



A Study Relating To Displacement Of Indigenous People And Its Impact

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Abstract

The most cardinal concept international humanitarian law is right to self-determination, which is of jus cogens. It connotes people have right to freely choose their sovereignty and political status, based on the principles of equality and reasonability. It is estimated representation of indigenous population is 5% of the world's population, living in more than 70 countries. The vulnerability of these populations shows their denial of human rights due to many reasons including the displacement. The displacement causes the denial of their values, primitive unique tradition, culture, knowledge, social security and all. The displacement marginalizes the indigenous people without proper and adequate rehabilitation and resettlement. In decades the planned development projects, forest conservation policies, natural disasters and many more causes the displacement of tribes from their land. The concept of economic progress and modernization is very required for the development of the country but at the same time, they extinguishing the right to life and liberty of indigenous people. This article is to focus on the problem of displacement of indigenous people, its impact and overview the legal sanctions for such in India.

Key words: Indigenous People, Displacement, Marginalization, Rehabilitation.

Introduction

The estimated populations of indigenous groups are more than 370 million spread across 70 countries worldwide those are practicing unique traditions. They retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. India is a country of large indigenous ethnic society because of rich biodiversity. As per 2011 census, India is home to about 700 tribal groups with a population of 104 million. These indigenous people constitute the second largest tribal population in the world after Africa. The concepts like development, industries, projects, forest protection policies, forest management practices encroaches their lands, culture, ecology and many communities were displaced. The goal of all development projects is to help improve people's lives through skills training and other livelihood programs. The displacement of indigenous is nothing but the denial of access to forests has impacted lives and health, especially specially of vulnerable indigenous groups. The forest or local areas are the basic sources for their livelihood without which they lose their identity.

Tribal Displacement in India

Displacement of indigenous people from their native causes trauma to the affected people. Most of the development projects are located in the scheduled areas of tribal communities. The tribal areas are rich in minerals, resources, flora and fauna and being perceived as the national properties under policies. As a consequence land has been acquired, in the name of development, civilizing the indigenous group, protection of forest and evicting the natives from their home land which is chief means of livelihood. The indigenous people have traditionally depended on the forest land resources for their survival. As per a study conducted in 2011, in 50 years around 50 million people have been displaced in India for developmental projects includes dams, industry, mines and other reasons. Out of this 21 million were induced internally displaced persons (IDPS) and of these nearly 40% tribes are the worst affected. Until now, only 2.122 million were resettled by the Government.

Many forest laws do not give much importance to the right of ownership to the forest dwellers even after occupancy and cultivation even after several generations. Displacement disturbs the way of their social, cultural, religious and economic traditions of tribal and leads to destruction.

The displacement caused due to two main reasons such as, natural disasters like floods, draughts, earthquakes and cyclone leads to displacement along with the developmental projects. The natural disaster is uncontrolled but the latter is purely man made and planned or forced In both circumstances obviously victims will be the weaker sections of the society. For rapid economic growth the India started to invest and establish the industries, mines, dams, and development of a land rehabilitation leads to the displacement of poor indigenous population from their native. As reported by the Indian Social Institute, the 21.3 million development projects including dams induced to internal displacement.

Available at: thewire.in/rights/supreme-court-eviction-tribals-displacement, (Accessed on 28, Feb. 2022)

Emerges of large dams were the main cause of displacement in India. India gets one of the largest dam building country in the world. Further the industrial development, declarations of special zones induced displacement by force. Displacement is not only the issue of economic status but it is of human rights of aboriginals. The process of displacement and rehabilitations are continues process which requires years ago to resettle. In most of time the quality of rehabilitation and resettlement of displaced are not satisfactorily. Such in adequate resettlement leads to more vulnerability and destitution.

The Narmada dam project or the Sardar Sarovar dam at Vadgam village in Gujrat, affected the life of nearly more the 41.000 families (over 200.000 people) in Gujarat, Maharashtra, and Madhya Pradesh by displacing them. This project is the result of Narmada Waters Dispute Tribunal Award of 1979 which not much consider the voice of affected tribes. But in practice. the resettlement and rehabilitation were given to less number of families. In addition to that the awarded families faced the many problems, uncultivable, insufficient, fragmented land have been given. In absence of adequate basic facilities, grazing land, firewood they are leading the life. which is of violation of right to life.

