharashtra, were prepared only under pressure of World Bank [(Fernandes, 2004), (Sah, 2003)]. In 1980, the World Bank became the first development agency to adopt an explicit policy concerning involuntary resettlement, through a policy formulated by social scientists and grounded in social research (Sahaee, 2003). Responding to the sharp criticism regarding the devastating social impact of poorly planned population relocation, it was forced to take steps to make resettlement of relocated population an integral rather than peripheral part of project planning and implementation. The policy paper was updated from time to time and after a lengthy consultation it issued a revised 'Operational Policy on Involuntary Resettlement, OP 4.12' in December 2001 (Bandyopadhyay, 2004).<sup>18</sup> Dr Michael M Cernea, senior adviser to World Bank also observed, "Our study found that impoverishment and brutal violation of basic human rights happen most frequently in programmes that are not subject to agreements on policy guidelines and to professional outside review, supervision and evaluation. Such domestic projects account for overwhelming majority – at least 95 per cent – of the millions and millions of people forcibly displaced worldwide. This fact is irrefutable argument for adoption of national policies and legal framework for resettlement in all developing countries".

The current policy document is a result of such pressure tactics and exigencies because the government in its bid to privatise PSUs, selling out basic

services providing utilities and inviting Foreign Direct Investment needs land at an unprecedented scale. The policy in fact gives every indication of being a response to liberalisation. One can see it, among others, from the extent of land most states acquire for private companies. For example, Orissa had acquired 40,000 ha for industries during 1951-1995 but plans to acquire 100,000 ha in a decade. AP has acquired in five years half as much land for industry as it did in 45 years. Similar quantities are being acquired in Jharkhand for mines that foreign companies are eyeing. Goa had acquired 3.5 per cent of the state's landmass 1965-1995 and plans to acquire 7.2 per cent of it during this decade (Fernandes, 2004).

This is not a hidden agenda. In 1999, a loan given by the Asian Development Bank to the Madhya Pradesh government in order to enable private sector takeover of public infrastructure required that the state government first frame a rehabilitation policy. There is no doubt that the National Rehabilitation Policy is also the consequence of a conditionality of the World Bank or some other multilateral institution, in order to facilitate the same processes of the corporate takeover of our resources (Palit, 2004). The very fact that the Indian government refused to discuss the report of the World Commission on Dams, Supreme Court judgement on the Narmada and the proposed interlinking of rivers all go in the same direction (Modi, 2004). Since the policy doesn't guarantee 'land-for-land' to PAFs and remains ambiguous by including guidelines such as, "Each PAF owning agricultural land in the affected zone and whose entire land has been acquired *may be* allotted agricultural land or cultivable waste land to the extent of actual land loss subject to a maximum of one hectare of irrigated land or two hectares of un-irrigated land/cultivable waste land *subject to availability* of Government land in the districts", (NPRR-6.3) it is easier for government to displace people and complete R & R by paying cash compensation. This is no hidden fact, land being a fixed commodity, that ultimately all the DPs and PAFs can't be provided land because of unavailability of land. In case of R & R of SSP oustees MP government had categorically stated that it didn't have land to rehabilitate oustees from 193 villages<sup>19</sup>. Any land acquisition will happen only by confiscating CPRs being used by other communities causing tension between host communities and oustees, and cultivable waste land which will need investment of an unusually higher order than the amount of compensation paid by the government.

The provision that this policy will be applicable to projects displacing 500 families or more en masse in plain areas and 250 families enmasse in hilly areas, Desert Development Programme (DDP) blocks, areas mentioned in Schedule V and Schedule VI of the Constitution of India is also of grave concern. No draft has ever mentioned the minimum number of families for the policy to apply. It is ironic because MP and Maharashtra state Acts make rehabilitation applicable to projects that displace 50 families or a full village with fewer families than that. So, it is for the first time that the government introduces a ceiling to the number of project affected persons. This is not without attributed motives, in recent years many large projects have been acquiring only land that is the people's livelihood but leaving their houses

untouched. Others focus on the CPRs that are crucial to people's sustenance. It has happened in the Kashipur mines in Orissa. By official count the Lower Subansiri dam in Arunachal Pradesh will displace only 38 families but several thousands will lose their CPRs to it. The policy will not apply to them. Many large projects like the Golden Quadrangle and huge mines to be owned by private companies have been splitting land acquisition into small bits, each of them displacing fewer than 500 families. Each of them can be called a project and deprive the affected families of the benefits of this policy (Modi, 2004).

