

The Responsibility to Protect

IDPs and Our National and State Human Rights Commissions

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Preface

The Responsibility to Protect is a report on a series of dialogues and workshops on the responsibility of the National and State Human Rights Commissions in India with regard to the protection of the internally displaced persons in the country. These dialogues were held with the support of the Asia Pacific Forum of National Human Rights Institutions. They are in continuation to the earlier discussions organised by the Calcutta Research Group (CRG) on various issues such as those relating to autonomy, displacement, forced migration and peace in India's Northeast, sustainability of rights under globalisation, and social justice whose reports are available in print and on CRG website (www.mcrg.ac.in). Two public lectures were also held in Kolkata and Darjeeling under the programme. The dialogue programme has been an integral part of the research activities of the CRG, because CRG's own participatory research experiences show that dialogic knowledge is more intense, detailed, and democratic in nature. It also helps the creation of a network of researchers and other interested persons – thereby making research a matter of sharing and collective gain and responsibility. CRG takes this occasion to thank the Brookings-Bern Project on Internal Displacement and the Asia Pacific Forum of National Human Rights Institutions for their unstinted support in this initiative. Our special thanks are to the Other Media, New Delhi and Sansristi, Bhubaneswar for their collaboration in organising two workshops in this series in Bangalore and Bhubaneswar respectively. We are thankful to Ranabir Samaddar, who all along remained the guiding force behind these three workshops and gave his valuable suggestions in preparing this report.

Internal Displacement in India: The Imperatives to Look at the Causes and Linkages and to Find Durable Solutions

(Bangalore Workshop)

The first workshop was held at Bangalore from 13-15 July 2007 in collaboration with the Other Media, New Delhi. The main focus of this workshop was to generate a dialogue and discussion among the activists, academics, lawyers and media-persons coming from various states of South India on the problems of internal displacement in India, in general, and the southern states of India, in particular. The resource persons were drawn from the National Human Rights Commission (NHRC), government policy-makers, academics, legal practitioners and human rights activists. The participants included researchers, academics, human rights activists, former government officials and representatives of some civil society organisations from Karnataka, Andhra Pradesh, Kerala, Tamilnadu and Goa.

The dialogic discussion in this workshop centred on the following sub-themes:

- Internal displacement – causes, linkages and responses
- Human Rights laws and instruments of protection – international, regional, and national regimes of protection, principles of legal responsibility (with special reference to the gender question)
- Durable Solutions – Relief and Resettlement Policies (with special reference to women)

Political Economy, Law, Governance and the Administration of Care

In his introductory remarks, Ranabir Samaddar, Director, CRG, reflected upon the changing dynamics of globalisation and how it influences the political economy of the Indian state. While entry of the foreign capital is taking Indian economy to newer heights, the agricultural growth rate has dropped to 2-3%. In the context of globalisation and economic liberalisation in India, the economic logic seems to be working in a political space where the interests of the economically powerful sections of the society are being looked after at the expense of the poor and marginal sections of the society. In this context, he criticised the Land Acquisition Act, 1894, an archaic law of colonial times that very often is being used to acquire land for more rapid industrialisation and for faster rate of growth. In view of the large-scale development-induced displacement in India, Samaddar discussed the relevance of the UN Guiding Principles. He indicated that, many international humanitarian agencies prefer to work from a “protection-based” approach than from a “rights-based” one. Despite this, in India, the persons displaced on account of violence are usually not considered as internally displaced persons. He also discussed the 1951 Convention to

understand whether or not the existing international guidelines could be used to understand the way the resistance movements in India (be it in Nandigram, Singur or Kalinganagar) in the recent times have resorted to claim-making processes. The violent protests question the very paradigm of development discourse and the solutions that the state has engineered through its policy exercise.

Moreover, the statist discourse on development is closely linked to the development-induced displacement. It is believed that industrialisation is necessary for economic development and, therefore, consequent displacement is inevitable. In a democratic process, claim-making is quite crucial. And, over time, the scope of this politics of claim-making has widened. However, democracy sometimes allows certain forms of claim making. But, protests of all kinds may also be related to the process of claim-making. In the recent protests in Singur and Nandigram people resorted to violent forms of protest, forbidden forms of claim-making that are not usually sanctioned by the State. These violent forms of claim-making are ways to engage with the consultative process which has been denied by the State for long.

Samaddar argued that, the activists or academics engaged in human rights activism in India have not given much importance to the questions of eviction, displacement or forced migration as these were seen as exceptional circumstances in the memory of the country. These issues have only recently come to the fore with people protesting against the proposed chemical hub in Nandigram and/or the setting up of a Tata car factory in Singur in West Bengal. In these cases, the State seems to play the role of a go-between in the recent instances of land acquisition using an archaic law of the colonial period. The laws responding to globalisation have taken a rather protective recourse.

On the other hand, the inter-community or inter-ethnic violence victims are not usually recognised in India. The government has taken little action in cases of conflict-induced displacement in Gujarat, Jammu and Kashmir or Northeast. There is an absence of a policy to deal with these situations either at the Union or at the State levels. This always leaves scope for negotiations and an easy way out at the international level as the answers to the international community remain couched in the non-recognition of existence of IDPs. Moreover, the State very often takes recourse to policies that are not inclusive in nature and function on an ad-hoc basis to deal with the administrative challenges. Samaddar pointed out that, it is against this challenging background that CRG wants to involve the NHRC and SHRCs (State Human Rights Commissions) in its future deliberations and discussions.

Sabyasachi Basu Ray Chaudhury, Secretary, CRG, pointed out that it is often argued that, development-induced displacement is inevitable. But, this argument is not tenable. There is a need to look at such projects that are unlikely to displace people or would displace lesser number of people. But, before that, one should question the efficacy of the use of the Land Acquisition Act, 1894 in the present context, where the word ‘public purpose’ is freely used for acquiring land for private

business initiatives. Moreover, there seems to be a lack of transparency in the process of acquiring land for industrialisation and urban development. The opinion of the project-affected people is simply ignored and not sought at all. In a democratic system, the prior informed consent of the people should be taken and all the necessary information should be disseminated to the people concerned in the locally-spoken language, he felt. He also argued that, although the economists are usually in favour of monetary compensation, this kind of compensation may not be that effective for rehabilitation of the persons displaced on account of development projects. Moreover, the indigenous people very often do not have documents that will fetch compensation. The rights of the tenants working on agrarian land without adequate papers are also ignored mostly in compensatory policies. The compensation with regard to the common property resources is also quite difficult. P. S. Rao and Mohd. Yusuf, the representatives of the NHRC, also talked about the importance of transparency. Rao suggested that a committee should be constituted for looking after the interests of the project-affected persons and this committee should include representatives from the government as well from the investors. Similarly, O.P.Vyas, another representative of the NHRC, pointed out that, effective governance on the basis of public participation can protect the rights of the IDPs better.