The multipurpose Hirakulnd dam project in Sambalpur district of Orissa, caused the displacement of 26, 561 families (more than one lakh people) were not compensated as of February 2002. As per the reported in 2010 by the Economic and Political Weekly out of 2,243 families in 18 rehabilitation camps consists only 8.46% of the total displaced. In 2014, 10,000 displaced families were awaiting for rehabilitation and resettlement. Now the condition is very critical, to purchase house or land for compensation paid by the government is not sufficient. Government fails to fulfill the rehabilitation and resettlement as assured while displacement. These are just few examples of displaced indigenous victims and reasons effects of such.

Once indigenous communities were considered as a part and parcel of forest as the best conservators, protectors of their bio rich habitat. The policies, government agenda in conservation and boosting tourism the tribes were denied to access their land and losing their primitive life. The rate of forest degradation by the indigenous noticeably very slow. Many researches proved that forest dwellers life style is very much contributive to the sustainable forest. But it is not acceptable by the modern conservationists, who named them as destructive to wild life and forest. According to Victoria Tauli-Corpus, UN Special Rapporteur on the Rights of Indigenous peoples, approximately 50% of protected areas across the global have been established in the tribe land. Over a century the concept of wild life conservation destruct the indigenous life by the forced displacement.

Around 450 families of Baiga and Gonda communities the Mandla and the Balaghat districts of the Indian state of Madhya Pradesh were displaced from ancestral lands in the name of Kanha Tiger Reserve. Unfortunately many affected families not received the adequate compensation. In 2017 nearly 156 tribal families were evicted by the government for the sake of Thatkola and

Available at: <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/displacement-and-development-construction-sardar-dam>, (Accessed on 12. Mar, 2022)

Available at: indiawaterportal.org/articles/doomed-displacement (Accessed on 01, Mar, 2022)

Available at: www.downtoearth.org.in/blog/forests/tribal-communities-suffer-when-evicted-in-the-name-of-conservation-64376 (Accessed on 02, Mar, 2022)

Sargodu reserve forest in Karnataka. The considerable point is that most of such evictions they were not of due process of law instead of that its violation human rights.

Rehabilitation of indigenous group never reinstate the primitive life of displaced indigenous people. The new Land Acquisition (Rehabilitation and Resttelment) Act 2013 emphasises on the rehabilitation and resettlemnt along with cash compensation. Of course even after it's a challenge to found their livelihood which continues.

Modernization and the globalisation has been another threat to the primitive habitat of indigenous group. The encroachment up on the rural land causing damage to their culture, social life which not desirable for conservation and which leads to authoritative eviction. The very astonishing matter is that the very protective

place becomes dangerous to indigenous group due to natural disaster. The massive disasters like floods, landslides, cyclone leads to displacement. The displacement of indigenous because of natural disaster is most frequent. The legal loopholes, lack of due process of law, incapable to enforce the safeguards, the political apathy never consider their voice but isolate them in the dislocation.

Impact of Displacement:

Land is the center of every human being including the indigenous people for their life. The effect of displacement from the native land amounts to loss of livelihood. The change environment causes the disruption of community life of tribe and their relationship with the biodiversity, psychological trauma profoundly. Displacement threatens the cultural as well as social identity of ethnic minorities. The forced resettlement never substitutes the native mode of production which is unique identity of indigenous people.

The displacement in the name of development rushes them towards a formal living style from the informal. The ethno based knowledge including the indigenous medicinal knowledge of tribes goes extinct due lack of herbal medicare sources upon which they found their health care knowledge. The knowledge of indigenous people is very conservative and appreciable knowledge, which got demand highly nowadays, unfortunately no statutes concerning over protection of such valuable knowledge. Indigenous people depend on agricultural land and forests for their lively hood, and socio cultural life including the indigenous knowledge, which they denied due to displacement. The compensation by the policy makers never compensates their primitive life.