The 1998 policy draft had made land for land mandatory for tribals and had applied it to non-tribals "as far as possible". The final policy, however, ignores the tribals and finds a bigger escape route by saying that those who lose their land will get some if it is available with the government in that district. They will also be given Rs 10,000 per ha for land development and Rs 3,000 for building a cowshed. This is important to note because as the projects are now penetrating hitherto untouched areas for exploitation of its natural resources it becomes essential for the government to remove obstacles in the way because most of these regions are covered by the Schedule 5 or 6 of the Constitution. So, the policy with a greater cash component will facilitate quick displacement and act as a tool to legitimise resource alienation and to strengthen corporate control over land, without offering any protection to the affected communities.

The complicity of the government and international financial institutions is also visible in promoting the globalisation agenda by the fact that the World Bank has, meanwhile, announced its intention to dilute its own rehabilitation norms, and as a precursor to renewed large-scale lending to middle income countries such as India, it has stated that it would replace its policies, which have come into being as a result of struggles all over the world, with the national safeguard policies of the respective countries. No doubt this vacuous and damaging rehabilitation policy of the Indian government would count as a national safeguard for the World Bank. It may even be the reason why the policy was designed in the first place. (Palit, 2004) It is also learnt that another institution, Barclays Bank, is considering financing the Omkareshwar project<sup>20</sup> through National Hydroelectric Power Corporation (NHPC), whose role concerning human rights violations in R & R is far from desirable. However, the Bank seems to gloss over the human rights record and is considering granting loan to the company even by neglecting its own corporate social responsibility clause<sup>21</sup>.

### **NPRR and Human Rights**

Displacement from one's habitual residence and the loss of property without fair compensation can, in itself constitute a violation of human rights. In addition to violating economic and social rights, arbitrary displacement can also lead to violations of civil and political rights, including arbitrary arrest, degrading treatment

or punishment, temporary or permanent disenfranchisement and the loss of one's political voice. Finally, displacement carries not only the risk of human rights violations at the hands of state authorities and security forces but also the risk of communal violence when new settlers move in amongst existing populations (Robinson, 2003).

Ironically, NPRR makes no attempt at addressing various rights violations<sup>22</sup>, which are common in these circumstances, especially that of vulnerable groups whose vulnerability increases manifold in these situations. NPRR is just silent on these issues. It uses the word rights in two instances, once to give cash compensation to tribals in lieu of loss of their customary rights over forest produce and secondly to grant them fishing rights in the reservoir. This shows the true nature of NPRR and the respect shown by the government to fundamental rights of its citizens.

Balakrishnan Rajagopala of Massachusetts Institute of Technology has noted five 'human rights challenges', a) Right to Development and Self Determination, b) Right to Participation, c) Right to Life and Livelihood, d) Right of vulnerable groups, and e) Right to Remedy, that arise in relation to development induced displacement. Indian Constitution also mentions some of these rights explicitly or implicitly within fundamental rights (Art. 19, 21, 29, 31), guiding principles of state policy (38, 41, 46, 47, 48A), special provisions relating to certain classes (Art. 330, 342), and right to Constitutional Remedies (Art. 32). So, if the government is serious to address the problems of R & R process, it has to introduce a rights-based approach to NPRR.

### **NPRR Vis-à-vis “Impoverishment Risk And Reconstruction Model”**

Michael M Cernea developed this model using the primacy of risk analysis as one of the sophisticated instruments employed in economic analysis for designing and financing development projects. He argued that conventional economic risk analysis evaluates the sources, magnitude, and effects of risks that may reduce the rate of return to capital investments in development projects. And it is also common practice for governments to provide guarantees against various risks incurred by investors in infrastructure projects.<sup>23</sup> The state takes responsibility for such risks in order to protect and encourage the private investors. Yet when the same private investments create risks to such primary stakeholders as the residents of the project area, by expropriating and displacing them, the state does not provide comparable protection against risks to these affected people. Except compensation, most governments do not use any refined economic and legal methodology to institute risk insurance measures for such primary stakeholders. In conclusion, he notes that while economic analysis and sensitivity tests are generally designed to identify, measure, and counteract risks to the project and project investors, they are not conversely designed to measure the risks posed by the project to the other project actors, such as the displaced people. He emphasized that these specific project risks must be pondered

