

National Responsibility and the Rehabilitation Policy of India: Some Issues, Some Challenges

Abstract

The internal displacement of population is one of the complex problem that the world encountered at present time. The plight of displaced population is more acute in the developing countries. Here, both economic development and protection of displaced people are necessary. The present paper is an attempt to understand problems of India's internally displaced persons (IDPs) and national responsibility towards them. It will try to assess the rehabilitation policy in relation to national responsibility.

Keywords: Internal Displacement, Rehabilitation Policy.

Introduction

The internal displacement of population is one of the serious cause of concern for the countries at present time. The internally displaced persons are those persons who moved from their native place due to manmade or natural situations, but they never crossed the border of their territory. According to the Guiding Principle on Internal displacement – the internally displaced persons are those persons who have been forced to or obliged to free or leave their home or places of habitual residence in particular as a result of or in order to avoid the effect of armed conflict, situations of generalized violence, violations of human rights or natural and manmade disasters, and who have not crossed an internally recognized border.¹

Two elements acted for internal displacement-

1. It happens within the periphery of the nation;
2. It is coercive or involuntary in nature.

According to the UN refugee agency, there are an estimated 26 million individuals uprooted from their homes and displaced in their own country. The IDPs needed protection, as they are vulnerable group of population. It is not only physical dislocation of affected people from their homes, but it also means the losing of their livelihood, alienation from their culture, identity and place to which they belong to.² Many times the large-scale displacement may cause entire region de-populated. Depending on the enormity of the situation, the population displacement pattern usually varies. Various reports like Human Rights Watch, UNHCR, and United Nations Council for protection of Environment (UNCPE) etc. commented that an estimated 20-25 millions internally displaced are around the world. According to the report of Internal Displacement Monitoring Centre (IDMC), the member of displaced persons may exceed 6 million people. As there are, no proper data of IDPs are found, so the number may be much higher. The unaccounted IDPs are more than the counted IDPs. More over as the internally displaced persons never left their border and never informed their whereabouts. So, it becomes difficult to get accurate data regarding displaced persons. Owing to internal displacement, citizens and habitual residents of a country – internally displaced persons (IDPs) – find themselves in situations of extreme vulnerability. They flee conflict, disasters and violence, and while en route their safety and security are particularly at risk. Women are frequently subjected to abuse and sexual exploitation, particularly if travelling alone. Children may be kidnapped, trafficked, or forcibly enrolled as soldiers or, when unaccompanied, may not be able to find the necessities of life and thus survive.³ In case of development-induced displacement the displaced people may get land and resettlement offer, yet, it is not sufficient for their future as their permanent security is gone.

Rakhi Moni Gogoi

Assistant Professor,
Deptt.of Political Science,
Haflong Government College,
Haflong

In India the situation of displaced persons is very pathetic. There are many unaccountable displacees in India. As a multi lingual, multi ethnic country, it often faced critical ethnic problem. The economic development in the country also compelled many people to left their homes. The Indian Displacement problem can be divided into three categories-

1. Ethnic cleansing affected displacement;
2. Natural calamity affected displacement;
3. Development Induced displacement

According to the 2017 Report on Internal Displacement by the Internal Displacement Monitoring Centre (IDMC), there are total 2.8 million people who are internally displaced in the year 2016. But, the problem is that the number of displaces are always getting higher than its earlier one.⁴ Every year there are more IDPs than refugees in India. Forced from their homes, IDPs experience specific forms of deprivation. They may faced severe abuse, family separation, gender based violence, impoverishment, joblessness etc. The development induced IDPs are one such group who are affected socially, culturally and economically in the long run.

Aim of the Study

The present paper is an attempt to understand the Rehabilitation policy of India in the context of development induced displacement and how far state plays a positive role in bringing the life of the displaced people back in the normal circle after losing everything they own for the sake of development of the country.

Defining National Responsibility

In the present time it is important for every state to understand their national responsibility in the context of their people, project and development. A national response, by definition needs to be inclusive, covering all situations of internal displacements, internal displaces and other such IDPs without discrimination. Every state is accountable to its own people for their work. They needs to ensure a level of protection for its own people. In maximum cases government shows its maturity by protecting its citizens. In exceptional circumstances, if they failed to protect its people they usually seek help from international authorities. The Guiding Principles on Internal Displacement which is responsible for making laws, policies and practices at the national and international level for the IDPs, make it compulsory for the nations to help the displaced people in their resettlement programme.⁵ To make national responsibility of the state more concrete the Guiding Principles on Internal Displacement identifies 12 steps to determine the national responsibility.⁶ These 12 steps are as follows – 1. Prevention; 2. Raise national awareness of the problem; 3. Data collection; 4. Training ; 5. A national legal framework ; 6. A National Policy of Framework of Action; 7. A National Institutional Focal Point; 8. A Role for National Human Rights Institutions; 9. Support Durable Solutions; 10. IDP's Participation in Decision Making; 11. Allocate adequate Resources; 12. Cooperation with international and regional organizations.