The representatives from the NHRC also acknowledged that one of the problem areas with regard to the protection of the development-induced displacement is the Land Acquisition Act. The participants agreed upon the need for an immediate review of the Land Acquisition Act of 1894 that could be the cause of large-scale development-induced displacement in the country. The participants also felt the need for reassessment of the controversial Coastal Regulation Zone Act. There was a demand for a review of the National Rehabilitation Policy (NRP) 2006.

Apart from the recently more talked about problem of the development-induced displacement in the country in the context of a neo-liberal economic agenda being pursued almost throughout India, the participants also discussed the problems relating to the situations of conflict-induced displacement. In this context, the representatives of the NHRC provided their inputs from the experiences of this institution while working in Gujarat, Tripura and Arunachal Pradesh in recent times. It is disturbing to note that even five years after the Gujarat disturbances, about 4,500 families still remain displaced and are forced to stay in the makeshift structures set up by a few NGOs and community organisations. At least 500 families are still compelled to live in tents. In this scenario, the administration of care and the role of the care-givers become more crucial. These issues also became important in the context of the refugees taking shelter in the camps of South Tripura from the neighbouring Chittagong Hill Tracts (CHT) in Bangladesh in the late 1980s and early 1990s. While at times, these refugees were turning into strategic pawns in the larger context of the India-Bangladesh bilateral relations and resultantly the basic minimum needs of these refugees were being ignored and the ration supplies were becoming quite infrequent, the intervention by the NHRC brought about significant improvement in the administration of care. On the basis of the recommendations of

the NHRC prepared after the visit of its representatives in the concerned refugee camps, the supply of food and other essential commodities to the camp inmates was restored. It also persuaded the government to provide certain facilities to the refugees like better accommodation, water supply, medical care and educational facilities.

The role of the NHRC in the context of the Chakmas and Hajongs in Arunachal Pradesh also illustrates how the national human rights institutions can play a crucial role in a conflict situation. When the All Arunachal Pradesh Students' Union (AAPSU) activists started demanding the expulsion of the 'foreigner' Chakmas and Hajongs from the State of Arunachal Pradesh in 1996 and the fate of about 65000 Chakmas and Hajongs became quite uncertain. These Chakmas and Hajongs were settled much earlier by the Government of India as they were displaced in 1964 when their land was inundated due to the construction of the Kaptai dam over the Karnaphuli river and they crossed over to Tripura to take refuge in India. As they technically remained 'stateless persons' without any formal granting of Indian citizenship, the AAPSU supporters were agitating for their expulsion from the state that otherwise is restrictive with regard to not only the foreigners but also in the context of the Indian citizens who require "Inner Line Permit" to visit the state. But, the NHRC invoked Article 21 of the Constitution of India concerning the right to life and recommended adequate measures for ensuring the life and liberty of the Chakmas and Hajongs in the state. That also helped the Supreme Court of India to deliver its landmark judgment in this case on the basis of the said Article 21.

O. P. Vyas argued that, a democratic society is one where the State and its citizens come together to create an open society and there is maximum and effective public participation. The administration of care is the primary responsibility of the State but it can only be achieved with active participation of all the stakeholders and the people can effectively participate and contribute only when they are empowered with knowledge of their rights and avenues of redress. The state has a responsibility, in the interest of the nation, to undertake appropriate projects for its economic development. The question, however, arises whether the national interest is best served when the interests of the most vulnerable sections of the society, are seriously neglected. He reminded the participants in the opinion of the NHRC, the issue of resettlement and rehabilitation of persons displaced through the acquisition of land for mega projects should be part of the provisions of the Land Acquisition Act itself or be a part of any other appropriate legislation, so that they become justiciable. He also said that, the Commission had reviewed the provisions of the National Policy on Resettlement and Rehabilitation sent to it by the Ministry of Rural Development. The Commission suggested specifically that, the Union and State governments should examine and appropriately amend their laws, regulations and practices in order to ensure the rights of the marginal people in the society.

Some of the major cases brought before the Commission relate to:

- The rehabilitation and resettlement of tribals affected by the construction of the Kabini reservoir in Karnataka.
- The rehabilitation and resettlement of tribals affected by the Bandipur Project Tiger National Park in Karnataka.
- The rehabilitation of persons affected by the Maheshwar Dam in M.P.
- The rehabilitation of persons displaced in consequence of a Defense Ministry project in Karnataka.

The Commission had dealt with at length the issues related with rehabilitation and resettlement of the tribals of the Mysore district, who were affected by the construction of the Kabini Reservoir in early 1970s and the formation of Bandipur Project Tiger National Park in 1973-74. The Commission on 13.1.2003 deliberated upon the issue of earmarking suitable land for rehabilitation of the displaced 154 tribal families and sent recommendations to the Government of Karnataka in this regard. The Government of Karnataka, in response, diverted 200 hectares of forestland for the rehabilitation of those displaced tribal families. It also constituted a committee with the Special Rapporteur of the NHRC to monitor the rehabilitation process and to ensure that it is completed expeditiously. Similarly, the positive consequences of the Commission's intervention in Orissa in view of the devastating cyclone in October, 1999, set the precedence for similar action by the Commission in the aftermath of the catastrophic earthquake that devastated large areas of Gujarat in January 2001.

