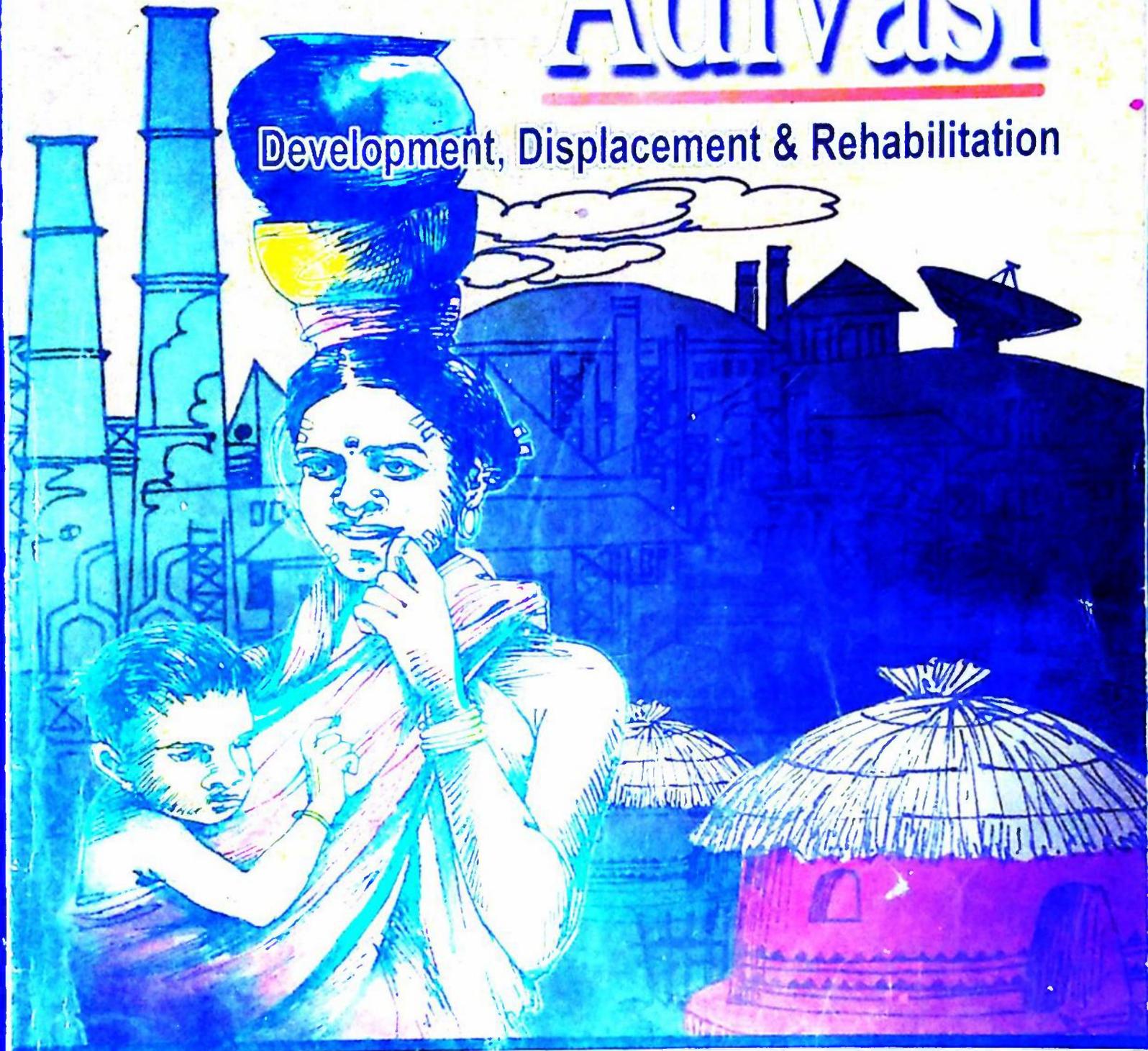


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Journal of Scheduled Castes & Scheduled Tribes Research and Training Institute (SCSTRTI), Bhubaneswar, Orissa, India.

EDITORIAL

A large number of Development Projects have been taken up in the State of Orissa ever since Independence to usher speedy economic growth and development. Conservative estimate reveals that, in Orissa, on account of development projects, about 7 lakh people have been displaced so far losing their home and hearth, and a further estimated number of about 15 lakh people have lost their productive land without being physically displaced; while about 10 lakh more people have been adversely impacted losing neither home nor land (indirectly affected). Till the early part of 1990's, majority of the development projects were in the Irrigation sector and more than 80 percent of the displaced people were from this sector alone, but the trend has been reversed now and one finds that during the first decade of the 21st century, more than 80 percent displacement is taking place in the industrial/mining sector alone. One of the striking features of the development projects in the state as witnessed is that, in case of the non industrial projects, tribal displaced persons constitute about 35 percent whereas in case of industrial/mining projects, proportion of tribal displaced person comes to about 75 percent. As has already been revealed from a large number of empirical studies, the tribal people are affected disproportionately in the development projects. Therefore it is extremely essential to deal the resettlement and rehabilitation issues of the tribal people with great care and caution. In fact, after the promulgation of the Industrial Promotion Resolution (IPR), a host of business houses have shown their keen interest in setting up their projects in the state and this has given signal of displacement of a sizable number of tribals. Realizing the magnitude of displacement expected in the coming years and looking at the plight of the affected persons, the state government of Orissa has come up with a very progressive and comprehensive R&R Policy for the project affected persons in the shape of **Orissa R&R Policy 2006** and two other special packages - **R&R Package for Kalinga Nagar** and **R&R Package for POSCO**.

Since displacement and rehabilitation has become a major issue in recent times and displacement is inevitable for setting up development projects, especially in a mineral resource rich state like Orissa, a special volume titled **Development, Displacement and Rehabilitation** is being brought out by the institute. This special volume contains a total number of 10 articles, 9 of which relates to Displaced Tribals. All the articles are based on rich experience of the authors. It also has incorporated as annexure, the three important R&R Policies which the state Government of Orissa has come up with during 2006 (Orissa R&R Policy 2006, R&R Package for Kalinga Nagar and R&R Package for POSCO) for information of readers. A brief on each of the articles incorporated in this special volume are given below:

- The first paper titled **The International Dimension of Tribal Displacement: Findings on Resettlement and Impoverishment in Africa** is based on the empirical study done by the author in Africa and the paper has discussed at length the core issues of the displaced tribal in South Africa and its implications for Development Projects for the tribal displaced persons in Orissa.
- The second paper titled **Displacement and Rehabilitation of Displaced People in India** is based on the longstanding experience of the author on displacement and rehabilitation. In this paper the author identifies the poor resettlement and rehabilitation operations in the past and pleads for a better resettlement and rehabilitation approach for the displaced
- The third paper titled **Development Projects and Displacement of Tribal Peoples** gives an overview of development projects and various dimensions of displaced tribals in India and the author has described his own rich experience in dealing with R&R issues.

- The fourth paper titled ***Displacement of Tribal People with Land Resources for Development Projects: Their rights and entitlements for Rehabilitation*** has focused in details the issue of traditional land rights of the tribal and their entitlements and the author has suggested how to deal with compensation issues in respect of the tribal land coming under acquisition for development projects.
- The fifth paper titled ***Development Induced Displacement: Impact on Tribals*** has discussed at length the processes of alienation of tribal sustenance on which their communities depended on the basis of data collected from states like Kerala, Andhra, Orissa, Jharkhand, Goa, West Bengal, Assam, Gujarat, Meghalaya, Mizoram and Tripura.
- The sixth paper titled ***Critical R&R Issues of Displaced Tribals in Mining Projects*** is based on extensive research work done by the author in the field of R&R for past 15 years and the author seeks to identify some critical issues that need to be factored in while planning mining operations so as to ensure that they go on smoothly without incurring the wrath and without causing impoverishment to the tribal people impacted on account of such mining endeavor.
- The seventh paper titled ***Woes of the Uprooted*** is based on an empirical study on the Rengali Multipurpose Dam Displaced Persons. On the basis of the findings of the study, the author recommends to study the social structure and culture of the uprooted for formulating an appropriate resettlement plan for effective Livelihood Restoration of the displaced persons so that the woes of the oustees could be minimized and they are socio-culturally rehabilitated to carry on their life style.
- The eighth paper titled ***Health Impacts of Forced Displacement: A Case Study of Tehri Dam in India*** has very clearly stated various Health implications in Involuntary Displacement on the basis of the empirical study on the Displaced Families of Tehri Dam Project.
- The ninth paper titled ***Industrialization and Displacement in Orissa: Need for Resettlement and Rehabilitation with empathy*** has harped on the core issues of the tribal displaced persons and has pleaded that tribal oustees in industrial areas need to be treated as the partners of development projects.
- The tenth paper titled ***Involuntary Displacement and Rehabilitation of Project Affected Persons in Upper Kolab Project, Koraput*** is based on an empirical study. The paper suggests that the entire issue of displacement and rehabilitation must be seen as a human rights problem from the angle of resource losers and not as a relative deprivation, which can be ameliorated by providing a material rehabilitation package.
- In the annexure of this volume, Orissa R&R Policy 2006, R&R Package of Kalinga Nagar and the R&R Package of POSCO have been provided for the benefit of the readers who are involved and interested in issues pertaining to R&R.

I extend my sincere gratitude to all the paper contributors for their laudable efforts in contributing the articles for this special volume of ***Adivasi***. I also hope that the articles incorporated in this volume will be of great help to the researchers, academicians, development practitioners and all those who are interested on R&R issues to know finer details of displacement in general and tribal displacement in particular.

15th January 2007
Bhubaneswar

A.B.Ota
DIRECTOR

THE INTERNATIONAL DIMENSION OF TRIBAL DISPLACEMENT (Findings on Resettlement and Impoverishment in Africa)

* *Michael M. Cernea*

Forced population displacements processes rank among the most dramatic economic, demographic and social pathologies triggered by industrial and urban development. The language of "right of way," of "footprints" for new industries, of "special economic zones" (SEZs) or of "protected areas" (PAs) and "exclusion zones" is now louder and more demanding than ever: all these demands result in physical and economic displacements. Official UN statistics on development-caused displacements are not kept, but our current estimates indicate that each year over 15 million people worldwide are uprooted from their lands and livelihoods by development projects in all sectors.

I

A WORLDWIDE PROBLEM: TRIBAL SOCIETIES FACING DISPLACEMENT

Within this worldwide process, the displacement of a particular category – tribal populations – is especially complex, and socially most painful. The demographic composition of many countries includes considerable segments of tribal populations, still enmeshed in pre-industrial customary tenure systems and engulfed in most severe poverty. Among the world's largest developing countries, India and Brazil are only two examples of countries with massive tribal/indigenous populations. Many smaller countries have also relatively large tribal populations.

Empirical social research has also documented beyond doubt that, worldwide, "*indigenous people have suffered disproportionately from the forced displacement process*" (Chatty and Colchester, 2002; see also Colchester 1999; Mahapatra 1994; Ota and Agnihotri 1996; Baboo 1992; Saksena and Sen 1999). In India, for instance, under the Sardar Sarovar dam project built in a mountainous region, no less than 95% of the population displaced from the Gujarat submergence area were tribals (the Tadvis, Bhils and Ratthwa), while in Madhya Pradesh about 40% are tribals and the rest are caste Hindus (Morse and Berger, 1992; Renu Modi, 2004).

Thus, by both ubiquity and common content, tribal displacements are a vast *international problem*, not only a *national problem* of just a handful of countries. Yet this macro-problem remains still far from being fully recognized as such¹. The emergence of a large literature in India or Brazil on tribal displacement may allow for some the false impression that this is a local country problem of India or Brazil alone. Not so at all. Such tribal societies exist in many countries, large and small, in Africa, Latin America, and Asia. What may be country specific are some local features of the pathological content of tribal displacement, resulting from the history and contexts of these populations. But in terms of geographic spread at the current time of galloping globalization, the displacement and dispossession of indigenous tribal societies is an international phenomenon.