These steps are required to find out durable solutions for the displaced persons. Yet, there are

many instances where government ignored their plights. Studies highlighted that to be truly national, a government's response needs to be inclusive and non – discriminatory in nature. A state's national responsibility should include all causes of displacement- man made and nature related. It should include all groups of people within the IDP's. There should not be any discrimination regarding sex, caste, clan, religion, rich , poor , white etc. A national response is an integrated approach which cater needs of all affected by nature and man made disasters. In all phases of displacement, the state authority needs serious review of the situations. The state has the responsibility of preventing arbitrary displacement, ensuring the security and well being of the people once displaced. The state needs to create durable solutions for the displaced people. This is possible only when state involved all the stakeholders in mitigating the problem of displaces.⁷ The UN tried hard to lessen the problem of IDPs. Among its many indicators to lower the problem of IDP, one important indicator is framing up of national legislation protecting rights of people. Such legislation should be comprehensive, covering all the plight and phases of displacement. The Indian government took that big leap only in the 1990s when Supreme Court came harsh on Central Government. In the year 1985 the first draft policy on rehabilitation and resettlement of the internally displaced persons came, however, it came into force in 2003. But it also came with certain loophole. It become very clear that although the government has responsibility to protect IDPs, it somehow ignored the magnitude of the situation. Leading to many crisis later on. Let us first see how far government is showing its responsibility while framing policies toward development induced displacement process

Understanding Rehabilitation Policy of India

The Principle of Six of Guiding Principle of Internal Displacement stated that every individual has the right to be protected from against being arbitrarily displaced. The Rehabilitation and Resettlement process aims at improving the life of displaced persons who lost their home due to development, natural and conflict related displacement. The main focus of any resettlement programme is physical relocation of the affected people. It is a matter of concern that whenever any displacement and relocation of population takes place the main problem this displacees faced is impoverishment and economic crisis.⁸ Noted researcher Michael Cernea believed that loss of usual livelihood and disruption of agricultural activity could adversely affect household food security, leading to increased morbidity and mortality. The Indian displacement and rehabilitation scenario is not new for its people. For centuries people are getting displaced due to various reasons like natural calamity, war and recently for economic development. A major displacement of medieval India was changing of capital from Delhi to Tughlaqabad during Mohammad Bin Tughlaq's time. Moreover natural hazard and war always plays major role in the internal displacement of population. But due to no documentation or written record, the sufferings of that

time fade up with the time. The British colonialism created major trouble when they send people from different parts of India to work in different sectors like tea, oil, railway, sugarcane etc. They send batches of population from present day Tamil Nadu, Jharkhand, Chhattisgarh, Orissa, Bihar to north east India, to Africa as labour force for tea gardens, coal and oil and gas exploration, sugarcane, and railways. However, no proper documentation was maintained at that time. Migration of labour force created lots of problem in later course of time. A large number of people lost their identity in the process of adjustment. With the passage of time this migrant people adjusted with the new environment and became a part of the region. Various study highlighted that there are two types of Displacement – voluntary and involuntary. When natural calamity like earthquake, famine, and flood started affecting a settled population, they voluntarily moved into some other safer place. However, many times the government disturbed the settled population in the name of development. They are made to move from their place of permanent habitat to another place. This is nothing but forced displacement and resettlement. For this resettlement artificial facilities are created by government or the concerned authorities. In order to make the movement of population more lawful and to avoid any kind of resistance from people the British Government framed Land Acquisition Laws 1894. However the land laws and resettlement policies of India can be traced back to the 1793 Permanent Settlement Act. After 1793 Permanent Settlement Act many other regulations were made for the smooth transition of the land acquisition i.e. Act of 1850, Bombay act No. XVII, The Madras Act 1854, Act of 1861. The Land Acquisition Act, 1894 (LAA 1894) was the only land law which was effective for a long time even after the independence of India. This law not only enables the state to acquire privately owned land for the so called public purposes The land acquisition act is one imposing and important document, which helped in acquisition of land for development projects for quite a long time. Till independence of India it was the only land law of the country. However on 11th September, 1956 the Government of India accepted the National Highway Authority Act, 1956. This Act started covering the problem of land acquisition for road construction. The next major law that tried to solve out the problem of land acquisition was - Coal Bearing Act, 1957.⁹ From 1951 to 1984 no proper assessment of internal displacement of population and land acquisition was done. Both government and common people showed little interest on the issue of IDPs and land acquisition. However it was during the making of Sardar Sarovar dam that people started realizing the impact of Dams and how it can effect common people's life and livelihood. The movement that started due to the Sardar Sarovar Dam forced government to come up with the first draft of Rehabilitation and Resettlement Policy. The first draft of this policy came in the year 1985. It stressed on acquiring more land in the tribal area for the development projects. The draft revised in the 1993-1994. However, this draft also could not fulfill the