Kudremukh

So far as the situation of Karnataka is concerned, the ecological effects of different mining projects in the state were discussed in detail. B.T. Venkatesh, a reputed lawyer from Karnataka, showed how the globalising forces govern the paradigm of development and how these forces become responsible for creating involuntary displacement. In this connection, he highlighted the plight of the indigenous people in Karnataka where these people are more marginalised as this State does not fall under the purview of the Fifth schedule of the Constitution of India. At a juridico-political level, the State is deprived of access to certain rights and legal protection that is available to other states which comes under the purview of the 5th schedule. The State Government considers that the only way of preserving forests is to evict the tribals from those areas.

Kudremukh is spread between Chikmagalur, Udupi, Dakshina Kannada and Shimoga districts. Its name is derived from the horse face of the Western Ghat region, which is rich in iron ore. In fact, the Western Ghat is also known as 18 hotspots of biodiversity. In the 1960s the National Mineral Development Corporation (NMD) expressed interest in extracting iron-ore and got a lease of about 5,128 hectares of land from the Government of Karnataka. In 1972, the NMD returned

nearly 613 hectares of land back to the government. With the understanding of the extraction of the iron ore, the NDMC continued its operations. In 1976, the NDMC transferred 4,605.02 ha of land to the company which included forestland of 3,203.55 ha, other government land of 1,220.03 ha and other company's private property of 181.44 ha.

According to Asadi, (M. Asadi, "Kudremukh: Of Mining and Environment" *Economic and Political Weekly*, December 7, 2002) Kudremukh thus became synonymous with 'modernity'. After the collapse of Shah regime in Iran, KIOCL started exporting around 82% of its production to Japan, Iran, China, Australia and Bahrain while remaining 18% was sold within the country. But, soon the lease period was extended for another year. According to Mahalakshmi, (CEE-NFS, January 2002, Vol. 01) KIOCL has been conducting open cast mining for weathered ore for more than twenty years. The company's lease expired on 24 July 1999. However, on 02.09.1987, the State Government declared its intention to notify the Kudremukh National Park (KNP) under Sec 35(l) of the Wildlife (Protection) Act of 1972. This included the KIOCL mining lease area within its limits, as the intention notification of KNP included the Reserved Forests (RF) of Andar Naravi, Narasimha Parvatha, Thunga and Bhadra. All these forests continued to be reserved forests as they have not been denotified. In 1999, the company got a lease of 4,605 hectares of land. Actual mining took place only on 450 hectares. The mining area is covered with dense, evergreen forest; typical of the Western Ghat vegetation.

According to a web portal (<http://www.sanctuaryasia.com/>), the mining lease of the Kudremukh Iron Ore Company for mining rights in the Kudremukh National Park has been repeatedly extended despite widespread protests of the conservation community and assurances given by the Chief Minister of Karnataka that, the environmental concerns would be taken into consideration. As a result, the iron ore mining and its related activities are already taking a heavy toll on this Western Ghat forest. In 2001, a pipeline leak spilled about 4,000 tonnes of iron ore slurry into streams and rivers. This incident was likely to affect more than 2 lakh farmers owning 8,300 ha of agricultural land, who depend on the river water in the Kudremukh region (Asadi, 2002). Similarly, the displacement caused by the eco-tourism projects in Goa and Kerala was highlighted.

Chattisgarh

In a discussion on the displacement in Chattisgarh, Satyabhama Awasthi of Vasudha Mahila Manch and J.P. Rao, an academic of University of Hyderabad and a social activist, highlighted the plight of the indigenous communities who have been in the crossfire between the Maoist insurgents and the government-sponsored resistance movement called *Salwa Judum*. It was pointed out that, primarily non-tribal tradesmen, contractors and businessmen, who find business impeded by problems with the Naxalites lead *Salwa Judum* apart from a few local Adivasis. However, the primary Salwa Judum cadres are the Special Police Officers or SPOs. As of January

2007, there were more than 4000 SPOs appointed by the Government of Chhattisgarh.

The Adivasis belonging to the Maria, Muria, Dhurwa, Halba, Bhatra and Gond communities have lived peacefully in the ‘forests’ for hundreds of years. They subsist primarily on agriculture and the collection of non-timber forest products including *tendu* leaves, *Mahua* flowers and *char* seeds. While the Maoists argue that they have brought law and order to the area by banishing corrupt officials, forcibly redistributing land and increasing access to resources and fair profit from those resources, *Salwa Judum* is being used as the strong arm in the government’s awkward attempts at counterinsurgency operations. Rapid relocation of the civilian population in many Maoist-infested areas of Chhattisgarh for the sake of these operations have robbed the traditional inhabitants of these places of their basic human rights. Using insufficiently trained, non-professional *Salwa Judum* cadre for a sophisticated counterinsurgency operation has already proven reckless, irresponsible and deadly. It has resulted in a total breakdown in the rule of law and has given license to impressionable young men to terrorise and kill without cause or justification. To the uncritical young SPO, usually there is no distinction between combatants and civilians, they operate on a principle that ‘if you are not with us you are against us’, and any uncooperative civilian is then said to be a ‘Naxalite’ and dealt with appropriately.

Right to Return – a Symbolic Right?

While recording the voices of the internally displaced persons in South Asia, the Report on the Voices of the IDPs, published by CRG earlier indicated that in order to examine the situation of the IDPs, the issue of vulnerability, the ‘right to return’ and camps as sites of ‘power’ need to be discussed in particular. On the second day of this workshop in Bangalore, Ranabir Samaddar and Paula Banerjee, a senior researcher of CRG, referred to this report to put the question of IDPs in proper perspective. They indicated that, the areas concerned were randomly selected. However, there were some considerations in selecting the areas. Two cases of study were selected in Bangladesh – one where displacement had occurred due to violence and the other where displacement had occurred on account of developmental activities and environmental degradation. In Sri Lanka, two cases were selected – one involving the victims of earlier displacement due to the ethnic strife and the other relating to the tsunami-induced displacement. In western Nepal, there was large-scale displacement due to the Maoist insurgency and the counter-insurgency operations of the State forces. In India, different types of cases were selected for study. In Jammu and Kashmir, the specific cases were selected because they showed the nature of displacement due to militarisation of the border areas. Gujarat was selected because one of the worst instances of conflict-induced displacement took place here in recent times. Orissa was selected so that the study could include the experiences of people displaced due to random development activities such as indiscriminate mining and consequent environmental degradation. Finally, India’s North-east was selected as it

has been a region of continuous displacement of people over a long period of time. Altogether 528 persons were interviewed (Bangladesh – 100, India – 206, Nepal – 119, Sri Lanka – 103).