It is for this reason, I understand, that the editor of the present special volume dedicated to tribal displacement in India, Prof. A.B. Ota, has invited me to contribute a

¹ One formal step towards such recognition was the institutionalization at the United Nations of the position of the Representative of the UN Secretary General for the problems of Indigenous Populations, a function now held by an eminent scholar, the anthropologist and sociologist Roberto Stavenhagen.

paper highlighting the *international dimension* of tribal displacement, particularly the presence, manifestations, and effects of such processes outside India, in Africa. I started previously such a study on how the impoverishment risks of forced displacement manifest themselves among indigenous populations in African countries and I accepted the invitation to build upon my prior research. Tribal structures are still ubiquitous in the vast majority of African countries and they govern much of the existence, productive activities, tenure systems and cultural identities of very large swaths of Africa's population. Therefore, in this paper I will present some recent findings about the displacement of tribal communities in various African countries, particularly about the impoverishment and social disarticulation effects of displacement.

a) Study Objectives and Approach

The approach of this study starts from the analytical model of impoverishment risks and reconstruction (IRR) that I developed in the '90's, and follows its methodology.

As a first research objective, I remain interested in learning how the IRR model is being employed in Africa:² are its hypotheses validated by on-going research in the conditions of that region? What dominant trends are revealed by the model's application to the displacement/resettlement of Africa's tribal population? For further refining the IRR model, it is also important to learn how it fares as a theoretical framework used by scholars to analyze and interpret local displacement processes.

To answer these questions, it became necessary to do a secondary analysis, and a synthesis, of the empirical findings reported in a large amount of scholarly publications and in many "gray literature" documents prepared for actual development projects.

This itinerary across current research and across many economic sectors causing displacement has resulted in another knowledge benefit as well: a broad panorama, sketched out below, of both actual resettlement processes in the African continent and of resettlement scholarship in Africa over the last ten years. This panorama reflects much of the current state-of-the-art in the African resettlement literature.

The other key objective of this study is to highlight how and why the tribal/indigenous populations are more prone than other groups to suffer the hazards and effects of impoverishment as a direct outcome of development-caused displacement. Also, the aim is to assess the extent to which Africa's experiences with tribal displacement are paralleling and repeating the known experiences of non-African countries tribal populations, similarly affected by loss of lands and natural resources. A general tenet of the IRR model is that even the same risks do not manifest themselves everywhere identically. For instance, *the intensity* of the general risks in displacement differs depending on circumstances (site, sector, season, etc.) and on the historic characteristics and vulnerabilities of one or another population group. This has been, indeed, fully reconfirmed by the present research on Africa's indigenous populations, as will become obvious in the following sections.

Tribal groups tend to have certain defining common characteristics, among which are: a low degree of social and political organization; embeddedness in customary land tenure systems and absence of formal legal ownership title on assets; low technology,

² There is an obvious need for other similar syntheses of empirical findings in other geographic regions: for instance, studies on forced displacements in Latin America, in South-Asia and South-East Asia, or in the Middle East. These subjects are awaiting their authors...

rudimentary means of production, and low productivity; high economic dependence on common property natural resources; high vulnerability to health hazards; a strong cultural identification with, and sense of belongingness to, their given natural environment. The parallelism between these defining features and some of the basic risks identified in the IRR model is striking.

Overall, the result is that the (general) impoverishment risks identified in the IRR model tend to reach higher degrees of intensity among tribal communities than when they affect other (non-tribal) segments of the population – those more developed economically, better organized socially and politically, with legally titled ownership on land and other income generating resources. The findings from Africa presented further document this, and corroborate many similar findings from research on India's or Latin America's tribal population.

b) Conditions of Research

As said above, in pursuing the defined research objectives, I will bring into discussion and rely upon the work of social scientists who have carried out recent research on a broad spectrum of Africa's displacement cases. This study will analyze their methodology and highlight their empirical findings and conclusions.

In selecting the primary research studies and reports for the present analysis, I set three limiting conditions:

- (a) that the primary studies about displacement be directly focused on risks;
- (b) that their authors employ in their research the Impoverishment Risks and Reconstruction (IRR) model as analytical methodology, or discuss the IRR model conceptually with reference to its validity for Africa's
 - resettlement experiences; and
- (c) that their research has been carried out in the last 8-10 years, and reflects the current state-of- the-art in the resettlement literature.

Since these conditions impose stringent selectivity, I did not expect to find a large number of primary studies meeting them. Surprisingly, however, the sheer number of studies that I did find employing the IRR model much exceeded expectation³. Indeed, this conceptual framework has been embraced widely within the international community of resettlement researchers and many have internalized and applied it in their field studies, publications, and teaching. Koenig estimated in 2001 that *"the Risks and Reconstruction Model ... has probably become the dominant model used to approach involuntary resettlement within the context of large-scale projects"* (Koenig, 2001:1). After 2001, the use of the IRR framework has expanded much further, both in development-induced displacement studies and in analyzing other types of displacements. It is therefore appropriate to take stock and examine what new ideas and findings such research applications have generated as results.

Worth emphasizing, also, is that resettlement research in Africa has expanded also by entering in new sectors of the economy, displacements had not come, until recently, under inquiry. One example is the displacements in the mining sector, discussed further. Another significant feature is that this research-expansion is due not only to academic scholars, but largely also to **applied** researchers responding to demand coming from

³ Though these published studies are numerous, most probably there are many others works employing the IRR framework, of which I regret to not have learned yet. My analysis is restricted to those risk-oriented studies from Africa that I learned about so far (and I'd welcome signals about any other such studies).

planned interventions in the public and private sectors. In fact, academic research (in Africa and elsewhere) is being criticized – in my view, justifiably – for still showing scant interest in the study of development-caused displacement and its noxious effects.

Overall, the richness of this recent research wave is impressive, thus making the task of this study more complex⁴ by pushing it into domains not intended initially, like conflict-caused displacements. Forced displacement is a painful social pathology regardless of whether it is caused by justified development programs, or by atrocious conflicts such as internal civil wars, inter-state wars, and violent ethnic persecution. *Development-induced* forced displacements and *war/conflict-caused* forced displacements emerge from different causes, but share profound similarities in their effects, not only differences. Civil wars in Africa have taken a terrible toll on defenseless tribal groups, and the tragedy of Darfur, combining civil war triggered with the intent of ethnic cleansing by direct extermination or by forced permanent displacement, is the epitome of such processes. From East to West and from North to South, the indigenous populations of the African continent, underdeveloped and afflicted by grinding poverty, have experienced – are experiencing – multiple types of displacements and their severe consequences

c) Structure of the study

The present study is divided into 10 sections. After this introductory chapter, which defines the study's objectives and approach, section two will emphasize the connection between investment trends, accelerated development and growing displacements. Section three will succinctly outline the IRR framework, its functions and constitutive elements, the recent ascent of the *concept of risk* in resettlement research and the main topical areas of risk-oriented resettlement research in Africa.

Further, the core of the paper consists of eight sections in which we analyze the corpus of resettlement studies that I have identified to date, studies that have examined displacement in Africa by using the IRR model either as methodology (both in case-based studies and cumulative sector-wide syntheses), or as a theoretical framework for interpreting the content of DIDR (Development Induced Displacement and Resettlement). The next two sections discuss **sectoral** specificities: section four – the issues and growing extent of displacements caused by **Africa's expanding mining industries**; section five – the forms of impoverishment risks in the **urban sector**, including displacement from shanty towns and the peri-urban displacements triggered by expanding cities; here, we encounter also resettlement of war-displaced people into urban contexts. Section six reviews the theoretical issues and empirical findings of studies devoted to one major risk that strikes at the heart of most tribal societies: the **loss of access to common property natural resources** and the unraveling of their customary tenure patterns. Section seven is devoted to **resettlement through population transfers**, focusing mostly on Ethiopia's state-initiated transfer programs of mixed character – both voluntary and compulsory. Considerable emphasis in the Ethiopian research is placed on the **relationships between resettlers and hosts'** populations and on social re-articulation of community patterns after relocation. Section eight addresses the use of the IRR model not only for analyzing development-induced displacements, but also for studying **war-and conflict-induced displacement**. Section nine moves the discussion to indigenous populations residing in conservation parks and

⁴ Clearly, not all issues raised in the studies I'm analyzing can be addressed in this paper. I'm giving priority to highlighting the empirical and methodological dimensions, while discussing some theoretical aspects as well. This discussion will certainly continue.

examines their **exclusion and displacement from such “protected areas” (PAs)**. Displacement is defined here according to new international standards not only as residents’ *physical* relocation but also as displacement *in situ*, that is **economic displacement through “restriction of access.”** This research has led to a strong argument for renouncing strategies of park-creation that are predicated on physical displacement. The tenth section is devoted to IRR analysis in **dam-caused forced resettlement**. While reviewing the findings of several researchers, it focuses on Scudder’s illuminating synthesis of impact data from 50 large hydroelectric dams. Africa’s hydropower dams represent 25% of the dams analyzed in this study. Finally, the last section distills the main conclusions of this extensive analysis, and also points out research directions worth pursuing in Africa’s future resettlement research.

Taken together, the above “block” of eight sections offers the panorama of a large research front in Africa embracing all key sectors of the economy and of the rural and urban societies. This broad view also testifies to the original ways in which numerous social scientists, working independently of one another, have used the same IRR methodology. Their research innovations are highlighted, together with their contribution in revealing not only the general risks of the IRR model, but also additional, locally-specific and idiosyncratic risks encountered by displacees in different contexts.

II.

AFRICA: TO TRIBAL SOCIETIES, DEVELOPMENT COMES AS DISPLACEMENT

a) Typology of state-initiated displacements

Africa’s tribal societies are enduring multiple types of forced displacements.⁵ I outlined elsewhere a general typology of forced displacements consisting of seven types.⁶ The present study includes research on four of these seven types of displacements:

- (a) **Displacements by development programs** (in infrastructure, public utilities, highways, etc.);
- (b) **Displacements by environmental conservation programs** (e.g., the establishment of national parks, game reserves, game corridors, etc.; often these conservation projects are treated under the rubric of development, although they are distinct in content and outcome);
- (c) **Displacement by population-transfers programs**, initiated by governments, under either a development rationale or a disaster-avoidance rationale. Such programs often are a mixture of forced and voluntary resettlement⁷.

⁵ In addition to the concept of “forced displacement”, another term – “forced migration” – is being used in some publications to designate more or less the same category of processes. However, strong reservations have been expressed about the term “forced migration” (see Turton 2003/2004; Cernea 2004;) as being a contradiction in terms and inviting confusion between coerced (no-choice) displacement and usual migration processes which imply actors’ own decision. In this paper, I will use consistently “forced displacement”.

⁶ This typology was proposed in a paper I presented first at a conference organized by the US National Academy of Sciences in Washington in 2004, and subsequently in the *Kalinga Lectures* that I delivered in Orissa in December 2005.

⁷ Examples of such projects are the large-scale villagization program in Tanzania in the 1970s, or the resettlement transfer programs promoted by successive Ethiopian governments based on a disaster-avoidance rationale. Usually, such state programs are introduced as voluntary resettlement programs. In practice, however, such programs often turn coercive, forcing some population groups to

the analysis of how these potential risks are arrested and preempted, or - conversely - of how they sharpen and materialize into real negative impacts, that is the subject of research through the lens of the IRR methodology.

We will briefly summarize the IRR framework for the purposes of this paper¹².

b) Functions of the IRR Model

The IRR model rests on three basic concepts: *risk*, *impoverishment*, and *reconstruction*. These "building blocks" are further split into sets of specifying notions, each reflecting another dimension of either impoverishment or reconstruction (e.g., landlessness, marginalization, social disarticulation, social inclusion, and others). This set of interlinked concepts refines the theoretical discourse on displacement helping to capture better its nature, effects, or remedies. This way, the model reflects the dialectic between *potential* risks and *actuality*. It always remains open to also analyze whether some of its risks do not materialize in a given context.