from both perspectives – economic and socio-cultural, for which it is necessary to understand how impoverishment risks occur, and, equally important how to counter them which requires deconstructing the anatomy of impoverishment and defining the key determinants of income re-construction (Cernea, 1999). Cernea’s model already has been used to analyse several situations of internal displacement. Lakshman Mahapatra applied the model to Indian condition before the NPRR was framed, and concluded “detailed examination of India’s resettlement experiences confirms empirically and theoretically the validity of the conceptual model of risk and reconstruction as an analytical, explanatory, and strategic tool” (Robinson 2003, p 13-14). Below is a comparison of NPRR vis-à-vis the model to see how its provisions addressed the potential risks as suggested by Michael M Cernea.

**Table1: Comparison Between NPRR And Cernea’s Model**

	<b>Various Impoverishment Risks</b>	<b>Remedies</b>	<b>NPRR - 2003 Provisions</b>
1	Landlessness	to land based rehabilitation	(6.4) Each PAF owning agricultural land in the affected zone and whose entire land has been acquired may be allotted agricultural land or cultivable waste land to the extent of actual land lost subject to a maximum of one hectare of irrigated land or two hectares of un-irrigated land/cultivable waste land subject to availability of Government land in the districts.(6.17) ... wherein only a narrow stretch of land extending over several kilometers is being acquired, the PAFs will be offered an ex-gratia amount of Rs. 10,000/- per family, and no other Resettlement & Rehabilitation benefits shall be available to them (emphasis added).
2	Joblessness	to re-employment	(6.14) Each PAF belonging to the category of 'agricultural labourer', or 'non-agricultural labourer' shall be provided a one time financial assistance equivalent to 625 days of the minimum agricultural wages.(6.18) The PAFs shall be provided necessary training facilities for development of entrepreneurship to take up self-employment projects at the resettlement zone as part of R&R benefits.

	<b>Various Impoverishment Risks</b>	<b>Remedies</b>	<b>NPRR - 2003 Provisions</b>
3	Homelessness	to house reconstruction	(6.2) ...may be allotted free of cost house site... (6.3) one-time financial assistance of Rs. 25000/- for house construction, only for BPL categories and (6.14) ...transit accommodation, pending resettlement and rehabilitation scheme.
4	Marginalisation	to social inclusion	(6.21.4) Tribal PAFs will be re-settled close to their natural habitat in a compact block so that they can retain their ethnic ,linguistic and cultural identity.  (6.21.4) Tribal PAFs will be re-settled close to their natural habitat in a compact block so that they can retain their ethnic ,linguistic and cultural identity.
5	Food insecurity	to adequate nutrition security	(6.11) Each PAF owning agricultural land in the affected zone and whose entire land has been acquired shall get one-time financial assistance equivalent to 750 days minimum agricultural wages for "loss of livelihood" where neither agricultural land nor regular employment to one member of the PAF has been provided. (6.15) Each displaced PAF shall get a monthly subsistence allowance equivalent to 20 days of minimum agricultural wages per month for a period of one-year upto 250 days of MAW.
6	Increased morbidity and mortality	to adequate health care	(6.22.2) It is desirable that provision of ... dispensaries...be included in the resettlement plan formulated by the Administrator for R &
7	Loss of access to CPRs	to restoration of community assets	(6.21.3) Each Tribal PAF shall get additional financial assistance equivalent to 500 days minimum agriculture wages for loss of customary rights/usages of forest produce...(6.21.9) shall be given fishing rights in the reservoir area.
8	Social disarticulation / disintegration	to community reconstruction	(6.22.1 a) In case the entire population of the village/area to be shifted belongs to a particular community, such population/families may be resettled enmasse in a compact area so that socio-cultural relations (social harmony) amongst shifted families are not disturbed.