Later on, the issue of the right to return was discussed in more detail in a working group discussion where most of the participants agreed that the right to return simply turns into a symbolic right for those people who have been displaced due to conflict. Samir Kumar Das, a senior researcher of CRG, while moderating this working group discussion showed how the notion of “home” is important to the displaced persons and emphasised that the right to return should feature in any agenda of engineering solutions for the displaced. The participants of this working group also seemed to agree that, displacement would need to be treated as a political question. After all, if it is taken as a political question, then it becomes easier to understand how the established paradigms of development sometimes tend to overlook the issues related to ethnicity or caste while formulating a policy of relief and rehabilitation.

Gender Blindness

The gender blindness is a matter of major concern in case of the situations of internal displacement. This sort of blindness often makes the process of policy implementation even more ineffective and biased. Paula Banerjee pointed this out in her arguments. In order to highlight the gendered nature of displacement, she referred to problems usually faced by the female-headed households in a situation of displacement, be it conflict-induced or development or disaster-related. She discussed how the women also become subject to violence in camps and how the camps become sites of gendered politics leading to higher propensities of trafficking of women. In case of the distribution of material resources required for rehabilitation of the displaced persons, patriarchy tends to rule. For instance, after the tsunami in southern India, the women were usually excluded in case of distribution of relief materials, fishing nets or identity cards. But, in some cases, when houses were constructed for the resettlement of the displaced people, they were handed over in the joint names of husband and wife to provide the women in the family also a sense of security. Nevertheless, the women were not included in the planning process. Several issues like sanitation were not discussed among the displaced women.

But, in case of the resistance movements against acquisition of land, the women in many instances were at the forefront of the movements. Therefore, many women were among the deaths due to police firing. Similarly, in India's Northeast, a large number of women have been displaced due to the stoppage of traditional shifting cultivation. The Census Reports indicate that more women were engaged in this type of cultivation than men. These women have now turned into marginal workers. Now, in case of displacement when men are thrown out of their jobs, the incidents of domestic violence tend to rise in the affected families. The state and non-state actors also sometimes perpetrate violence against the displaced women.

around the notion of “honour”. That is why, in some cases, women are raped in order to prove a point. Rape is often seen as a loss of dignity and honour of the community concerned rather than the loss of the individual. The participants also discussed the plight of the women migrant workers in Karnataka. B.T. Venkatesh pointed out how these women are often forced to become sex workers.

Role of Civil Society

In the inaugural session, E. Deenadayalam of the Other Media emphasised that the sharing of varied experiences is useful for creating future network among the activists, academics and policy-makers. In course of the three-day discussion, the participants also felt that there should be more such consultations of the civil society organisations, academicians and activists engaged in working on the IDPs in India. They agreed that that there is a need for a model of participatory governance in order to overcome the contradictions that mark the effective implementation of the policies of protection vis-à-vis the IDPs.

Dominance, Development, Displacement, Rights and the Issue of Law

(Bhubaneswar Workshop)

The second workshop was held in Bhubaneswar from July 27-29, 2007 in collaboration with Sansrishi. The three-day workshop focussed on the development-induced displacement in Orissa and West Bengal, in particular, and in the eastern India, in general. Like the earlier workshop in Bangalore, this workshop also re-examined the National Rehabilitation Policy 2006. Moreover, in view of the strong resistance movements against the proposed Special Economic Zones (SEZs) in Orissa and West Bengal, the workshop paid due attention to these movements.

Dominate Discourse of Development, Displacement and Land Rights

Justice D.P. Mohapatra, Chairperson, Orissa Human Rights Commission inaugurated the workshop and highlighted certain interesting aspects of the internal displacement in India. He argued that, the issue of resettlement and rehabilitation could be a durable solution in case of development-induced displacement. He opined that, most of the resistance movements in Kalinganagar and elsewhere in Orissa were outcomes of a development policy that fails to address the question of displacement of people and the consequent erasure of rights of the people. Rehabilitation and resettlement goes hand in hand, according to him. Rehabilitation and resettlement initiatives entail various complex issues and require persistent efforts. There is a need for the recognition of the Right to Life and the inclusion of the local population in the development programmes becomes crucial in this context. When a particular locality in any town or city is referred to as a “refugee” colony, the very usage of the term creates a sense of dislocation among the displaced people and an attribution of stigma attached to the displaced persons forced to resettle themselves in a new area quite often creates a sense of alienation among them. Therefore, there is a necessity to prevent large-scale displacement as far as possible. For this, there should be a prior survey to estimate the number of people residing in the area and their source of livelihood. The process of large-scale acquisition of land should also be reviewed, according to him.

A.B. Tripathi, I.P.S. (Retd.), Former Director General of Police, Orissa and Former Special Rapporteur of NHRC, a distinguished guest in the workshop spoke extensively on the Relief and Rehabilitation Policy of the Government of Orissa (2006). This draft was formulated after 13 tribals were killed in Kalingagnagar in police firing during attempts of land acquisition for a proposed Tata factory in the area. Tripathi claimed that, this draft, prepared under the supervision of an IPS officer from Karnataka, is one of the best in the country. He also claimed that such policies could prevent violent incidents. He was critical about the various development projects that are in progress. He raised a pertinent question whether so

much acquired land is really needed to set up steel plants or even universities. He emphasised the need for a review of the policy of land allocation by the state.

Ranabir Samddar indicated that, displacement in a globalising era has changed the priority of the rights discourse in India. Earlier when people talked about rights, reference was made to several Fundamental Rights and Directive Principles enshrined in the Constitution of India. But, interestingly, the Right to Equality was very often ignored. But, with the land question assuming more and more importance in the contemporary period, this Right to Equality has assumed greater relevance. Serious concern was expressed with regard to the millions of landless people and labour in the unorganised sector who remain ‘invisible’ in an expressly democratic state. While there have been attempts by many civil society organisations to look at the people affected by large-scale violence in Gujarat or Jammu and Kashmir, the people displaced due to the construction of big dams and mines, these hapless people still remain beyond the purview of the judiciary and the state machinery. After all, the State seems to generate a consensus among the citizens on development. In this dominant discourse of development, displacement is considered to be inevitable, and therefore, the recommendations of the UN Guiding Principles on Internal Displacement remain marginal in this discourse. Sabyasachi Basu Ray Chaudhury also focussed on the relevance of the UN Guiding Principles and CEDAW in the situations of internal displacement in the country. 1951 convention has been criticized for its failure to recognize gender-related issues specially rights of women and children.