The IRR framework can play four functions, either for research or in the operational planning and implementation of development projects. These are:

1. *A predictive function*, to anticipate the risks inherent in programs causing displacement and resettlement;
2. *A diagnostic function in the field*, to guide operational research on assessing the presence and the likely intensity of each impoverishment risk;
3. *A problem resolution and planning function*, to help design project actions tailored to prevent or mitigate each identified risk; and
4. *A research methodology function*, to inform scientific research in organizing the study of displacement, in generating hypotheses, and in interpreting and conceptualizing the findings.

c) Risks of Impoverishment

The cognitive and analytical advantage of the IRR model results from the information about past processes "stored" and synthesized in the model.

Employing the model saves time and efforts by obviating the need for beginning anew the general risk identification in each project – so to say, from "square one". It offers instead, as an ex-ante starting hypothesis, a well-tested matrix of eight basic impoverishment risks that, as historical experience has shown, tend to be present in most situations of forced displacement. The framework also directs analysts towards considering impoverishment not only in terms of income, but also in terms of lost work opportunities and shelter, lost health and nutrition, restricted access to common natural resources, or degradation of social capital. Indeed, the eight most common impoverishment risks captured in the IRR model are:

- (a) landlessness;
- (b) joblessness;
- (c) homelessness;
- (d) marginalization;
- (e) increased morbidity and mortality;

¹² For the latest full presentation of the IRR model, see Cernea 2000. See also the discussion of the IRR model by other authors, for instance, in India, by Mahapatra 1999; Pandey and assoc. 1998; Mathur and Marsden 1999; Jain and Bala 2006; Mathur 2006. In the international literature, see among others: Koenig 2001; Robinson 2003; de Wet 2004, 2006; Scudder 2005.

- (f) food insecurity;
- (g) loss of access to common resources and services;
- (h) social (community) disarticulation.

d) Orientations in Reconstruction Strategies

The second part of the IRR framework turns the risks matrix on its head and outlines counter-risk strategies to be translated into targeted operational project provisions.

Before displacement actually begins, the social and economic risks of impoverishment are only potentialities, likely processes. The concept of risk focuses the mind on processes that are not yet actual, that may happen but also that may NOT happen – if adequate counter-risk measures are taken. When preventative counteractions are not initiated, these potential hazards convert into actual, materialized impoverishment. Therefore, for overcoming impoverishment, the internal logic of the IRR as analytical and problem-resolution tool prescribes attacking risks preemptively, early on.

Similar to how it de-constructs displacement into distinct risks, the IRR also deconstructs risks-reversal into a set of reconstructive, pro-poor support activities,¹³ able to lead:

1. From landlessness to land-based resettlement;
2. From joblessness to reemployment;
3. From homelessness to house reconstruction;
4. From marginalization to social inclusion;
5. From increased morbidity to improved health care;
6. From food insecurity to adequate nutrition;
7. From loss of access to restoration of community assets and services; and
8. From social disarticulation to rebuilding networks and communities.

The research question, however, remains equally sharp: under what conditions can the reconstructive processes occur? Are the mitigating actions by the displacing agencies, and the coping responses of those displaced, effective in averting impoverishment?

This orientation to reconstruction indicates that the IRR model isn't just a predictor of inescapable pauperization: on the contrary, it maps the roads for restoring livelihoods. Research on reconstruction is indispensable to assess whether the roads towards preventing impoverishment are followed in actual projects.

e) Risk-Oriented Resettlement Research in Africa

The analysis of the IRR-informed studies on African resettlement indicates that relevant new knowledge has been generated especially, but not exclusively, on the following issues:

- the displacement risks at project level;
- the characteristics of sector-level displacement risks in industrial sectors (mining industry and dam construction, in particular);
- the specifics of impoverishment risks in urban displacements;
- the failures of the displacement-based strategy for establishing nature conservation parks and game reserves etc.;

¹³ Asian Development Bank (ADB) *Fighting Poverty in Asia and the Pacific. The Poverty Reduction Strategy of the Asian Development Bank*, November 1999, Manila:

- the need for major revisions in the park-creation policies of governments and international conservation organizations;
- the risk involved in population transfer programs, and in the new resettler-host relations;
- theoretical conceptualizations of risks, losses, and the complexity of DIDR.

The primary validation test to which virtually all studies have subjected the IRR model was: are its essential risks evidenced by empirical research on displacement in Africa?

This question was asked by Sonnenburg and Münster (2001) and by Downing (2002), regarding displacement risks in mining sector projects; by Scudder (2005), de Wet (2000), Kassahun (2004), Modi (2002), and others for displacements by hydropower dam projects; by Dinku (2004), Faure (2004), Fekete (2004) for urban and peri-urban projects; by Schmidt-Soltau (2002, 2003) and Rudd (2004) and Chad Dear (2006) for conservation park programs; by Gebre (2003, 2004, 2005), Wolde-Sellasie (2000, 2004) and others for population transfer programs. The test resulted in a **general empirical validation**. Chris de Wet has formulated the broadest comprehensive assessment:

"The ethnography of dam-induced resettlement in Africa provides plenty evidence of Cernea's now established impoverishment risks of landlessness, joblessness, homelessness, marginalization, loss of access to common property, etc., becoming actualized at the individual and household, and even community, levels" (de Wet, 2005).

Further, the contrast between potential risks that materialize and reconstruction promises that do *not* become reality is shocking. While the basic poverty risks are reported to be virtually similar in all sectors, recurrent, and widespread, the reconstruction processes towards which the "risks *and reconstruction* model" calls, on the contrary, are reported to occur much less frequently. Therefore, together with de Wet,

"one is left asking why, in Africa as elsewhere in the world, so many... of the specific attempts to counter Cernea's impoverishment risks are still meeting with such limited success" (de Wet, 2004).

This is a valid and fundamental question, to which we'll return further in this paper.

In addition to the model's basic risks, researchers are prompted by the IRR framework to explore the presence of various other risks, specific to one or another local context. Among these are risks stemming from losses in the structures for institutional services, weak as these may be even before the project, particularly in school services for the group. Displacement and resettlement processes are "inherently problematic institutional processes" (de Wet); risks related to defective institutions range on a broad spectrum,¹⁴ inherently complicating (or "complexifying") through inadequate management what are already very painful social pathologies, difficult to keep in check.

The idea emerging from multiple studies is that the risk-focused perspective of the IRR framework is fertile not only in analytically yielding knowledge about the general (common) impoverishment risks, but also theoretically, in focusing the mind upon identifying other, specific local risks and on acting against them.

¹⁴ Still at this time, the vast majority of African countries have established neither policies nor laws for state-induced displacement, nor specialized institutional capacities to manage such processes when they occur.

IV.

EXTRACTIVE INDUSTRIES AND THE DISPLACEMENT CLASH WITH TRIBAL SOCIETIES

While in the '60s and '70s the early literature on Africa's development-displacements centered on hydropower dams (Kariba Dam, Akosombo Dam, Aswan Dam, Kpong Dam and others), during the past 6-8 years we are witnessing how an economic sector very little studied in Africa in the past is being brought under the limelight of research: this major sector is the extractive and mining industry and its accompanying mining-induced displacement and resettlement.¹⁵

Few other examples are as poignant as the case of extractive industries to illustrate the dramatic clash between tribal societies, on the one hand, and globalization and its demands, on the other hand. The global rush of demand for natural resources prompts scores of transnational corporations to request access to mineral resources dormant under lands occupied and used by tribal societies from times immemorial. They request vast areas for industries' footprints, for roads, mines, processing plants, storage and countless facilities. The forced displacement of populations inhabiting these lands is the first impact and flash point, the fulcrum of the first major social clash. Displacement becomes the cross-road area. Global trends meet local traditional patterns of socioeconomic organization. Clearly, this is a huge mismatch. National corporations join in, of course, amplifying the pressures exercised by transnational corporations on governments to make the lands and resources available. This is as true for West Africa, where giant corporations like Exxon, Total, Chevron, and others valorize gas or mineral resources, and physically or economically displace tribal agrarian or fishing communities, as it is true in Eastern India, where giant transnational companies like the Korean POSCO (and many others) displace Orissa's tribal forest communities,¹⁶ as it is true in West Papua, in Brazil, and other countries.

Of course, mining-caused displacements and resulting conflicts with tribal populations are not a new phenomenon, and countries like India, Brazil, Mexico, and others have an earlier history than Africa of such processes. The development of Africa's extractive industries is rapidly accelerating now, reflecting the worldwide surge in demand for natural resources, but in fact began decades ago and has caused many forced displacements. But those were largely unreported in research (e.g., the long development of Nigeria's vast oil extraction industry). Indeed, social science studies on mining-induced displacement and resettlement (MiDR) in Africa, for as yet unexplained reasons, have generally not been conducted until quite recently, in contrast with the intense study of Africa's early dam-displacements.

¹⁵ This broad sector encompasses coal and all other mining extractive industries (aluminum, iron, ore, gold, oil, gas, etc.), the thermal plants with their large footprints, LNG plants, pipelines crossing waters to the sea-shore, etc. This sector's industries require considerable expanses of land to extract and process natural resources, as well as lands for ancillary structures and marine exclusionary zones.

¹⁶ It is worth noting that in Asia, particularly in India, a mining-induced displacement is being increasingly studied during the last 10-15 years. Numerous Indian researchers explicitly employ the IRR model in these studies. This creates the opportunity for comparative secondary analyses of findings along similar risk variables to tribal communities and of the groups between Asia (e.g., India) and Africa (for India, see studies by Agarwal 2000; Dhagamwar, De and Verma 2003; Mahapatra 1994, 1999; Mohan-Mathur 2005; Madhu Balla 2005; and others).

a) Displacement Specifics in the Mining Sector

Two major syntheses are available on mining-caused displacements in Africa and both explicitly adopted the IRR model as their methodological and conceptual framework: the Sonnenberg and Münster (2001) study focuses on a mineral-rich region encompassing 10 states in Southern Africa (Angola, Botswana, Malawi, Zimbabwe, Lesotho, Swaziland, Namibia, Mozambique, and Tanzania).¹⁷ Theodore Downing (2002), in contrast, addresses African mining-caused displacements as part of his worldwide synthesis on this sector. All three authors focus centrally on impoverishment processes. However, while Sonnenberg and Münster primarily explore economic aspects, Downing takes a more holistic anthropological approach, stressing cultural as well as material impoverishment.

Sonnenberg and Münster (2001) selected the IRR model as their research-lens "because it provides a comprehensive framework with which to approach resettlement projects, [and] is current, and relatively widely accepted as an improvement over previous models. Because it is generic, it can be tailored to the specific needs of industrial programs" (p. 5) "The IRR model calls for the correction of three entrenched flaws that account for the current neglect of the risks of impoverishment: flaws in conventional risk methodology, flaws in cost-benefit analysis, and lack of genuine community participation" (p. 8-9).

In turn, Downing (2002) explains the choice of the IRR by writing that:

"development-induced displacement unleashes widespread social, economic, and environmental changes that follow well established patterns... A frequently used model for organizing these risks patterns is the impoverishment risks and reconstruction model Worldwide academic research has confirmed this model, expanding its scope..." (2002, p. 8).

A third, more limited, study on mining in Africa (Sinkala, 2000), comments that the eight impoverishment risks in displacement identified by the model causally lead to an overall "loss of socio-economic security" by affected populations. Sinkala points out that insecurity caused by displacement backfires and, in turn, "weakens the mining and minerals sector's contributions to Africa development" (p. 1, 14).

What have these studies of the mining-industry found?