In conclusion, the comparison above clearly shows the inadequacies of the policy in its current form to deal with the impoverishment risks, and socio-cultural and politico-economic needs of the DPs and IDPs. What is needed, as suggested by the World Commission on Dams, is that “an approach based on ‘recognition of rights’ and ‘assessment of risks’...be developed as a tool for future planning and decision making” (Robinson 2003, p 55). Secondly, in line with the point emphasized in the guiding principles for IDPs that “ the *Primary duty* and *responsibility* for providing humanitarian assistance to internally displaced persons lies with national authorities”, and project authorities (MNCs and private companies) as is the case in era of economic reforms. Finally, there is also a need, as suggested by Medha Patkar of Narmada Bachao Andolan, to link development with displacement policy which assumes greater importance in view of the onslaught of national and international capital in the age of so-called liberalisation, globalisation and privatisation” (Bharathi and Rao, 1999) to protect the rights of vulnerable communities to be an equal partner in developmental process.

## Notes

<sup>1</sup> For all the texts of policies, laws and critiques see (Fernandes, Paranjpye, 1997)

<sup>2</sup> See Sah 2004, chapter 4 and 6 for second generational problems of R & R in case of SSP oustees resettled in Gujarat.

<sup>3</sup> All the resettlement and rehabilitation measures extend only for a year, after that requiring body has no role to play in R & R process.

<sup>4</sup> Rehabilitation on the other hand, involves replacing the lost economic assets, rebuilding the community systems that have been weakened by displacement, attending to the psychological trauma of forced alienation from livelihood, transition to a new economy which is alien to those from a predominantly informal society and preparing them to encounter the new society as equals and not just suppliers of cheap raw materials and labour that they are in today’s system of displacement without any transition as quoted in (Asif, 2000).

<sup>5</sup> Quick, even though, the policy document has no specific deadline for completion of R & R procedures and doesn’t categorically makes complete resettlement and rehabilitation compulsory for any development project to take shape.

<sup>6</sup> Operational Policy on Involuntary Resettlement, OP 4.12, December 2001, in (Robinson, 2003).

<sup>7</sup> Acceptance of displacement leaves no scope for discussion on the Project by PAFs and DPs and then it just remains a matter of completing the resettlement and rehabilitation within a framework.

<sup>8</sup> The best represented in Nehru’s oft quoted statement, ‘*Dams are modern temples of India*’.

<sup>9</sup> It was mandated by article 262 of the Indian Constitution and Section 5(3) of the interstate Water Disputes Act of 1956.

<sup>10</sup> As quoted in (Modi, 2004).

<sup>11</sup> Perhaps government is more worried about total increase in cost of the project and loosing FDI by multinationals, or higher interest it will have to pay on the loans from IFIs.

<sup>12</sup> The Below Poverty line is defined for Urban India as consumption worth Rs. 264 per person a month and Rs. 229 per person per month in rural areas at 1993-94 prices, as defined

by Planning Commission. The Calorie intake for rural poor and urban poor is 2,100 and 2,400 a day respectively.

<sup>13</sup> Please note there is no provision for compensating the loss of extra land and the house of PAFs.

<sup>14</sup> “Displaced family,” means any tenure holder, tenant, Government lessee or owner of other property, who on account of acquisition of his land including plot in the abadi or other property in the affected zone for the purpose of the project, has been displaced from such land or other property (NPRR 2003-3.1 i).

<sup>15</sup> Ministry of Labour, Govt of India minimum wages fixed under the Minimum Wages Act, 1948

<sup>16</sup> Pride, that’s what Nehru meant when he talked about suffering in the interest of nation. But the bitter experience of R & R process has often left PAFs with feeling of being cheated. For example, what would one say of this, the people of Kevadia village, whose lands were acquired for building residential colonies of SSP officials way back in 60s has not been rehabilitated yet by the government.

<sup>17</sup> ‘Expected’, ‘may be’ is the vocabulary of the policy which doesn’t translate in to right to displacement of DPs and PAFs or any accountability on part of the government.

<sup>18</sup> Other financial institutions also drafted involuntary resettlement policy, ADB in 1994, which is under review, OECD countries in 1991 and so on. Each emphasising the point that involuntary displacement should be avoided or minimised wherever possible by exploring all possible project designs and alternatives.