The participants felt that the rehabilitation and compensation packages for persons displaced due to various development projects should be prepared in consultation with the project-affected people. There is also a need to protect the indigenous knowledge with the help of the Intellectual Property Rights (IPR). It was felt that, the need-based resettlement packages are only possible through a consultative process involving project-affected people, civil society organisations and the State.

K. C. Samal of Naba Krushna Institute of Social Sciences, Bhubaneswar, and Praful Samant Ray, a leading social and political activist of Orissa in their respective lectures argued that, the fruits of development should be equally shared by different sections of the society. Both of them largely based their arguments on the basis of the lessons learnt from the recent experiences in Orissa. Samal pointed out that there is a change of attitude of the people towards the existing and dominant state discourse on development. While in the 1970s, there was a total *bandh* in favour of a second steel plant in Bhubaneswar, since the 1990s there has been a lot of opposition to the development projects in the state, according to him. Moreover, in the recent times, there is a growing emphasis on attracting large-scale capital investment from the big multi-national corporations in the mineral-based industries in Chattisgarh, Jharkhand, and Orissa. Therefore, there is hardly any scope for large-scale employment opportunities for the backward population in different parts of the state.

This has also led to large-scale environmental degradation as it is based on huge deforestation giving rise to more occupational displacement, particularly displacement of indigenous communities from their traditional home and livelihood. While up to 1991, there was no permission to invest in the core sectors of economy, like the electricity or minerals, later on as part of the economic liberalisation process in the country these sectors were deregulated allowing private players. This also included the disinvestment of the state-controlled enterprises. He argued that the depreciation of the Indian rupee took place in the early 1990s at least twice under the dictates of the World Bank. Under the circumstances, although the export income of India increased promoting the export-led economic growth to a considerable extent, it was also done at the expense of the mineral-rich states of the country. Moreover, an increased deforestation has led to the decreasing income of the people more dependent upon the forest resources. The displacement has been quite rampant due to the construction of big dams or setting of industries in mineral-rich areas where the indigenous people used to live earlier. There has been the occupational displacement of many people in Orissa due to the growing shrimp farming in the Chilka lake region.

So far as the rehabilitation is concerned, in case of the Hirakund dam, the 'land for land' policy was adopted. In case of the Regali dam, each project-affected family was given six acres of land irrespective of whether they had earlier owned any land or not. Similarly, NALCO's resettlement and rehabilitation policy was considered the best of the time in the country. He added that, the policies adopted by the public sector enterprises were far better than those of the private sector companies and even the MNCs. The MNCs, in his opinion, are the worst performers.

Praful Samant Ray similarly said that the fundamental question is whether we should accept the dominant discourse on development. When we claim to be a democratic and socialist republic, the sacrifice by the people for the sake of the so-called development cannot be excessive. In his opinion, the investors in recent times do not care at all for the rights of the poor and marginal people as it became evident in the Kashipur region of Rayagada district in Orissa. The people who argue in favour of these rights are considered to be against development of any kind. He said that, we need to examine a few issues, like what type of development is needed for our country? Who will benefit from this kind of development? Who are the producers and the consumers in this process of the development?

He argued that, displacement is not simply about people leaving their place, but more about the livelihood question and about the loss of forestland. There is also a growing sense of loss of language and culture of the indigenous people due to these. He could not digest that, the State of Orissa is offering its rich natural resources to POSCO and other MNCs on a platter at the price of peanuts in the name of development. The Indian companies like the Tatas are also getting land and other resources at a throwaway price. But it is the indigenous people who are suffering while the industrial bodies are enjoying subsidies to facilitate the creation of SEZs. In

his view, rehabilitation can only be considered seriously when one is ready to accept the principle of right to livelihood. The government itself is ignoring this principle.

The workshop concluded with the Valedictory Lecture by G.V.V. Sharma, I.A.S., Revenue Secretary, Government of Orissa. Himadri Mahapatra, Member, Orissa State Human Rights Commission was the Guest of honour for this valedictory session.

Internal Displacement in Bangladesh: A Special Lecture by Imtiaz Ahmed

Imtiaz Ahmed, Professor, Department of International Relations, Dhaka University, Bangladesh, delivered a special lecture in the Utkal University. The lecture was jointly organised by the CRG, Department of Journalism and Electronic Communication and School of Women's Studies, Utkal University. Ahmed talked about "Internal Displacement in Bangladesh". He argued that the birth of the modern state is linked to the global foetus of the IDPs. In his opinion, the modern state formation in Bangladesh has created five types of internally displaced persons. First, with the Partition in 1947, the people who migrated from Bihar and U.P. are still considered "stateless". After the creation of Bangladesh in 1971, some of these people were attributed citizenship by the Government of Pakistan. But, still many of them remain stateless. Second, approximately 128000 persons were displaced due to the militarism in the CHT since the 1980s. Third, the 1971 war also created IDPs in Bangladesh. Fourth, about 100000 persons became environmental refugees due to incessant flood that has become almost an annual feature in the country. The slum-dwellers and rickshaw-pullers in Bangladesh comprise the fifth category of IDPs and these are people who have been displaced due to maldevelopment. According to him, these kinds of displacement are an integral part of the globalisation process. The contemporary process of globalisation is after all based on an international production system that creates a complex labour population and makes certain sections of unskilled and less skilled labour redundant. Jayanti Jagdev, Director, School of Women's Studies welcomed participants in the Utkal University. The Vice Chancellor of the university graced the occasion and L. N Mishra of the Department of Journalism and Electronic Communication of the university proposed a formal vote of thanks after the lecture.