Sonnenberg and Münster included both "*brownfields*"¹⁸ and "*greenfields*"¹⁹ among the projects studied. The data available for each case was limited²⁰, because the companies were not forthcoming about the displacement that resulted from their projects. Sonnenberg and Münster's study therefore only counted about 37,000 people

¹⁷ This African sub-region is one of the richest mineral zones on the planet (and its population-- one of the poorest). The region's states derive, on average, about 10% of their GDP from mining and 40% of their foreign exchange from mineral exports.

¹⁸ Projects that expand existing facilities causing less displacement, like the Konkola mine in Zambia.

¹⁹ Projects that construct new extractive industries where none existed, causing larger land-takes, like the Bulyanhulu project in Tanzania.

²⁰ Additional projects included the Mozal plant in Mozambique, the Kwale project in Kenya, etc.. plus three mining projects in West Africa (The Tarkwa gold fields in Ghana, and Yatela Gold Mining and Sadiola Hill project in Mali)

displaced, an obviously understated number. Yet, the overall image pieced together by the authors is appalling. Displacement practices primitive means when compared to sectors where both scientific research and civil society concerns have been present. The "shortcomings of existing legislation..." for instance, regarding land acquisition and lack of assistance "...are not specifically addressed as issues in their own rights" (p. 28), compensation "is not adequately addressed"²¹ leaving plenty of room for arbitrariness. The result, as the authors conclude, is that responsibilities for resettlement –vital to the avoidance of further impoverishment– "are not clearly defined and are subsequently reflected to the detriment of the displaced and host communities" (p. 28-29).

The Sonnenberg-Munster study goes further to identifying some of the specific characteristics of the South African mining sector²², grouping features under relevant rubrics such as "institutional frameworks" in the sector, "attitudes" and mind-sets, planning patterns that result in people becoming poorer and worse off than they were previously. They signal critically important shortcomings in the mining industry, not monitored effectively. Some of these features and issues, in the authors' strong words, are:

- "Southern African States are not equipped with the right legal/policy frameworks to guide involuntary resettlement".
- "Legislation on resettlement, when present, protects the state, not the displaced".
- "Civil servants implementing resettlement are ill equipped or disinterested".
- "Mining companies externalize the cost of resettlement squarely on the shoulders of affected communities".
- "Mining companies regard involuntary resettlement as a nuisance or impediment to core business."
- Local development opportunities are either non-existent or not factored into resettlement planning".
- "Planning excludes the development livelihood needs of the people and focuses on the physical infrastructure requirements, which are tangible".
- "Mining companies regard involuntary resettlement programmes as housing projects".
- "Mining companies regard participation and consultation as a «necessary evil".
- "Mining companies disregard diversity within communities".
- "Exclusion of community from the actual planning of the mine".
- "Exclusion from planning of land-users who may not live on the land, e.g.. people who use land to graze cattle."

²¹ Ironically, the projects analyzed were still among those with better practices, since some had resettlement plans or social development plans, claiming to follow certain international guidelines. This prompted the authors to conclude: "It is fair to expect that many unrecorded cases of resettlement have taken place that have not followed... guidelines. It is impossible to estimate the number of people resettled as a result of mining"(p. 30, emphasis added).

²² The identification of sector-wide features of displacement practice is, in my view, a valuable contribution of this study, providing the empirically-based argument case for the enacting of compelling sector-wide resettlement guidelines.

- "Internal company politics weaken efforts to conduct thorough resettlement planning and implementation".
- "The rights of the displaced are ignored, the displaced do not know their rights... and thus are open to abuse".
- "Little support for host communities... Host communities do not cope with (the impact of) resettlement".

(Sonnenberg and Munster, 2001: 38-41)

Overall, the combined findings of research on Southern Africa's developing mining industry reveals what can only be characterized as primitive displacement and resettlement practice, far behind our time and age. This industry compares poorly to current practices in development projects co-financed in Africa by international aid agencies, although those are also often conducted at low standards and frequently fall below the respective agencies' policies. They impoverish affected populations materially and grossly violate their human rights.

b) Comparison with Displacements by the Global Mining Sector

From an even broader, global viewpoint, Downing's study reinforces the above conclusions. Downing analyzes mining-induced displacement in Africa within the context of the global mining sector, building his global analysis also within the IRR framework and methodology, and applying it, risk after risk, to the global data available. The larger scale of Downing's highlights the international scope of the issues, and projects MIDRs impoverishing affects onto the map of the developing world, although with inevitable gaps in available data. His study warns, ominously, but correctly, that the rapid expansion of the sector in coming years will force displacements into an increasingly significant and sensitive political issue.²³

The stark paradox of impoverishing outcomes for already poor indigenous communities, resulting from the for-profit exploitation of gold, oil, platinum or coal resources, is particularly unacceptable on equity and social justice grounds. These projects extract natural resources of extraordinarily rich value, sufficient, among other things, to secure much better, and sustainable, livelihoods for the populations out of whose lands these riches are extracted.

Downing also brings up important elements of the broader risks-in-displacement theory. One of these is the "definition of liability", to which the assessment of impoverishment risks logically leads. He distinguishes between "acknowledged liabilities", "possible liabilities", and "probable liabilities", and puts forward the novel idea of instituting "displacement insurance". This certainly is a recommendation worthy of further

²³ Downing writes:

The likelihood that MIDR will be a significant issue increases as several factors converge as rich mineral deposits are found in areas with relatively low land acquisition costs (in the global market) that are being exploited with open-cast mining and are located in regions of high population density – especially on fertile and urban lands – with poor definitions of land tenure and politically weak and powerless populations, especially indigenous people... Displacement can be expected to increase as national mining policies are liberalized as companies opt for open-cast mining, and as rural population density increases. (Downing 2002: 6-7)

operational elaboration.²⁴ All these concepts have special significance not only for our discussion of mining, but also for the broader displacement theory and policy issues.

In this vein, Downing re-aligns the discussion around a basic argument we developed (Cernea 1999, 2002) in support of the IRR model – its conceptualization, timeliness, and suitability for policy, practice, and public discourse. The core of the argument is stressing the causal distinction between what we called “old poverty” and “new poverty”. We argued explicitly that the sociological theory of forced displacement and resettlement (as well as the advocacy for improving resettlers livelihood) stands to gain in scope and impact from linking displacement analyses to the paradigm of poverty reduction that justifies essentially all development work today.

Indeed, the contradiction between the paradigmatic objective and displacement’s real outcomes is total, and the tribal populations’ fate reveals this paradox most powerfully. The mass-scale on which “new poverty” is created through miserably handled displacements conflicts with, and subtracts from, the overall struggle to reduce “old poverty” (Cernea 2000). Downing has forcefully reiterated this reasoning, being the strongest among the voices in the community of resettlement scholars who has picked up and continued this key argument:

“Failure to mitigate or avoid impoverishment risks may generate ‘new poverty’... poor people become even poorer... Measured in terms of long-term impacts, mining-induced displacements significantly truncate social and individual chances for sustainable development”. [He continues:] “...It may be argued, that profiting from a mining endeavor without paying the costs of rehabilitation of newly created local poverty is morally indefensible. In such a situation the poor are in effect taxed to benefit those who profit financially from the mine... Costs... transferred to third parties are coercive, especially when the costs are transferred without their consent... Governments might also be indifferent to the plight of the displaced, in such a case, mining interests and their financiers are considered willing accomplices to what may be judged by others to be an unethical business transaction” (Downing 2002a: 8-9, 16-17).

c) The Advent of International Standards and Displacement in the Mining Sector

A positive trend that needs signaling is that large transnational private corporations begin to pay attention to the standards of displacement and resettlement defined in the World Bank’s resettlement policy. These standards led also to the “Equator Principles” statement adopted so far by 41 large international banks that provide financing to major private sector and some public sector projects.

Although this is still very far from being a general situation, in Africa or in other continents, this incipient trend examples in the extractive industries sector, of which I have knowledge from my direct fieldwork. One is in Africa: the very large Angola LNG project supported by several transnational corporations (Chevron, Exxon, British Petroleum, Total) and by Angola’s national corporation, Sonangol, currently beginning

²⁴ A comparable recommendation was made independently by Ravi Kanbur. Tracing the history of the compensation principle in economic thinking, Kanbur concluded that given the inefficiencies of compensation, the introduction of some kind of “general safety net” might be warranted in the practice of development-induced forced displacements (Kanbur, 2002: see in Cernea and Kanbur (2002). *An Exchange on the Compensation Principle in Resettlement*. Working Paper, WP 2002-33, October 2002. Cornell University, Ithaca, New York. Yet, Kanbur has not yet detailed and operationalized his proposal either. Whether what Kanbur terms “general safety net” is akin to Downing’s “displacement insurance” must be examined, to produce actionable policy measures.

implementation. The project is sited close to the mouth of the Congo River, in an area inhabited by tribal communities of fishermen, as well as by the urban population in the region's main municipality, Soyo. While the project will definitely trigger a beneficial development for the area and the national economy, it also involves the economic displacement of 13 communities of tribal fishermen from the project's marine safety-exclusion zone. The legally enacted zone will exclude previous fishing activities that supply the livelihood basis of these communities. Some land-based groups in the project's footprint area will also be affected by physical or economic displacement.

The companies participating in the Angola LNG project committed themselves to follow the resettlement standards set in the safeguard policies of the World Bank and the Equator Principles. To my knowledge, West Africa has no other large-scale private sector project that made the commitment to abide by the World Bank and Equator Principles resettlement standards. The Angola project is thus a significant change and departure from past practices.

To counteract the effects of fishermen's economic displacement, the Angola LNG project started the preparation of a full-scale "Fishermen Economic Relocation Action Plan" (FERAP). In preparing it, difficulties arose: no census existed for the affected communities, and no data to assess losses from fishing. The consultants' first study for preparing the RAP took a narrow view and delivered only an "abbreviated RAP," incomplete and inadequate to the task. The project sponsors rejected the "abbreviated RAP" on grounds of non-compliance with the commitment to follow World Bank standards, and started to prepare the new full-scale plan mentioned above. In preparing it, a new team started its work on the analytical methodology of the IRR model. It identified the losses of opportunity and income, and the impoverishment risks to the fishermen communities – both the essential general risks captured in the IRR model, as well as the specific local risks resulting from the ecological and economic conditions of the area itself, such as severance risks.²⁵ Worthy of mention, the preparation of the FERAP applied to the IRR methodology for estimating differential risk intensities on a community-by-community basis. It designed community risk matrices with counter-risk and recovery/reconstruction measures tailored to the identified risks, and the characteristics of the tribal fishermen communities. Implementation is likely to face many hurdles addressing the uncharted territories of mitigating economic displacement from fishing. But the FERAP is designed to bring not only mitigation and recovery, but also added development-benefits to these tribal communities toward improving their livelihood and overcoming their pre-project severe poverty.

V.

URBAN RESETTLEMENT: CAN RISK ANALYSIS HIGHLIGHT SUCCESS?

Coping with anarchic urban growth is a common problem that looms large on all African governments' agendas. During the last half-century, massive rural-urban migration that brought tribal populations to rapid urbanization, has produced giant conurbations lacking master planning, with haphazardly located and meager infrastructure, countless squatters and slums, choking roads, and more environmental problems than can be listed here. Re-ordering city spaces to construct road networks, public and private modern buildings, new drinking-water and sewage systems, will require wide

²⁵ Ellen P. Brown, *Local Communities, Risk Intensities, and Reconstruction*. Draft FERAP preparation paper, processed, Angola LNG project, January 2007. (According to international standards, the FERAP document, will become available publicly when fully ready).

restructuring of urban land uses. Inevitably, this entails compulsory intra-urban relocation processes of a cumulated magnitude that, we can predict, *will become larger in Africa than displacements in any other single sector*, dam-building included.

Against this imminent trend, the paucity of urban relocation studies in mega- and medium-size cities is a conspicuous weakness of resettlement research in Africa.