The displacement of indigenous people causes the increasing of nuclear and decreasing of joint families among the indigenous community. Especially this was most noticed in case of mining projects. In most of project displacement indigenous people removed from their land, which is main foundation for their life. If Government applies the land for land norm may helpful but they won't. The monetary compensation never resettles or rehabilitates their life because of inadequacy. The displacement made them as homelessness which violates the right to shelter and settle. Because some projects just allots the plots but not built. Further they become jobless, due difficulty in finding the new job, skill and livelihood beyond their habitat. Before displacement the indigenous group is means of production but later either jobless or daily wagers. There is no

social security to them even under the policies as they become the unorganized workers. The displacement leads to the risk of food insecurity. The crops were grown on the land including vegetables, fruits and they get their firewood from the land which they displaced. Forced displacement steals everything.

The displacement disintegrate the informal conservative life style of indigenous group, often scattered the kinship, ethno, cultural identity of a community. It is the denial of accessing the common property of nature's gift like forest land sources, herbs, grazing land and other minor forest produce.

The changing environment and the situation resulted in psychological trauma often leads to the serious diseases. The food insecurity, unhygienic living nature including water in the new place caused the diseases like skin disease, rashes, diarrhea, malnutrition and other.

Legal sanctions on protection of indigenous people from displacement:

The Indian Constitution being a guardian everyone in the state, has provides certain welfare principles for tribes. The very appreciable fundamental rights are available and applicable to all including the indigenous people. The few basic structure of our constitution constituted towards human rights and the safeguards of indigenous people in India. Part III of Indian Constitution ensure the enforceable nature of basic rights, and enumerates the most progressive realization of human rights by the government without disrupting the fundamental rights. It provides the rights to seek remedies or enforce the fundamental rights before the Supreme courts and the High courts. The courts are empowered with judicial review over due process of law and secure the people.

The Constitution of India has provided for sustenance and upliftment of these communities and has made provisions for identifying the indigenous population those as scheduled tribes. The process of determination itself shows the considerable protective measure by our constitution Article 366 tries to connote the meaning of 'scheduled tribe". It is the discretionary of President with consultation of respective state Governors in absence of arbitrariness, to specify the scheduled tribes

Land is means of livelihood to tribes and plays a significant role in their heritage. Their social, economic, cultural, political life, traditional knowledge is based the land on which they found their life. Forced displacement or eviction of tribes amounts to violation of their rights guaranteed under article 14, 19(1)(g),21,25 of the Indian Constitution. Part III, IV and X of our constitution ensures the special protection to the indigenous group from all sort of expiations and infringements of rights. The fifth and sixth schedule in India established for the protection scheduled tribes and restricts the state to transfer the land of forest dwellers. Of course, the criteria to identify the scheduled areas were not supporting to reach such protection in

The constitution of india hereby respectively used the terms "Scheduled tribes means such tribes or tribal communities or parts or groups with in such tribes or tribal communities as are deemed under article 342 for the purpose of this Constitution

Karnataka." It is the obligation of the state to protect the economic interest of scheduled trihes which depends on land in which they found their life.

However, the government has enacted the protective statutes for tribes in furtherance of constitutional safe guards. Many laws were enacted by both center and state to protect them for displacement. The Indian Forest Act 1927 was to secure exclusive state control over forest, state ownership. The Act classified forests as three types ie, reserved forest, village forests and protected forests and specify that where forest rights are not available except by succession or under a grant of government. This empowers the state with special powers to secure the rights of forest dwellers as an exceptional.

Forest (Conservation) Act, 1980, has made more rigid for the developmental projects in the forest areas. This Act curtails the power of state governments, of releasing the forest land for non-forestry purposes without prior permission of central government. The Karnataka Forest Act 1963 is to consolidate the law relating to forest and forest produce in the state of Karnataka This Act empowers the executive to consider the right claimed by the indigenous population who depends on the forest for life and protect their rights instead of the stringent laws of land acquisition. It empowers the state government to declare certain land as a village forest for the benefit of any village community or the group of forest dwellers.

The Karnataka Preservation of Trees Act, 1976 is to prevent the indiscriminate felling of a large number of trees in the rural and urban areas of the State of Karnataka leading to erratic rain falls, recurring famines and floods, soil erosion and consequent ecological disturbances. Regulating the felling of trees and planting to restore the ecological balance and connected therewith. It ensures for constitution of tree authority, and appoints range forest officer, deputy conservator of forest as tree officer. The Act came in to force to preserve the ecology from natural disasters due to the felling of trees in some areas. This affirmative act of state may the avoidance of displacement of indigenous people because of natural disasters.