wishes of the people. The first real policy came into existence only in the year 2003. Yet, this came without any participation from the project affected people, displaced persons or civil society. The National policy on Rehabilitation and Resettlement, 2003 was criticized for its in humanitarian outlook as the act will be applicable to those areas where more than 500 families will suffer in plain areas and 250 families in the hill areas. It ignored less population areas. For this reason only after much consideration, another bill came in the year 2007. It tried to fulfill the demand made by the PAPs, researchers, social scientist, and civil society. But this also failed in many objectives like - compensation to the PAPs, its acquiring of land for security purpose, silent on social assessment and land for the land concept, types of compensation granted to them etc. after much debates and discussion a new bill was introduced which is known as Land acquisition Rehabilitation and Resettlement Bill 2011. The bill became an act 2013. It tried to fulfill demand of every corner like providing good compensation package to affected people, giving resettlement option, social assessment etc. but this act also garnered many criticism, like, it never explain the term public purpose and stated that any time they can acquire land if it is required for government purpose. So again in 2015 an amendment of the bill known as the Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement (Amendment) Bill, 2015, popularly known as Land Bill was adopted by Lok Sabha on 2015. The Bill creates five special categories of land use: a. Defense; b. Rural infrastructure; c. Affordable housing; d. Industrial corridors and e. Infrastructure projects including Public Private Partnerships (PPP) projects where the central government owns the land. The Bill changes acquisition of land for private companies mentioned in the LARR Act, 2013 to acquisition for 'Private Entities'. This could include companies, corporations and non profit organizations.¹⁰ It becomes quite obvious that the government is trying very hard to frame a law which can helped in acquiring land and give settlement to the displaced population. However, lack of responsibility is shown while making the laws. More weightage is given to the land acquisition rather than benefitting the people. In fact, the rehabilitation and resettlement law itself comes much later. For decade, government is following the age-old land acquisition act of 1894. Judiciary and common people pressurized the government to come up with a policy that practically will help the common people. The present Land Acquisition Rehabilitation and Resettlement (Amendment) 2015 is the result of that pressure.

Reassessing the policy – the myth and the reality

No doubt, the government of India after much consideration comes up with a new resettlement and rehabilitation bill in 2015 but this also has certain flaws. There is a gap between what people wanted and how it is executed by the government. The World Bank's Operational Policy (OP) 4.12 along with Bank Procedure (BP) 4.12 perhaps is the most valuable document on

Resettlement and Rehabilitation. The Guideline highlighted resettlement (para. 6), compensation (para. 6 (a)(iii) and rehabilitation (para. 2 (c) when displacement is absolute necessary for the development process. The right to rehabilitation is the protection that PAPs who do not benefit fully from compensation can receive in order to become established and economically self sustained.¹¹ Chris de wet highlighted that majority of the project affected displaced people are rarely have property rights. So while dealing with them the authority should take cautious steps. Even in case of community holding of land, the official while settling down the matter have to see it from the perspective of land owners, land less and appropriate compensation for land loss. Because as Acquisition laws are concerned essentially with individuals whose rights are to be acquired and they do not address community or social system so there are every possibility of breakdown of socio cultural fabric of that particular area. The Brookings International Institution for Internal Displacement framed 12 key steps for governments to take towards fulfilling national responsibility for internal displacement or for the internally displaced people. These are¹²:

1. Prevent Displacement and Minimize its Adverse Effects
2. Raise National Awareness of the Problem
3. Collect Data on the Number and Conditions of IDPs
4. Support Training on the Rights of IDPs
5. Create a Legal Framework for Upholding the Rights of IDPs
6. Develop a National Policy on Internal Displacement
7. Designate an Institutional Focal Point on IDPs
8. Encourage National Human Rights Institutions to Integrate Internal Displacement into their Work
9. Ensure the Participation of IDPs in Decision-Making
10. Support Durable Solutions
11. Allocate Adequate Resources to the Problem
12. Cooperate with the International Community when National Capacity is Insufficient