Among the existing studies, most tell dire stories. In the present analysis, we can reflect on three recent case studies in Africa, which analyzed urban resettlement in the IRR perspective. They were carried out, respectively, by Armelle Faure in Mauritania (2004), and Feleke Tadele (2004) and Dinku Lamessa (2004) in Ethiopia.

a) Shantytown Renewal and Resettlement

Faure's research stands out for reporting the case of a *successful* urban resettlement, in Nouakchott. She reached her findings not by circumventing the hard questions of impoverishment, but by positing them head on in a project evaluation context. Faure explicitly placed her study within the IRR framework, and her research methodology aimed to ascertain, risk after basic risk, whether impoverishment trends set in or whether they are prevented or mitigated. The relocation affected one of the many *Kebbe* (shantytowns, or "*bidonvilles*" of the capital city) named *Kebbe El-Mina*, situated near the Nouakchott's center, whose land area (128 ha.) was needed for infrastructure construction. According to the 2000 census, the *Kebbe El Mina* population counted about 30,000 people grouped in some 4800 households. Seventy percent of the households' heads had resided in the *Kebbe El Mina* for about 10 years and the reminder for about 20 years.

Were the shantytown's displaced dwellers, asked Faure, deprived even more of their precarious residential security, through displacement? "*The operation was very delicate... At the beginning, the inhabitants were more than skeptical, fearing that they will be forced to move far away. They also doubted the promise of land allocation extended to them*" (Faure: 2). But the new area was gradually equipped under their eyes with water services, school, health center, latrines, market, transportation, etc. and phase I of the relocation was completed in 2003. Legal entitlements over house-plots (120 m² per recipient family) were formalized, with built-in safeguards against reselling the new plots and against return to the *Kebbe* area, coupled with long-term security for the new residence. Faure's survey found that the affected population perceived its situation as having improved. In short, she wrote, the risks of impoverishment through "landlessness" and "homelessness" were in this case preempted.

Similarly, the risk of employment loss around the old site was mitigated and prevented. A cash payment equal to two month's average wages was paid for loss of productive time during relocation and readjustment. Those with stable jobs in the formal or informal sectors in Nouakchott kept them (regular workers, fishermen, drivers, port laborers, etc.). The self-employed artisans and food-stall keepers received a two-month payment to help with their relocation and the growth of a new pool of customers. The massive populations move itself created transport-work for many people, paid immediately, and new employment was created also by the sudden boom in the construction of private dwellings at the new site, replacing the mostly wooden barracks of the old site.²⁶

²⁶ Faure notes: "After re-establishment, the remarkable phenomenon of constructing new dwellings with solid materials ("*en dur*") created employment for males (brick layers, painters, carpenters, etc.) and new gainful opportunities (stone collection, sand quarrying, cart transportation, etc.) for the local population. Some could become professional construction workers in a capital city whose demand of such skills grows constantly" (p. 6).

Faure's risk-by-risk analysis paints a nuanced image: it concludes that the food insecurity risk of the IRR template did not appear here and documents how the marginalization risk has been successfully prevented. However, it also estimates that the new system of individual house-latrines, requiring weekly emptying by families unaccustomed to this practice, may generate new and serious morbidity risks.²⁷ Social disarticulation was prevented with the help of NGOs work and also to a significant extent through the community's collective participation in negotiating relocation with authorities. But the relocation process itself, wrote Faure, fostered change in the community's social stratification.

In our view, this urban relocation study brings up other data and issues worthy of comparative examination. Findings from other sites, which we described elsewhere, show that in urban contexts disastrous displacements are by far more frequent in Africa than successful ones (see Cernea 1993 on urban displacement in Sudan's capital, Khartoum, where about 500,000 people, mostly refugees and squatters, were brutally removed by government decision; this preceded the massive and barbaric 2005 displacements in Zimbabwe).²⁸

Yet what the Faure study demonstrates from the view point of the present paper is an aspect of the versatility of the IRR model as an analytical framework. Government officials who fear even to verbally mention in public the risks of displacement falsely believe that recognizing risks would only lead to undercutting the development enterprise. This belief is both defensive and mistaken. The IRR perspective as such is not an announcement of foreordained gloom, but is a "construction tool:" it is apt to help avoid risk, make development sounder, more beneficial, by timely anticipating and preventing adverse impacts. And, as shown in the Faure case study, IRR is a tool also apt to reveal with precision that (and how) risks can be overcome even in complex settings.

Most probably, Faure did not aim to demonstrate this general point about risk analysis or about the IRR model. But unintentionally, her study itself proves the point. And this key point – about the acceptability and benefits of risk analysis – is more important than any particular case-study because it applies to all modalities of focusing on risks timely for predicting and improving outcomes.

b) War Refugees: Coping in New Urban Contexts

The complex texture of often-unpredicted outcomes from displacement risks is richly reflected also in the two studies in Addis-Ababa on diverse urban population groups. The study by Dinku Lamessa (Dinku 2004) brings in a group of refugees displaced by the Ethiopia-Eritrea war in 1991 and relocated in the country's capital city: it explores the coping experiences of "*tefenakkai*" ("the uprooted") in the Mekanissa neighborhood, the largest among 16 other similar neighborhoods of conflict-IDPs relocated in the city of Addis-Ababa. In turn, Teleke (2004) studied the less researched peri-urban communities surrounding Addis-Ababa.

²⁷ "The sanitary problems have not been yet resolved in the relocation area and there are growing risks of mismanaging the latrines and the refuse" (p. 11).

²⁸ A report published at the time described that displacement in Khartoum as follows: "Mile after mile of houses have been summarily razed by government bulldozers under an urban renewal plan that has forced nearly a half-million people from their homes over the past years. The new urban refugees are being relocated in ill-equipped camps outside the city, mostly without adequate water, food or shelter, creating what foreign aid officials describe as a new --and unnecessary-- humanitarian crisis..."(Washington Post, March 7, 1993)

In studying refugees, Dinku opted to focus on "the risk of social disarticulation" in Mekanissa and its cultural dimensions. Contrary to what some think, this risk is far from "elusive" and its multiple expressions are measurable. Dinku reports employing several research techniques in support of his IRR perspective (focus groups, general surveys, school surveys, etc.) to identify "the major manifestations of social disarticulation among the displaced". He found, among others: "the evasion of customary obligations towards widows and orphans as an example of disintegration caused by impoverishment"; the emergence of "*streetism*" defined as an increase "in the number of street children of alarming proportions"; various kinds of "community conflicts"; and that "the most important social control mechanism is not internalized values and norms, but the threat of superior power" (374-385). The social tensions between previous urban residents and resettled refugees have telescoped to the younger generation, as Dinku learned through a special investigation in two of the local schools:

"about 80% of the conflicts that occurred in the school compounds during the last five years were ones that took place between the displaced students and the non-displaced ones... The conflicts usually arise from certain kinds of inferiority complex predominantly suffered by the displaced community" (p.383).

Yet, the picture is not homogeneous: the same researcher looked for and revealed, in parallel, emerging indicators of social re-articulation, new patterns of mutual help in fetching water, of new solidarities, of coping and of life adjustments to the new circumstances... His nuanced conclusion deserves quotation:

"The characterization of socio-cultural displacement as a condition of disintegration does not imply that the displaced are unable to give meaning to their existence and suffering as the capacity to draw on social or religious ideals, and on co-operative efforts and solidarity, can bolster psychological and physical defense in even the most extreme situations. Nevertheless, their coping responses mask uncertainty, anxiety, and stress; the most important social control mechanic is not internalized values and norms but the threat of the superior government power". (p.385)

c) Peri-Urban Displacement.

Less researched than the urban areas, but at even higher exposure to the pressures of displacement, are the peri-urban zones. Expanding cities covet peri-urban land either for locating new industries close-by, or for new residential quarters.

How should research approach the double economic nature, agricultural and urban, of the peri-urban households subject to displacement? Feleke Tadele (2004) confronted this problem when he studied the inhabitants of the Yako Taffo peri-urban area of Addis Ababa, where the municipality earmarked 2.4 million m² for expropriation and new housing construction. Feleke clearly defined three research topics "in light of the IRR model":

- first, finding out how the typical peri-urban sources of livelihood are at risk, or fully lost;
- second, finding out the key *social impoverishment* variables in addition to the economic ones; and
- third, finding out the factors accounting for possible individual gain, not only loss, from displacement (Feleke 2004: 484).

But Feleke also considered critically that the IRR framework "overlooked to relate the impact that development projects bring on migration" and therefore he added to his analysis "four elements for (securing) livelihood: agricultural intensification, crop livestock integration, livelihood diversification, and migration"(p. 503).

What were the actual findings?

The principal loss to the 172 evicted-households was the farming and grazing land adjacent to their dwelling (between 1-10ha/family). As a result, the peri-urban peasants "have now become landless and stopped farming", which is the local form of "farmers' joblessness" (p. 496). The cash compensation is used for buying food supplies, but the families "are not certain about their future" and feel "seriously insecure with the potential threat of a second wave of displacement" (p. 497). Grazing and livestock in the peri-urban area have decreased and it is most likely that "most households would face food insecurity in the future" (p. 501). Employment in the project construction work, notes the author, has different effects, bringing gains to the young households, but not to the old ones, who in practice could neither "intensify agriculture," nor "diversify" their livelihood sources."²⁹

Many other reported findings³⁰ validate Feleke's adjusted use of the risk and reconstruction framework. He concluded that the

"model of risk assessment is found useful to analyze the threats that are facing the people of Yeka Taffo: it is important to note that all variables are very interdependent... For instance, the dispossession of land directly affects food security, the lack of common resources and style of off-favor activities, and vice-versa. Including the "migration" variable among the variables will broaden the analysis" (p. 508).

In ending this insightful study, Feleke does what every good study should do. Relying on his empirical findings and analysis, he then proceeds to make a considerable number of constructive recommendation to Addis-Ababa City Council, whose

"urban planning methodologies should be strengthened with social engineering skills – that would analyze the effects of displacement at different project cycles and in multi-variable manners" (p. 502).

VI.

"BELONGINGNESS" IN TRIBAL CULTURE AND COMMON PROPERTY LOSSES

Researchers have many options and choices in using the IRR methodology, among which they can choose: for instance, they have the choice between either studying the *full system* of risks in a certain resettlement process, or *focusing on one* of the displacement risks, distinctly, in detailed depth depending on the objectives of their research.

A good number of researchers have indeed chosen to focus on a single displacement risk. They have done so in order to either (a) gain analytical depth through focus (Kibreab 2000, and Koenig and Diarra 2000, for instance, studying the loss of common property by displaced communities; Wolde-Selassie, 2000 on social disarticulation);

²⁹ Feleke writes: "Elderly people who had land before have become landless and their chances of getting employment at the project have been minimal... Landless young and adult households are among the previous marginalized groups who "gained" from the project, while the elderly who had land are the ones who "lost" their economic resources and became marginalized due to landlessness and limited access to the employment opportunities". (p. 502)

³⁰ Given that this displacement was caused by a housing project, it would have also been of interest to know who could afford the new dwellings. Feleke does not tell us, however, why the municipality did not relocate the evicted 172 households within the new 6250 housing units being built on their former lands, as it practiced in some other countries. In China, for instance, vast numbers of displaced urban families are re-housed in this way.

or (b) to adopt a comparative perspective (Lassailly-Jacob 2000); or (c) in order to test a hypothesis related to a specific risk; or finally (d) because a certain operational need urgently dictated a single-issue analysis (Wolde-Selassie 2004, on food insecurity).

This approach markedly differs from the one taken in the studies discussed in the previous sections, where most authors carried out a multiple-risks analysis of given displacement processes sections³¹. Yet, both approaches are epistemologically valid and cognitively fertile. The quality and findings of the studies confirm it. Of course, because of the interconnectedness of the risks, the analysis of one or another risk taken in itself should never be strictly insular: implicitly or explicitly, it should be linked to the full risk-pattern embedded in forced displacements.

a) Landlessness

Consider, for instance, the loss of land and the risk of impoverishment through potential landlessness. The in-depth study of the risk to land-entitlements in African countries (Lassailly-Jacob, 2000) reveals not only the material impoverishment, but also its cultural dimensions, the related psycho-social stress, and the deeper effects of land-loss on cultural and ethnically located identities. In fact, this analysis is linked by Lassailly-Jacob with her prior studies on Africa's large-scale voluntary land settlement programs, and enable her to do what is still rare and coveted in forced displacement research: a comparative analysis between the *coerciveness* of land expropriation in development-caused displacements and the *voluntariness* of those land resettlement programs which were predicated on free land endowments to resettling families, without the expropriation of previously owned assets.