The very unfortunate aspect in the wildlife protection act 1972 is that the term 'wild life' nowhere recognizes the life of indigenous population in wild, where they found life along with other wild life. It is to provide for the protection wild animals, birds and plants and for other matters connected incidental there to with an intention to secure the environment or ecology of the country. But the Act would consider the rights of indigenous people and their life style in wild is preservative sustainable in nature, which should be consider for the purpose of protection of wild life.

Forest Conservation Act came in to force to preserve and conserve the natural forests which fulfill the basic essentials of indigenous people. It restrict the state government while any forestry activities without prior permission of central government And the central government

The Fifth Schedule of the Constitution deals with the administration and control of Scheduled Areas in any State other than the States of Assam, Meghalaya, Tripura and Mizoram. Tribes in the states of Kerala, Tamil Nadu, Karnataka, West Bengal, Uttar Pradesh and Jammu & Kashmir have not been brought under the Fifth or Sixth Schedule

1. Available at [aranya.gov.in/aranyacms/\(S\(Ovt020d15eezifehp0odlais\)\)/English/ActsRules.aspx](http://aranya.gov.in/aranyacms/(S(Ovt020d15eezifehp0odlais))/English/ActsRules.aspx) (Accessed on 13 Mar, 2022) *

Amended 1988

Amended in 2016.

will have an advisory committee to help with regard to conservation of forest. The very purpose of this act is to recognize forest as common heritage and promote sustainable development for the purpose the future. The life of indigenous people is common heritage of the forest need to be conserved for their future generation. They should not be denying from their heritage life in their land.

Another reasons for displacing is polluted or hazardous environment and Environmental protection act 1986 was enforced to provide preventive and remedial measure for the control and mitigation of all forms of environment degradation. Of course the act bars the forest from its ambit. But it can restrict and regulate the developmental project which leads to degradation of forests. Section 7 restricts the any industry from discharging or emitting any environmental pollutant.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 came in to force on 18 December 2006, which also known as Forest Rights Act, the Tribal Bill, the Tribal Rights Act and the Tribal Land Act. It recognizes the indigenous people who are forest dwellers for their livelihood. But at the same time it authorizes the executive to monitor the sustainable use of forest resources to conserve the forest biodiversity. This act rectifies the colonial as well as the other injustices to the forest dwellers and ensures the food security. It empowers the Gramasabha in the process of determining the nature and extent of forest rights of an individual or a community and its restoration. This act protects the forest dwellers against eviction, diversion of forest and forced displacement or relocation subjected to the completion of

recognition and verification procedure under section 4(5). "It excludes the all possibilities of forced displacement.

The object of Biodiversity Act 2022 is to realize the equitable sharing of benefits arising out of bio resources and the knowledge. For that it provides for conservation, sustainable use of biological resources with the local communities. It accepts the nature of natives rights over forest for their life.

Conclusion and Recommendations

In conclusion, the foregoing presents some of the reasons and impacts of indigenous displacement which challenge to their life. It is not the past event its continuous process caused by the developmental and unscientific traditional environmentalists. The issues of economic development, the voices of environmental protection are quite new and mere exaggeration in the name of affirmative action. State should identify the recommendations to curb the challenge between tribal displacement and development, eco protection.

From last few decades the internal displacement of tribes has become serious issues, nationally and internationally. Various national and international instruments, treaties, conventions are came in to force and established the various authorities including the non-governmental organization to meet the problem of displacement is appreciable. However the effective and proper implication and adoptions are necessary to protect them from displacement. The government should enact proper law which exclusively regulating matters connected with the displacement of indigenous people. Such law is to avoid the adverse impact of development and

Available at: tribal.nic.in/FRA.aspx (Accessed on 13, Mar, 2022)

other on indigenous people up to the extent possible. The state should take protective measure e indigenous people's dignity, basic rights and cultural, social heritage by mininuzation of mitigation or adequate compensation.

The process of eviction of forest dwellers under the Forest Dwellers Act 2006 must be implemented in due process. The law and process should avoid the displacement to maximum possible extent. In case of compulsory displacement due to any reason the state should consider the maximum resettlement and rehabilitation. It is with objective to reinsure life style with the means to continue their traditional knowledge. The state should consider the community before and after the implementation of displacement through public hearings, notification in appropriate manner and collective opinion.