Conclusion

In India the government mostly concerned with land for land and providing compensation to them. But due to lack of fair research on the subject the affected persons faced many critical situation. One such is no knowledge about saving. In the project affected areas it is seen that the people were not given training regarding how to save money when they get compensation. Most of them spent their money in things like building a house, buying a car or motor cycle etc. but their long term investment is basically very less. This affected the PAP who earlier settled a quiet and normal life. The sudden displacement took away from them their tradition, culture, family ties etc. The new Resettlement and rehabilitation policy must need to be concerned with that. One major concern of the bill is infrastructure projects and industrial corridor. This itself contradicts with the humanitarian angle of the displacees. The correct way for any resettlement policy is to first

assess the cost of production, its future benefit and its social cost along with the loss of that area which will include not only monetary but its long term cultural cost, productive cost, societal cost, community effect etc. Though many loopholes are found in the act 2015 but this is the only protection which comes closer to fulfill demand of the project affected persons. It is fundamental right of the people to demand security and protection from the government. The very presence of a government itself meant to protect its people from any damage. The government is indeed needed to come up with some more constructive land laws that will ultimately satisfy need of all. It is the national responsibility of the state to give a full proof blanket of protection to the sufferer.

Acknowledgement

Author is thankful to UGC for funding of her minor research project based on which this paper is presented.

References

1. *Brookings-Bern Project on Internal Displacement Guiding Principle on Internal Displacement, Brookings Institutions*
2. *Brookings and Bern Project on Internal Displacement (2010)*
3. *Realizing National Responsibility For The Protection Of Internally Displaced Persons In Afghanistan: A Review of Relevant Laws, Policies And Practices, Brookings And Bern Project On Internal Displacement And Norwegian Refugee Council, November, 2010*
4. *Cernea, M. (1998) Impoverishment or social justice? A model for planning resettlement, Mathur, H.M., Marsden, D (ed.) Development projects and impoverishment risks: Resettling Project affected People in India, Oxford University Press, New Delhi*
5. *Iyer, R. (2005) Displacement and Resettlement: Bhima Irrigation Project In Maharashtra, Social Action, New Delhi*
6. *Rao, R.S. & Chowdhury, N (1995) Freedom Struggle, Decolonisation and Perspective, In Reddy, D.N. (Ed.) Towards Understanding Semi Feudal And Semi Colonia Society, Hyderabad*
7. *Mooney, Erin (2005) National Responsibility and Internal Displacement: A Framework For Action, FMR IDP Supplement, Brookings And Bern Project*
8. *UNHCR (2013) Internal Displacement: Responsibility and Action, Handbook For Parliamentarian No. 20 2013, Inter Parliamentary Union*
9. *Wet, Chris De (2006) Development Induced Displacement : Problems ,Policies And People, Studies In Forced Migration , Volume 18, Berghahn Books, Oxford, 2006 , P. 82*

Footnotes

1. *Guiding Principle on Internal Displacement, Brookings Institutions, p.4*
2. *Iyer, R. (2005), Displacement and resettlement: Bhima Irrigation Project in Maharashtra, Social Action, New Delhi*
3. *UNHCR (2013), Internal Displacement: Responsibility and action, Handbook for*

- parliamentarian No. 20 2013, Inter Parliamentary Union*
4. www.hindustantimes.com/india-news/2-8-million-indians-displaced-internally-in-2016-third-highest-globally/story
 5. *Realizing national responsibility for the protection of internally displaced persons in Afghanistan: A review of relevant laws, policies and practices, Brookings and Bern Project on Internal Displacement and Norwegian Refugee Council, November, 2010*
 6. *Mooney, Erin (2005), National Responsibility and Internal Displacement: a Framework for action, FMR IDP Supplement, Brookings and Bern Project, pp. 10-13*
 7. *Mooney, op cit. p.14*
 8. *Cernea, M. (1998), Impoverishment or social justice? A model for planning resettlement, Mathur, H.M., Marsden, D (ed.) Development projects and impoverishment risks: Resettling Project affected People in India, Oxford University Press, New Delhi*
 9. *Rao, R.S. & Chowdhury, N (1995), Freedom Struggle, Decolonisation and perspective, in Reddy, D.N. (ed.) Towards Understanding Semi Feudal and Semi Colonial Society, Hyderabad*
 10. <https://www.thehindu.com/news/national/land-bill-six-facts-you-need-to-know/article6978832.ece>
 11. *Wet, Chris de (2006), Development Induced Displacement : Problems, Policies and People, studies in forced migration, Volume 18, Berghahn Books, Oxford, 2006, p. 82*
 12. *Brookings-Bern Project On Internal Displacement, Addressing Internal Displacement: A Framework For National Responsibility, University of Bern, April, 2005*