In the context of Africa's land-based tribal societies, the risk of landlessness is probably the most frequently analyzed risk of impoverishment, and the vast majority of researchers document it and reveal its implications. On the continent with the lowest population density and the highest ratio of land per capita in the world, this is particularly significant. Be it from mining expansion, or from dam and reservoir construction, loss of land still looms as a fundamental risk among the multiple causes of impoverishment afflicting Africa's indigenous rural populations.

b) Customary Ownership and Dispossession

The loss of land, however, is not only a case of *personal* property dispossession, but also – most frequently in Africa, but also, in India – a loss of *group* property over land and forest resources. The IRR identified the loss of access to group (common) property resources as one of the most pernicious risks of impoverishing populations that vitally depend on such customarily owned resources. In development programs, such losses are very frequent.

Knowledge generated by researchers of resettlement processes is often relevant far beyond the issues of displacement, strictly speaking. Many other societal processes engage the variables at stake in displacement as well. Several topical areas that are "plowed" in-depth by displacement studies are also under social inquiry for other issues, and knowledge generated by displacement studies has more than one use.

One topical area is the system (or rather systems) of customary common property over natural resources in Africa. A number of researchers have set their task to study and explain the impoverishment risks involved in dismantling these customary

³¹ Such studies will also be discussed further, in sections IX and X)

systems as a result of development-induced forced dislocations (see Kibreab 2000, 2002, 2003; 2006 focused on Ethiopia, Eritrea, Sudan; also, Koenig and Diarra 2000, on Mali; Koenig 2003, 2006). However, in so doing, they have generated analyses of these systems useful for other concerns – e.g., for the concerns about the management of natural resources under common property regimes.³²

Kibreab's historical theory of common property rules and rights has gained scholarly stature, as it helps "read" the African social systems in general and explains the disruption that dispossession inflicted on those displaced.

Most relevant is Kibreab's insightful explanation of what "belonging" means in a cultural/psychological sense, different from "ownership:" he highlights the *actors' own* perspective on "territorial belonging", as a relationship between physical place and cultural identity. Planners and planning theories typically only think about land as a commodity belonging to people, but never also that people can "belong" to specific lands by self-definition, virtually.³³ Many populations perceive themselves in this way – as "belonging" to a specific place – and so define their identity.

In forced displacement, common lands and assets are taken away without consideration for either the loss in cultural identity or the loss in material livelihoods. Kibreab suggests that the proper way of responding to this major risk, when it cannot be prevented, is to *reconstruct a pool of common property resources at the place of relocation* and to reestablish formal and informal institutions that regulate group assets. By not doing so, he argues, development projects that confiscate customary tribal property resources for right of way without making good the loss, inevitably set in motion a process of impoverishment and increased powerlessness (Kibreab, 2000).

Drawing on their research in Mali on loss of access to common property in the Manantali Dam displacement, Koenig and Diarra (2000) stress in turn the political dimension of access to CPR (common property resources). Such losses may cause sharp political conflicts between displacees and host communities, when resettlement leads to competing claims on the same common property resources.

Addressing this point, Koenig (2003) also criticizes the IRR model, considering that the IRR only "minimally discusses political aspects" (p.3) although it "specifically notes that social disarticulation can worsen powerlessness, dependency, and vulnerability." Koenig recommends, with good justification in my view, a stronger recognition of the political variables in the analysis of displacement risks.

VII.

POPULATION TRANSFERS IN ETHIOPIA: RISKS AND RECONSTRUCTION

Much social research has been invested over the last 30 – 40 years in one of Africa's largest resettlement processes – the state-initiated population redistribution in Ethiopia. From 1965 to the present these processes have crossed several distinct

³² This observation is based not only on research in Africa. A wide corpus of research dedicated to the assault on common property systems under development-caused displacements has been generated in Asian countries

³³ A Baka tribal elder from Central African Republic has expressed this most colorfully: 'The forest does not belong to us, we belong to the forest. *Mó-bele* created it as our home. If we live outside the forest, *mó-bele* becomes angry because it shows that we do not love *mó-bele* and his forest.' (quoted by Schmidt-Soltau, 2005).

phases, under a succession of different political regimes, with changes in their causes, goals, content and outcomes.

An important recent book produced by Addis-Ababa University (Pankhurst and Piguet, eds. 2004)³⁴ contains a set of seven insightful studies which analyze with the help of the IRR methodology and conceptual apparatus several segments of Ethiopia's resettlement processes: in the Metekel area (Yntiso Gebre 2004 and, separately, Wolde-Selassie 2004), at the Gilgel Gibe Hydroelectric Dam (Kassahun Kebede 2004), in the urban context of Addis-Ababa (Dinku 2004), among the peri-urban and rural communities surrounding Addis-Ababa, (Feleke 2004), or assessing the risk of food insecurity also as a cause of resettlement (rather than as effect, as usually treated) (Wolde-Selassie 2004). The seventh study discusses theoretical issues regarding the IRR framework (de Wet 2004).

The complementarities between all these studies create the possibility of comparing and integrating findings obtained with the same methodology – a study in itself, which may await its author.

a) Resettlers and Hosts: Innovative Research

As a group, the Ethiopian studies strongly display the researchers' common interest in the processes of social disarticulation and re-articulation.³⁵ This probably reflects the general concern in Ethiopia with the wide upheavals and changes in social organization patterns within the nation, caused by massive and repeated transfers of population from one part of the country to another.

Yntiso Gebre addresses, along this line, one of the least treated issues in the worldwide resettlement literature:³⁶ the relationship between tribal groups that became hosts and the incoming resettlers, belonging to other tribes. He analyzes this relationship in the perspective of the IRR, and considers two pertinent questions: first, whether there is cultural compatibility between the two tribal populations; and second, to what extent the host population is prone to the same or to a comparable set of impoverishment risks, by dint of arrival of a substantial population within its midst? (See Gebre 2002a, 2002b, 2003, 2004, 2005). Among his studies on resettlement in the Metekel area of Ethiopia, one has an ominous title: "Why did it fail?" In Metekel, the ratio of incoming resettlers to the host population was more than 1.1:1, a ratio that overwhelmed the hosts: some

³⁴ Pankhurst and Piguet, the editors of this remarkable volume, offer a comprehensive and nuanced overview on Ethiopia's many resettlements and their structural causes. They propose a periodization, discuss several types of sectoral displacements, and examine highly controversial questions about the extent of voluntary versus involuntary resettlement in Ethiopia's population transfers. On this last point, the authors write:

"Most studies have focused on abuse of human rights and the numerous injustices of the involuntary resettlement. However, what needs explaining is the voluntary end of the spectrum which has tended to be overlooked in highlighting the coercions and impositions... The limited options for access to land by the younger generation, therefore no doubt contributed to their "willingness" to resettle, and can be considered an underlying structural factor. Whatever the overt and covert motives, the overall verdict is that the experiment was a clear disaster in political, economic, social, cultural and environmental terms" (Pankhurst and Piguet: 2004b)".

³⁵ It is remarkable that even when the immediate focus of one or another study is a different displacement risk or context, the analysis links it to the general state and fabric of social relationships within the nation.

³⁶ Among the few other empirical investigation of the host-resettlers relationship is one carried out some 12 years earlier by Salem-Murdock (1993), also in Africa, among the Aswan resettlers and their Nubian hosts.

82,000 resettlers moved into an area already inhabited by 72,000 Gumz-tribe shifting cultivators. The sheer demographic imbalance was compounded by profound cultural differences, tribal organization differences, and differences in agricultural practices between the groups of natives and incomers.

The IRR framework explicitly stresses that hosts as well incur the risks of adverse impacts from resettlement. Policies and project planning must be aware of the distinct risks to the established host population, resulting from the sudden demographic increase caused by incoming resettlers (Cernea 2000: 32). But I also wrote, however, that "risks to host are not identical with the risks to displacees, in substance or intensity, but are related to them and may also result in impoverishment implications" (idem). Yet in light of Gebre's empirical findings, this cautious wording appears to be an understatement, and must be revised. Ethiopia's Metekel situation may not be very common, but Gebre demonstrates that under certain circumstances the potential for severe impoverishment risks, some similar in substance, does exist. Flawed planning frequently exacerbates the impoverishment risks to hosts. Contrary to my earlier statement, in some situations it may be comparable "in substance or intensity" to those of the displaced and incoming population.

Gebre starts by observing that no special "conceptual framework has been developed to explain what happens to hosts" (2003: 51) and proceeds to test whether the IRR is adequate for this as well. He designed a sophisticated research program, including intensive interviews with two groups – settlers and hosts – which were cross-referenced with findings from a sample survey of 368 households in 16 of the 45 villages with resettlers in the area. Gebre's study, in his words,

"compares and contrasts the gravity of displacement risks for the new settlers and for the host population in light of the impoverishment risks and reconstruction (IRR) model. It is true that the experience of forced settlers has different dynamics than that of hosts... The lesson from Metekel reveals that massive resettlement could disrupt the livelihood of the original inhabitants the way dams, national parks, and other development projects do to displacees".

For this purpose, Gebre also constructed a *comparative risk chart* that evaluates how the same set of impoverishing risks affected the two different groups: this kind of comparative chart is indeed the type of instrument that many other researchers could use beneficially.

The empirical findings are described in Gebre's studies in detail, and are compounded by a chronological description of how the tensions between hosts and resettlers escalated into deadly conflicts and bloodshed. Many people were killed and wounded on each side. The clashes, in the given cultural context, triggered in turn spate after spate of revenge killings. The competition for scarce natural resources was the economic underpinning of the intense inter-ethnic clashes, and when both hosts and resettlers created ad-hoc militias, the intervention of the army became necessary. To a large extent, although not fully, these were the consequences of resettlement ill-preparation and of authorities' un-awareness or non-anticipation of impoverishment risks for both groups.

What are the findings, in term of the IRR model's methodological validity? Gebre sums up the outcomes of his detailed empirical risks analysis showing that

"five of the IRR variables – landlessness, homelessness, loss of access to common property assets, marginalization, and food insecurity – undoubtedly apply to the Gumz hosts' situation. Two other variables – increased morbidity/mortality and social disarticulation – may also be related to the experiences of the hosts" (2003: 52)

Reflecting the severity of the ensuing conflicts, he also defines the "security risk to life" as a contextually specific and distinct risk, which is not part of the general IRR framework but is present and relevant locally.

Overall, Yntiso Gebre derives two main conclusions from his analyses. First, that "Cernea's model is also relevant to host populations such as the Gumz, as most of the variables identified by the model are also manifested in their experience...The methodological tool developed to analyze the situation of the displacees can be employed to examine that of the hosts. The 1980s resettlement in Ethiopia resulted in land dispossession, loss of life, home destruction, decline of access to common resources, marginalization, erosion of customary laws, and periodic food insecurity for the Gumz. These variables strikingly correspond with the components of the displacement process delineated in Michael Cernea's IRR model, which demonstrates that hosts encounter serious risks of impoverishment" (2003: 60)

The second main conclusion is of a policy, operational, and applied research nature, and is addressed, among others, to social scientists. Gebre writes militantly: "Researchers should document risks encountered by hosts, communicate research results to the wider public and those who can influence policy, give briefing to governments and donor agencies, generate policy ideas, and collaborate with those embracing the host cause" (2003, p. 60)

I find this study's analysis and recommendations both creative and convincing. Beyond testing, validating and expanding the application of the IRR framework, the study is a most pertinent argument for the need to recognize the impoverishment risks to which hosts are also potentially exposed in all situations – with the degree varying according to context – risks that must be preempted through economically, technically, and morally sound resettlement planning.

b) Social Disarticulation and Community Rearticulation

Abutte Wolde-Sellassie (2000) reports a "study in contrast" to the above case from the Belles Valley resettlement area (another name for the same Metekel zone) and at a later point in time, which he studied as part of his PhD thesis. In more than one way, Gebre's and Wolde's studies complement each other in that not only the losses and disarticulation caused by displacement are revealed, but also that the dynamics of reconstruction post-displacement begins to emerge after a certain time.