Unkept Promises: Displacement and Little or No Resettlement under the Left Front Government in West Bengal

The third and the final workshop was held in Kolkata from 3-6 September 2007. The highlight of the workshop was the release of a report on *Development-induced Displacement in West Bengal: 1947-2000* prepared by Walter Fernandes and his colleagues. The primary aim of the workshop was to generate a dialogue on the how the existing typologies on internal displacement are governed by state discourse. There were discussions also on the National Rehabilitation Policy 2006, the Communal Violence Bill and the Forest Bill. The academics, media-persons, lawyers, and activists from Assam, Nagaland, Manipur and West Bengal, in particular, and from the rest of India, in general, participated in this workshop. Some of the participants in the Bangalore or Bhubaneswar Workshops joined this final workshop in this series.

Policies and Practices

Justice Shyamal Kumar Sen, Chairperson, West Bengal State Human Rights Commission inaugurated the workshop. He also released the report prepared by Water Fernandes, Shanti Chhetry and others entitled *Development-induced Displacement and Deprivation in West Bengal 1947-2000: A Quantitative and Qualitative Database on its Extent and Impact*. Walter Fernandes in his inaugural remarks highlighted how the *dalits* and indigenous people became marginalised through the process development in West Bengal. According to his estimate, there was an acquisition of 29 lakh acres of private land and 7 lakh acres of common land on account of development projects in the state. His study is based on available land records till 1990. In his opinion, the Government of West Bengal has committed 2,22,000 acres of land solely for industrialisation. However, only nine projects have resettled some displaced persons. These include: Maithan (1950), Mayurakshi (1961-1990), DVC (1960-1981), Kunustoria Mines (1960s), Bakreshwar thermal power project (1980s and 1990s), EM Bypass (1990s) and Budge Budge thermal power project (1980).

Samir Kumar Das initiated a discussion on National Rehabilitation Policy 2006. He claimed that it is significant to assess the policy in the context of globalisation. NRP 2006 is a policy that aims to create pervasive nationalist consciousness through creation of visionary resettlement policies for the project-affected people, according to him. He pointed out that, the NRP 2006 should be read parallel to the Communal Violence Bill. Sanam Roohi and Ishita Dey, researchers of CRG, re-examined the Communal violence Bill. In the discussion on indigenous people, Sebastian Rodrigues of Nature, Environment, Society and Transformations (NEST), Goa, presented a critique of the Forest Bill. The Bill was examined in the

light of the experiences of the indigenous people in Orissa, Jharkhand and Chattisgarh.

According to Walter Fernandes, Director, North Eastern Social Research Centre, Guwahati, the politics of inclusion and exclusion casts its shadow on the formulation and implementation of the resettlement and rehabilitation policies in India. In his opinion, the State has so far preferred to take notice of the conflict-induced and disaster-induced displacement and has tended to ignore the question of development-induced displacement. The problems faced by the women and children IDPs, their vulnerability and government response were also discussed by the participants in view of the experiences in India's Northeast and West Bengal, in particular.

The discussion on Special Economic Zones (SEZs) and displacement revolved around the existing paradigms of development, global governance and resistance movements against SEZs in different parts of the country. The neo-liberal economic agenda of the government was discussed in detail in this context. The inclusion of IDPs in the broader context of the refugee studies was also discussed. It was pointed out that, the instrumental mechanisms based on a needs-based approach could perhaps address the particularistic concerns of the displaced persons in a more effective manner and this could also replace the perspective of general concerns of the community.

Riverbank Erosion

The participants from Malda and Murshidabad districts of West Bengal raised the issue of river erosion (mainly of Ganga/Padma river crisscrossing these districts) and indicated how thousands of people get displaced every year during monsoon. The entire stretch along the Ganga, from Bhutni in Malda to Jalangi in Murshidabad, has been facing erosion. While this plight has been continuing year after year causing displacement of people in the region, the only organised rehabilitation initiative for these displaced families can be found at the Bangitola Field, on the way to Pagla Ghat in Panchanandapur.

Many participants of the Kolkata workshop including Anju Munshi, a social activist, brought back the question of right to return. Following are excerpts from Anju's views expressed in the workshop:

"The right to return has been thrown open to many debates and discussions but the fact remains unchanged and coercive. The state legislation is of little use in this context, and therefore, this right remains self-defeating. The power centre that can and is capable of clearing the foul and claustrophobic atmosphere, is extra cautious of making a statement for fear of rubbing some influential segments on the wrong side. It chooses to remain quiet. There continues an eerie political silence..."

Once you are displaced you are displaced forever, if not once but many times over. Going back logically means going to a friendly and familiar environment. With the son of the soil theory catching up in almost all parts of our country, the displaced people have slim chances of returning and staying in peace and harmony. They lose out from both sides, the native place from where they have been uprooted, where they cannot go back due to the conflict or developmental strategies, and adjust themselves in the new place, where they are trying to settle down, where they do not belong...

In Jammu and Kashmir, the government carved out a safe zone for the displaced Kashmiri *pandits* near Nagrota. But, the displaced community preferred an alternative. The rising tide of anger that built up from that suggestion was palpable by way of demonstrations by the displaced community. The issue is not to huddle them into camps but to enable them to return.

And returning has political ramifications. This brings us to the fear factor, an important factor to be considered in case of displacement that arises in case of conflict situations. Returning in these cases means succumbing to the political pressures that drove them out. Carving out a safe economic zone is not what people want. But, going back is not feasible as their homes might have been destroyed and the employment opportunities are rare. Therefore, the right to return may be on paper but may have no meaning at all in practice. It points to the absence of any concrete plan and cohesive action by the state..."

Many participants expressed the opinion that, Anju's views made with reference to the Kashmiri *pandit* community, were valid with regard to the Muslim victims of displacement also, caused by the security forces in the Kashmir Valley and elsewhere, for instance in Gujarat.

Monirul Hussain, Professor, Department of Political Science, Gauhati University, Assam, delivered a special lecture in the workshop on 5 September on the Nellie massacre. His arguments indicated once again how the State also may appear rather partisan in a conflictual situation.