<sup>19</sup> A fact reiterated by independent review of World Bank in Morse Committee Report which states, “We think the Sardar Sarovar Projects as they stand are flawed, that resettlement and rehabilitation of all those displaced by the Projects is not possible under prevailing circumstances...”

<sup>20</sup> The previous loans to the project has been turned down by World Bank’s Multilateral Guarantee Agency (MIGA), Deutsche Bank, and AMRO on the grounds of gross human rights violations, as mention in the letter sent to Barclays Bank by John Frijns, coordinator Bank Track and 100 endorsing NGOs, dt September 14 2004, Amsterdam, received through e-mail.

<sup>21</sup> ibid

<sup>22</sup> The various rights violations of IDPs with in the context of international legal framework and guidelines available in Guiding Principles for IDPs, UDHR, ICCPR, ICESCR, ILO has been well documented in Robinson 2003, p 14-15.

<sup>23</sup> As is the case with government of India providing guarantees to two of the controversial power projects Dabhol in Maharashtra and Omkareshwar in Madhya Pradesh.

<sup>24</sup> The first eight impoverishment risks has been taken from (Cernea, 1999), next two from (Robinson, 2003) p 13 and the last point added by me considering the special needs in the situation like this.

<sup>25</sup> First eight points as proposed by Balaji Pandey, 1998 quoted in (Bandyopadhyay, 2004) and next three provided by me.

<sup>26</sup> As mentioned in the NPRR-2003, Govt of India, 2004

## References

- Mohammed Asif, June 2000 - 'Why Displaced Persons Reject Project Resettlement Colonies', in Economic and Political Weekly, Issue June 10 2000, pp 2005-2008
- D Bandyopadhyay, January 2004 - 'Rayagada Story Retold : Destitutes of Development', in Economic and Political Weekly, Vol 39, Issue 5, pp 408-411
- M Bharathi and R S Rao, 1999 - 'Linking Development to Displacement', in Economic and Political Weekly, Issue July 10-16 1999
- Bela Bhatia, 1997 - 'Forced Evictions in the Valley', in Jean Dreze, Meera Samson, and eds Satyajit Singh, The Dam and the Nation : Displacement and Resettlement in the Narmada Valley
- Michael M Cernea, August 1999 - 'Why Economic Analysis is Essential to Resettlement : A Sociologist's view', in Economic and Political Weekly, Issue July 31-August 1999
- Vasudha Dhagamwar, Subrata De, and Nikhil Verma, 2003 - Industrial Development & Displacement : The People of Korba. New Delhi : Sage Publications
- Walter Fernandes, 2000 - 'Pawns in the 'Development'', in S Parasuraman and P V Unnikrishnan, eds, India Disasters Report Human - Instigated Disasters , pp 276-279
- Walter Fernandes, March 2004 - 'Rehabilitation Policy for the Displaced', in Economic and Political Weekly, Vol 39, Issue 12, pp 1191-1193
- Walter Fernandes, Vijay Paranjpye, eds, 1997 - Rehabilitation Policy and Law in India. Delhi : Indian Social Institute
- Government of India, 2004 - 'National policy on resettlement and rehabilitation for project affected families-2003'. Published in the Gazette of India, Extraordinary Part-I, Section 1, No- 46, dated 17th February, 2004
- Renu Modi, March 2004 - 'Sardar Sarovar Oustees : Coping with Displacement', in Economic and Political Weekly, Vol 39, Issue 11, pp 1123-1126
- Chittaropa Palit, July 2004 - 'Short-changing the Displaced : National Rehabilitation Policy', in Economic and Political Weekly, Issue July 3 2004
- W Courtland Robinson, May 2003 - Risks and Rights : The Causes, Consequences, and Challenges of Development-Induced Displacement. Washington DC : The Brookings Institution-SAIS Project on Internal Displacement
- D C Sah, 2003 - Involuntary Migrations. Jaipur : Rawat Publications
- Roopee Sahae, February 2003 - 'National Rehabilitation Policy : Many Loopholes', in Economic and Political Weekly, Issue February 8 2003