Wolde-Selassie examined the patterns of social organization along the displacement-resettlement time-continuum, and relies both on the "risks components" and on the "reconstruction components" of the IRR framework. Of course, the onset of various social disarticulation syndromes started at the departure site and continued also at the arrival site. "Partners abandoned spouses at the very initial stage... Resettlement brought about the breakup of many families" (Wolde-Selassie: 42). Many other indicators converged into a multi-variable image of social disorganization and loss of pre-existing precious social capital.³⁷

³⁷ Wolde-Selassie offers the following comprehensive and compelling image:

"During the initial phase, resettlers did not have proper community village institutions, such as *idir* and other religious or secular mutual associations. The observation of religious holidays was constrained. Long-established kinship ties that had performed multipurpose functions were altered in the new location, and there existed no kinship-based leadership. The complex web of social networks, which had previously formed the interhousehold and group relationships in communities, no longer functioned. In other words, from the early days of resettlement, the various communities close bonds and webs of relationships along several lines – such as

But then, after the initial phase of emergencies, conflicts, illnesses, and transition, adaptation slowly started. "Entrepreneurial activities, such as trade and market exchange, were, in my own view, one of the best and effective adaptive strategies... Marriages strengthened... Affinal kin groups began to develop..." among the resettlers (p. 422-3). Others indications followed, and are reported in turn, based on the researcher's field observations. "The role of elders regained importance in village life"; "The rebirth of religious associations..." followed. "Resettlers managed to revitalize the *idir*", the strongest traditional mutual association within village communities, and a "reemergence of labor exchanges" begun. At the community level, the author documents literally "the articulation of farmers production" support organizations, re-born in the new context but maintaining their vernacular names from the place of origin.

Wolde's analysis is relevant not only sociologically, but also in terms of the lessons it derives for the operational delivery of post-relocation assistance. This assistance ought to not be limited to technical "inputs" – food, tools, medicine, etc. – but should also nurture and facilitate local capacity building. The researcher concludes:

Providing the conditions necessary to facilitate rather than hinder people's own initiatives and the development of community associations and institutions is vital in the social re-articulation of a disrupted community. This process is central also for the entire economic reestablishment process. The risks and reconstruction conceptual framework – in identifying key risks and pointing to strategies for reconstruction – is a relevant analytical and guiding framework. (2000: 30)

c) Questioning Project Design: Dam-Building in Ethiopia

While population transfer programs swept the country, major dams were not built and the displacement effects of dams have not been the subject of much research in Ethiopia. Therefore, Kassahun Kebede's thesis (2001) and published study (2004) on the Gilgel Gibe hydroelectric dam displacements are seen as among "the first of their kind" in Ethiopia. In organizing his research, Kassahun explicitly considered choices between several theoretical models and opted for "the model which marked a shift from stages-ridden archetypes to packages of risks in development-induced displacement" (2004: 445).

Distinct from many other case-studies on dams, and therefore interesting in a different way, Kassahun started the application of the risks model by asking whether and how the World Bank-assisted Gilgel Gibe project took into account all of the impoverishment risks during project design and preparation? He found the World Bank's preparation process to have been unsatisfactory on this ground and convincingly criticizes the project's design because it did not adequately prevent the landlessness risk. It secured only insufficient land per resettled family in a typical area of swidden agriculture, "making fallow unthinkable". He also faulted the underestimation during project preparation of the loss of common property pastures that contributed to severe reduction in livestock ownership after relocation and caused a "traction-power deficiency" in agricultural work. In this context, Kassahun also criticized the IRR model for "mostly neglecting part-farming in its prescription about land for farming" (p. 457).

Many other insightful observations resulted from considering whether or not, and how, the other basic risks, such as loss of employment, food insecurity, house-loss and social disarticulation – were handled during project implementation. The rich texture of the study's nuanced findings confirmed to the researcher the promise of the risk-based methodology in field research.

neighborhood, kinship, religious beliefs, work groups, land exchange, bond-friendship, fictive and godparenting – were either lost or in abeyance. The new villages were, in Cernea's terms, socially disarticulated" (2000: 420)

This study also validates convincingly, in my view, another premise of the IRR methodology: namely, that risk intensities are always non-uniform and context-specific. When empirical research does not treat risk-outcomes wholesale but instead explores the “differential impacts” of risks on various population segments and includes risk-intensity indicators, it stands a much better chance to capture the complexity inherent in DIDR processes.³⁸ Kassahun followed this recommendation and selected four variables for assessing risk intensities and impacts: age; gender; position in the domestic cycle; and wealth. The study reports distinct findings on the young, on children, the elderly, on women and men, etc. With this more finely grained assessment, the author concludes that the Gilgel Gibe displacement outcome “scenario remains: differential impact (rather) than wholesale impoverishment. It is worth pointing out that the Gilgel Gibe study shows one of the ways in which nuanced risk analysis can respond to this requirement.

d) Expanding the application of the IRR framework

Beyond their individual findings, the set of Ethiopian studies discussed above have another key methodological significance. Taken together, they embody an important *expansion* in the analytical use of the IRR model beyond the category of development-displacements to the category of state programs for population territorial transfer and redistribution. The causal and context differences between these two types of displacement are well known. Nonetheless, the extension is warranted when done carefully rather than mechanically, and when the differences are kept in view.

We have also examined already the extension of the IRR framework to the study of host populations’ conditions. Together, these extensions confirm the cognitive instrumentality of the framework, in that it lends itself to flexible adaptation, facilitates the comparison and aggregation of findings through the identification of both similarities and differences, and allows integration of results. Thus, it creates new premises for incremental knowledge and for theoretical generalizations on causes and widespread processes of impoverishment.

VIII.

CONFLICT- AND MILITARY-CAUSED DISPLACEMENTS AND THE IRR MODEL

Another area of extended IRR applicability is certain displacements caused by conflicts, with appropriate caveats. Reputed scholars have developed the argument for using the IRR framework in studying this type of displacements as well – caused by wars, civil wars, or violent ethnic persecution. We need to remain aware that there are not only substantive similarities in impacts, but also causal differences, as well as differences in the options for counteracting the risks and mitigating the impacts. Of crucial interest is the *theoretical reasoning* for such an expanded application, with due awareness of its limits.

³⁸ The importance of recognizing and capturing the extreme complexity “inherent” in resettlement was adequately and strongly emphasized by de Wet (2004, 2006). There is no opposition, however, between recognizing complexity and recognizing the need to analyze risks and chart reconstruction. But a “complexity” needs also to be addressed with policy measures; institutional capacity, partnering solutions, adequate financial and technical responses, and other means. Complexity does not just necessarily mean intractability, and does not legitimate passivity, or renouncing the need for “inputs” towards problem-solving. The issues of handling complexity deserve, however, a more detailed discussion, which cannot be done here.

Theoretically, a strong argument for applying the IRR model to researching conflict displaced populations was first made by Gaim Kibreab (2000), based on his extensive studies on refugees and IDPs and on Africa's general refugee situation. His argument has two premises: the centrality of impoverishment risks in both conflict-displacements and development-displacements, and the imperative of reforming the current approaches used in refugee assistance. Kibreab argues as follows:

Any government or agency concerned with the welfare and viable reconstruction of sustainable livelihoods among displaced communities – the cause of displacement notwithstanding – could gain pivotal insights and inspiration from the risk model. The problems faced by refugees and relocates in resettlement schemes are more or less the same as those embodied in the risk model. The major problems facing refugees in resettlement schemes are landlessness, unemployment or underemployment, especially during trough seasons, overcrowding, marginalization, increased morbidity and mortality, food insecurity, lack of access to CPRs as compounded by lack of communal tenurial security, and social disintegration. It is true that in the case of refugees, most of these losses are suffered in connection with flight, but this is immaterial because the declared aim of any refugee resettlement scheme is to rectify these losses and to avoid risks of further impoverishment rather than to consolidate and exacerbate such detrimental processes. Instead, failed refugee resettlement schemes have resulted in reinforcing the losses and the risks of impoverishment. (Kibreab 2000: 323)

Kibreab supports his reasoning with the historical record of refugee resettlement schemes analyzed in his many studies, a record

replete with example of dismal failures: in fact, failure seems to be the rule rather than the exception with respect to refugee resettlement schemes. Between 1962 and 1985, about 155 refugee resettlement schemes were established in Africa and only a few have been able to achieve the minimum goal of self-sufficiency... This bleak situation would undoubtedly have been avoided, or at least mitigated, if host-government policies and donor responses were to be informed by the risk model. (Pp. 323-4)

In turn, other scholars of displacement, like Voutira and Harrell-Bond (2000), have also stressed the need of *"arriving at a theoretical model of resettlement that applies to different situations of forced migration – those resulting from impoverishment, civil strife or "development" project that uproot populations"* (p. 56). Voutira and Harrell-Bond regard the elaboration of such a theoretical model as a "major challenge" facing researchers. Discussing the options for, or limits to, applying the IRR also to conflict caused displacements, they agreed with Cernea that impoverishment is a "consequence of virtually all types of displacement" and that methodologically [impoverishment] allows for a common denominator in refugee and "ousteed experience" (2000: 56). But they saw difficulties in that causes are different and that "definitions of 'success' are not the same" in the two categories of displacement. (p.57).

Sure enough, there are indisputable differences between displacement types, those mentioned by Harrell-Bond and Voutira, and others too. But the response to the question of tool-usability, in my view, is to respect the methodological requirement of not taking a conceptual framework and mechanically "apply" or transpose it *tale quale* elsewhere, on another category of processes. "There is considerable potential for this extension, if mechanical application of the model is avoided" (Cernea 2000: 18). The challenge is to explore the investigative advantages offered by this analytical tool by adjusting it to studying refugee displacements as well and probe the value-added knowledge benefits.

Gaim Kibreab also addressed the epistemological question of whether differences between these types of displacements preempt the use of the IRR model.

Breaking stereotypes, he turned the question around, arguing that not only the similarities, but the differences as well justify comparative analysis within the IRR framework. Kibreab readily recognizes

...the differences that may at first glance appear to have a bearing on the immediate relevance of the risk model as applied to resettlement of refugees... Yet, in spite of the ostensible dissimilarities between oustees' and refugees' situations, a closer examination of the issues reveals that the so-called differences do not limit the scope of the model, but rather, make it compellingly relevant. (p. 325)

Kibreab substantiates his argument by proceeding methodically to consider one by one the specific differences. Among these are: the "planned [development-displacements] versus sudden [conflict] events"; "the permanent [development-displacement] versus temporary [conflict] displacement"; the "nationals versus aliens" difference and its effects on attitudes and practices of access to natural resources under common property regimes; and the differences in institutional responsibilities and mandates for refugees and development displacees.³⁹ Based on the very content of these real differences, Kibreab then argues why they cannot and shouldn't be construed as obstacles to applying a risk-oriented analysis and to pursuing reconstructive strategies, instead of simple relief assistance. The awareness of partial differences must not deter from the use of a certain research tool, it only dictates to factor into the research the knowledge about the differences. Thus, the recognition and thoughtful examination of differences enables Kibreab to conclude powerfully:

It is noteworthy to state here, however, that this does not in any way limit the pertinence of the risk model in the formulation of refugee resettlement policies. Its *raison d'être* is to stimulate development of strategies designed to fill existing policy or organizational vacuums. The model warns governments, inter-governmental organizations, and nongovernmental organizations of the dangers involved in the failure to develop policies and organizational structures that allow them to plan ahead and to implement corrective measures that counteract or rectify negative consequences. With regard to resettlement of refugees, if the model is embraced, it could stimulate fresh and innovative conceptualization, which could, over time, shift the frontier of the existing deficient approaches to refugee resettlements. (Kibreab 2000: 330)

In research practice, in fact, the impoverishment risk-analysis has already been innovatively employed by some conflict-researchers both in Africa and elsewhere, for instance in Latin America (Muggah)⁴⁰, demonstrating partial but extensive applicability. Some of IRR research in Ethiopia (see earlier: Dinku 2004) covered war-displacees groups as well, and more recent research on conflict-refugees in West Africa is discussed below.

c) IRR analysis of refugees at country level: Sierra Leone

Ten years of civil war, several coups, and interventions of foreign military have caused wave after wave of forced displacements in Sierra Leone. A research project

³⁹ For a detailed and very interesting discussion of these differences, the interested readers, and particularly those who study conflict-caused displacement, are encouraged to review Kibreab's full argument on these points in his original study (2000).