Some Issues of Special Reference in the Discussions in Kolkata

Women and Children IDPs (Moderator: Paula Banerjee; Report prepared by Anju Munshi)

The discussions on this theme owed to Paula Banerjee who asked particularly to introspect and find out if women and children were a homogeneous category and whether they got adversely affected by displacement and in what manner and how the situation was different from that of men. It evoked a very interesting response. Anju Munshi said that women are like an appendage to men and are dependent for small and big things including compensation and relief. It worsens if due to some reasons

like death or withdrawal from the family, the man stops compensation and leaves the family in dire straits, which is contrary to inheritance laws. Women and children are vulnerable and at the receiving end, is one thing that everyone agreed to.

Satyabhama Awasthi echoed similar sentiments and said, that the displaced women from all over, especially from an Indian background have common problems. The emotional problems of these women should be taken into consideration as they lack a support system. Young girls are prone to sexual exploitation. Besides this, the police don't register rape cases. Children's right to education is regularly ignored and despite various rules, law and policies on child labour, nothing is done, instead they get trafficked and abused. Subhash Mohapatra from Chattisgarh echoed that sexual abuse rapes and violence in women is an ongoing feature and also cited an appalling case of demographic engineering Distribution of condoms amount to roughly 10,000 packets a month under the pretext of spreading AIDS awareness campaigns in relief camps. According to Subhash, between 2005 and 2007 the fertility rate dropped to the lowest, for in these two years there has been no pregnancy case. One also understood that with more than thirty people being herded in one small cubicle in the name of a room, fertility rate is bound to be dismal anyways. The children in such environment grow up as misbalanced adults, more vulnerable to exploitation from all angles and many a times in the absence of education they lean towards crime. On asking if these cases ever got reported to NHRC or if any women's organization, the answer was that they did but would always prove to be an exercise in futility, for the groups were sent back saying that their reports were not valid. Moreover, these women are not allowed to go out and work, calling it a potential security breach even going to the river for bathing is made into an issue. These are devious means to undermine her presence and participation. In the absence of hardworking husbands, women have to fend for their families and have to work under compulsion. They do the cleaning jobs in military campuses and also earn some extra money for some odd favours here and there.

K. Samarjit Singh, a lawyer from Manipur and Dhamen Thingbaijam from Imphal Free Press said that women from their region are usually very assertive in society and politics and, therefore, the security forces have to take them more seriously. Paula attributed this to women being more organised, saying that historically women in Manipur have been strong. They register abuse cases fearlessly and also see that their problems are looked into. Having said this, they have their own problems and fear of eviction is one of them. R. Ajayan, a social activist from Kerala, said that civil society movement and women's organization have taken steps forward towards relief for women and children and even the state machinery has deposited money for scholarships and ration cards issued in the name of women.

Paula interestingly categorised three stages of displacement. The first stage is before displacement. During displacement starts the second stage. The final stage is after the displacement. In these three stages, the women get affected in different manners, according to her. During discussion, there emerged a consensus that women

and children do form a distinct category in the scale of vulnerability. In case of tsunami, young boys were trafficked used for labour and sex, in a way young men were feminised and adult women were infantised, made small and helpless, by the state.

But, the entire group, after listening to Samarjit and Dhiman, agreed that there is a glimmer of hope. It is also wrong to place women as victims all the time for Manipur was a shining example where women are active, organised and they are not as vulnerable but participate in the whole gambit of activities, hence their solutions are more holistic. Their voice is not only for gender roles but they have a voice for the whole community. On the Manipur model, Paula said that it is important for the women to be included in the dialogic process. If they are not it becomes detrimental to the cause of community for they not only represent themselves but the whole community. Besides heir reproductive health and their overall feminine health by way of periodic health camps and free distribution of medicines for feminine ailments could be suggested. The group concluded by saying that women in recent years are actively involved in voicing against injustice. From Chipko movement they have come a long way to Kalinganagar and let us not forget Singur and Nandigram where women have been at the forefront.

Conflict-Induced Displacement (Moderator: Monirul Hussain; Report prepared by Suhita Majumdar)

The conflict-induced displacement situations are prevalent across all states in India. However, the intensity and magnitude of such displacement varies amongst states. The Northeast, Kashmir, Gujarat and Chattisgarh have produced the maximum number if conflict-induced displaced persons in recent times. Whether it is an outcome of ethnic conflict, communal drift, civil war and/or class war situations – conflict-induced displacement situations are not temporary but perennial problems that requires immediate attention and, if possible, a separate rehabilitation and resettlement policy altogether.

Bongaigaon and Kokrajhar Districts: In 1993, when a section of Bodos in Assam demanded autonomy for their tribe, it turned out to be a violent agitation. A particular section of Bodos went for ethnic cleansing in these districts including Dhubri in order to make some areas of these districts Bodo-majority areas. The victims were mainly Muslim peasants of East Bengal origin, the Bengali Hindus and the Santhals. They have been displaced for more than a decade now and in a series of occurrences suffers multiple displacements.

Brahmaputra Valley: A classic example of multiple displacements and its effect on the life of the displaced persons. Already regarded as internally displaced, the affected people first moved to the CRPF (Central Reserve Police Force) protected camps. The camps were dismantled after the CRPF withdrew from these areas. An attempt by the displaced persons to resettle along the banks of River Iye also proved

to be a disaster. After four years, the entire land was washed away as a result of river erosion. The terrified people shifted to a land near the highway. Their presence near the National Highway for more than six to seven years was creating problems for the government and also for the IDPs. Many children also died as a result of road accidents. An attempt by the government to shift them in Phagua Gaon backfired as they did not take the local communities living in the village into confidence and Phagua Gaon witnessed a clash between the local communities and IDPs.

The social and health-related consequences of conflict-induced displacement are equally grave. In this particular area, where large number of IDPs is living for years, there is no teenage girl, as when a girl attains puberty she is either sent as a domestic help or married off. The health situation is particularly bad due to lack of sanitation and adequate food facilities.

The situation in Kashmir bears testimony to the fact that conflict-induced displacement should not be regarded as temporary but a perennial problem. The people displaced from their original habitat cannot return back. The State attempt to rehabilitate people in Kashmir is inadequate though much better than what is prevalent in Gujarat and Assam. In Gujarat/Assam, people are still living in camps. Caste politics had created a strong inter-caste divide and what is popularly known as “intense ghettoisation.” The caste and class factor is playing a dominant role in such conflicts. Kashmir and Gujarat witnessed the rise of fierce religious fundamentalism. Cases are pending in courts for years. The Muslims were made victims of caste politics in Gujarat and this is evident from the fact that the government took steps to rehabilitate the Hindus but not the Muslims.

West Bengal had a very different experience. Bengal, in spite of suffering from the worst ever Hindu-Muslim divide in 1947 and also during the separation of Bangladesh was able to maintain a certain standard of communal harmony. Much of this can be attributed to the presence of Communist leadership in Bengal over the years. But in the wake of globalisation and fierce economic competition from other states, Bengal is facing another problem: the problem of massive displacement arising out of industrialisation and intense criticisms from supporters of Left.

Is state the protector or an authorized terrorizing agency? What notion of justice are we looking at today? Is civil society and human rights organizations working for the interests of all or protecting the interests of few? Why do bomb blasts in Kashmir and Hyderabad and other metro cities get more media attention than those in the Northeast? Why are UN guiding principles still a discussion amongst the elite in closed conference rooms and not known to the people who are affected by conflicts? These questions were raised in the light of the grave human rights violations taking place as a result of a series of conflicts that have a political motive behind irrelevant of the party in power.

The session took into account two possibilities/queries:

1. There is a need to draft different rehabilitation policies for people affected as a result of development projects, conflict-induced and displacement arising of natural and other calamities.
2. The Communal Violence Bill that was introduced in the Parliament should be revised and should incorporate conflict-induced situations and also make provisions for its prevention and rehabilitation.

Natural Disaster-Induced Displacement (Moderator: Sabyasachi Basu Ray Choudhury ; Report prepared by Nikhil Mathur)

The discussions started with the moderator making the point that disasters are well-recognised ‘displacers’. And in many cases the same set of people suffer displacement more than once due to different kinds of disasters. Anju Munshi shared her views on the flooding of the North Bengal region. The Teesta and its tributaries often change course largely due to their riverbeds getting raised and cause immense destruction every year. The floods so caused affect the quality of drinking water that the households of the area receive. Flash floods in the rivers also cause severe damage to life and property. Then she discussed the situation emerging from the Kashmir earthquake, where she felt that the relief operations on the Indian side of the border were pathetic as compared to the Pakistan side. She also raised the issue of offering relief services in security sensitive areas such as this one. She made a point that the people trusted the army for the relief as against the civil administration.

This led to a brief discussion on whether the army is the best agency during times of disaster. Some members of group notably Ajayan disagreed pointing out that the army often did not know how to handle typical disaster situations like landslides in Kerala. Anju reiterated her support for army as a good agency for relief by saying that they could faster than other agencies and were not corrupt. The moderator chipped in with his experience of analyzing relief operations in the Andaman and Nicobar Islands post Tsunami. According to him, there was a perceptible difference between the relief operations in the Northern and Southern islands as the latter were more security sensitive. As a result only the army carried the relief in the southern islands which was not in tune with the local requirements, largely because the army did not have adequate information about the socio-economic realities, e.g., the local population did not accept the housing provided as it did not suit their requirement.

The group enlisted various kinds of disasters that cause displacement. The group listed earthquake, tsunami, river erosion, cyclones, drought, landslides, and floods. The group also agreed that apart from such episodic disasters there were some slow disasters, which are steadily displacing people but never get recognized as disasters because of the slow pace. The group briefly attempted to discuss ‘who loses what in what kind of disaster’ but this discussion could not be completed. The point that more vulnerable sections of the communities like women, children, elderly,

and backward castes should receive priority at the time of relief, was re-emphasised. Khidir Bux from Malda made the point that the fact that river erosion is not recognized as a disaster has had a tremendous loss of effort towards relief as well as prevention. He also made a point that river erosion causes a permanent loss of land as compared to other disasters where losses were only temporary like loss of crop. He followed this up by saying that the rescue teams deployed in the river erosion area must be familiar with the local conditions. A need for an early warning system in river erosion as well as other kinds of disasters was re-emphasised. Ajayan highlighted that people themselves can minimize the losses of the disaster by being better prepared. He quoted an example from Kerala where one part of coastline suffered much lower damages during the tsunami because of the presence of coastal forest belt as against another area where sand-mining from the coast was high and therefore forest cover was available. He categorically made a point that disaster prone areas must always be in a state of preparedness. The group again discussed the need for an early warning system. At this juncture cases of CRZ Act (Coastal Regulation Zone) violations were mentioned where tourism infrastructure was allowed to come in areas where the villages were not allowed to resettle post-tsunami. How do we ensure that the displaced people are not at the receiving end? Ajayan also warned against accepting financial conditions from multi-lateral institutions for the relief operations because they added unfair conditions for the utilization of the funds. He quoted an example of ADB offering a loan to govt of Kerala post-tsunami, where they stated that the water supply system must be privatized and supply should be done at non-subsidised price. This would again hurt the poor. The disaster should not be allowed to become an instrument of profit. Under all circumstances people must state what they want. Tazim-ul-Haq of Murshidabad cited two examples which demonstrated that the local youth could be used in the rescue teams.

The group closed the discussions with some suggestions and recommendations which are as follows:

- Recognise river erosion as a disaster.
- Establish early warning systems to minimise displacement and reduce extent of destruction
- People's participation must be ensured for 'disaster proofing' as well as during rehabilitation
- Scope and process of social impact assessment in the case of natural disasters to be detailed
- Women, children, and the elderly to be given special attention as they are more vulnerable
- Rescue teams must be familiar with local conditions
- Disaster-prone areas must be identified
- CRZ Act must be implemented in transparent manner
- Engagement with the local communities is critical for any relief operation

Concluding Remarks

This series of discussions was held to take stock of the displacement situation in the entire country. The discussions were, therefore, held in different places – Bangalore to cover the southern and western parts of the country), Bhubaneswar (to cover the northern, central and eastern parts of India) and Kolkata (to cover the east and northeast) – to find out the different patterns and scenarios of displacement and the response of the National and State Human Rights institutions. We shall place this report for the consideration of the National Human Rights Commission along with a review of the Draft National Rehabilitation Policy 2006 of the Government of India and a report on the situation of displacement in Chattisgarh. We earnestly hope that the Commission will study these three documents and take appropriate measures to protect the IDPs in India.

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