⁴⁰ Robert Muggah (2000) carried out a remarkable study on the civil-war-caused displacements in Colombia explicitly applying the IRR framework. Columbia's forced displacements had been analyzed by numerous researchers in previous studies, and Muggah's research accomplishment was to open a new perspective by studying conflict-caused displacements as a series of unfolding impoverishment processes.

undertaken by Damien Mama⁴¹ in Sierra Leone deliberately aimed to test the investigative and cognitive adequacy of the IRR for conflict-displacements, offering four explicit reasons for his test⁴²

The methodological apparatus of this study has particular relevance for the discussion on applying risk analysis to conflict IDPs. Mama deliberately avoided a "mechanical application" by taking into account what in the phases of displacement is *specific to conflict* and by considering the UN guiding principles on IDPs and "protection regimes", all the time aware of differences from development-displacement situations. He also points out that conflict-refugees are exposed to different risks in the different phases of their ordeal: for instance, when fleeing conflict, the risks are different from the risks experienced upon return. Accordingly, he made adjustments in the IRR model's definition of risk-reversal behavior and strategies.

Damien Mama's field methods, in turn, strive to identify local "problems faced by resettled populations". "Respondents were given the opportunity to answer in their own words" (p. 17) and content analysis methods were applied to answers collected from interviews (p.18). His effort was to adjust the general risk framework to the particular circumstances of post-conflict resettlement in Sierra Leone by identifying "the impoverishment risks in some selected resettled communities and cross them also with responses provided by the policy of the Sierra Leone government, of international organizations, and local partners" (p. 16). Further, his analysis took into account "the 5 major phases of resettlement in Sierra Leone and made a comparative analysis of IDP case-loads that fall under different phases".

In "testing the main components of the IRR model", Daniel Mama found "important similarities with predicted risks" (p. 49), but not full identity with the general description of the risks in the IRR model. Some risks, like landlessness, proved in Sierra Leone to be only temporary for these resettlers, rather than becoming chronic and definitive land-losses. The researcher found that in this case *"the houses and lands that were occupied in rebel held areas were vacated without resistance by occupants"* (p. 50) when those displaced returned.⁴³ Post-conflict marginalization and stigma were not faced either, and IDPs were welcomed upon return by community members, *"increasing their feeling of belongingness despite the economic challenges encountered"*. Other risks, however, such as food insecurity and community disarticulation materialized in an

⁴¹ Working for his graduate research thesis under the guidance of the Ruhr Universität, Bochum, Germany.

⁴² The reasons given by Damien Mama follow:

The theoretical framework of the present research is drawn from the Impoverishment, Risk and Reconstruction model developed by Cernea (2000). This model is used for the following reasons. First, although developed for development-induced resettlement, the model offers useful tools applicable for conflict-induced resettlement, as most of the problems raised are common to both groups of displaced people. Second, there is no other theory on resettlement, which can be used for problem diagnosis, and policy analysis as it is intended in this master thesis. The UN guiding principles on resettlement are more a framework for legal protection needs of the IDPs than a decision-making tool for resettlement and reintegration. Third, the model has yet to be broadly tested in the post-conflict situations...Finally, the impoverishment angle through which the model was developed offers useful tools to analyze the situation of the resettled population in Sierra Leone that is one of the poorest countries in the world. (p. 12-13)

⁴³ Damien Mama concluded that land problems turned out to not be acute because "mediation and (the) involvement of former fighters in reintegration opportunity programs for their economic self reliance have contributed to curb potential problems and settled major disputes." (p. 50)

enduring way, exacting a heavy toll after return: "loss of (mobile) property", "lack of access to cultural resources" and of "access to education". The research, therefore, finds fault with the premature discontinuation of official resettlement assistance. It identifies inconsistencies between the publicly declared resettlement strategy and the measures actually implemented, as well as non-concordance and gaps between the assistance delivered and the actual needs of the returned resettlers.

We can thus observe how Mama's approach employed the IRR model simultaneously as a theoretical research paradigm and a set of testable hypotheses. His approach paid off. It enabled him to construct a theory-led image of the displacement by conflict and particularly of the post-conflict resettlement as experienced by IDPs in Sierra Leone. The specific cluster of risks – a "Sierra Leone risks-pattern" – that resulted from his research differs in several respects from the general risk-pattern of the IRR risk-model, and this is a gain in knowledge. The research specified the general model in a particular context and the knowledge so gained is apt to inform specific policy and operational responses. As to the test of the IRR model, Mama's thesis concluded:

The hypothesis of this thesis is verified. In brief, this research has contributed to understanding some dynamic that characterize resettlement in a post-conflict setting. Besides, this research showed that the IRR model primarily developed for development-induced displacement also provides useful tools for problem analysis and policy planning in conflict-induced displacement. (p. 60-1)

The Sierra Leone study embodies indeed a valuable experience of using and interpreting the risk and reconstruction framework in ways that account for the specifics of *post-conflict* situations and the socio-political particularities of the country context.

The researchers of conflict-caused displacements will most probably continue to test this framework, employ its cognitive advantages and explore the scope for its uses. The framework has proven its capacity to illuminate the conflict experiences of those displaced, their own risk-perceptions and risk-responses. Moreover, the research of such human personal experiences away from overemphasis on assistance agencies is prone to generate understandings. New modalities of using and enriching this framework in conflict-related studies are certainly possible and desirable, in ways tailored to the distinct nature of conflict-displacement. But also more integration of findings with comparable findings from development-caused displacements will facilitate broader theoretical generalizations and increase the public impacts of resettlement research.

I strongly believe that conflict-displacement research should increasingly zero-in on what is the second part of the IRR model: these are the specific issues of post-conflict reconstructed livelihoods and productive economic systems.

d) Military Displacement in Peacetime

Distinct from conflict-caused displacement, another type of forced displacement in Africa has also come to use the IRR framework: forced displacement by military constructions undertaken during peacetimes. Such constructions include military encampments, training ranges, fortifications, military bases, storages, testing polygons, etc. State lands are not the only lands used for such constructions: often, the state and the military resort to forced displacement of landowners to place such facilities. The displaced groups often get little respect for their entitlements, human rights, and economic losses.

The literature on this type of displacement in Africa is very limited. But a remarkable monograph, currently in press (Vine, Sokolowski, and Harvey, 2005,

forthcoming 2007), brings one of the best analyses existing in worldwide literature on such military displacement during peacetime.⁴⁴ The monograph deals with the construction of a major U.S. military base on the Diego Garcia Island and the surrounding Chagos Archipelago in the middle of the Indian Ocean.⁴⁵ The island had been previously inhabited by the Chagossian tribe, population of about 1500 people, who were expelled from the island following an agreement between the U.K. and the U.S. governments to de-populate the islands and construct military facilities. The Chagossians were coerced and deported by the U.K. government without right of refusal, compensation, or legal recourse, and were left on the docks of Mauritius and Seychelles islands, 1200 miles away, where they received no resettlement assistance.

Beginning in August 2001, at the request of lawyers representing the Chagossians in lawsuits in the U.S. and the U.K., the authors of the monograph, led by David Vine, conducted more than three years of ethnographic research on the displacement and its effects. Vine writes:

"Using the IRR model as a diagnostic tool to analyze its findings, our study shows that as a result of their expulsion, and despite two small compensation payouts five and ten years after the final removals, Chagossians have, as a group, experienced severe ongoing impoverishment in exile. The condition of the islanders' lives since the expulsion illustrates the debilitating impact of displacement and the difficulty of overcoming its damage. ... As a result of their displacement, the islanders became and generally have remained a marginalized underclass at the bottom of the socioeconomic hierarchies in Mauritius and Seychelles. ... The study details the impact of the displacement by documenting ten major dimensions of Chagossians' impoverishment, built around the IRR model's eight sub-processes." (Vine, "Summary" pp. 2-3).

The researchers in fact expanded their analysis to other important risks they deemed to be definitional for the Chagossians' displacement, ethnic discrimination and educational deprivation. The study documents each of the impoverishment risks in extensive ethnographic detail, and some findings are worth quoting. At the places of their relocation/expulsion, nearly 46 percent of working age Chagossians are not working; the median income is around \$2.15 per day; 40 percent of households do not have indoor plumbing and 26 percent of have no running water; 54 percent of Chagossians are illiterate; 85 percent of those surveyed report needing more health care.

The Chagossians have struggled to gain the right to return to their homeland and win proper compensation. After years of legal action against the British Government, the High Court of London issued a historic ruling in November 2000 that the expulsion had been illegal.¹ Surprisingly, rather than appeal, British officials acceded to the judgment and gave Chagossians permission to return to all of the Chagos islands except Diego Garcia. Without funding to finance even an exploratory trip however, in 2001 the islanders lodged a new suit against the United Kingdom for compensation and money to finance their return and the reconstruction of their society. As the suit progressed, the group won another victory in 2002, as they were granted the right to full U.K. citizenship, as citizens of the British Indian Ocean Territory, including the right to live in Britain. A year later, hopes for a return were badly damaged when the High Court rejected the compensation claim, though it admitted that Chagossians were "treated shamefully by successive UK governments."

⁴⁴ This literature includes the early study on the famous displacement from the Bikini Atol.

⁴⁵ The presentation of this Diego Garcia military-caused displacement and of the Chagossians' community struggle against it draws upon a "summary" of the forthcoming monograph and the doctoral dissertation of Dr. David Vine, prepared by him.

Undeterred, Chagossians had already filed a parallel class action lawsuit in Washington, D.C. federal court against the U.S. Government and several government officials, including former U.S. Secretary of Defense Robert McNamara and current Defense Secretary Donald Rumsfeld. The suit accused the defendants of harms including forced relocation; cruel, inhuman, and degrading treatment; and genocide. The suit asked the court to grant the right of return, award compensation, and order an end to employment discrimination preventing Chagossians from working on the base. After three years of trading scores of motions back and forth, in December 2004, the United States District Court for the District of Columbia dismissed the case, arguing that the officials involved were acting in their capacity as government employees and relying on a long-standing principle in U.S. law that foreign and military policy are the near-exclusive domain of the executive and legislative branches. An appeals court struck down an appeal in 2006. The group's lawyers have filed a petition to the U.S. Supreme Court to review the case and are pursuing other avenues of litigation against the U.S. Government.

Despite the initial legal successes in the British High Court, the legal decisions were subsequently reversed when British officials used the Queen's archaic power of royal decree to overturn the Chagossians' November 2000 court victory and their right of return. Nonetheless, the Chagossians returned to the High Court in December 2005 to contest the Orders. The British Government finally yielded to a long-standing demand to allow a visit to Chagos for more than 100 Chagossians. Shortly thereafter, the High Court ruled again that their expulsion was illegal, overturning the Government's Orders in Council. The Chagossians' continued their struggle because the U.K. Government appealed the case, forestalling return. Another case against the U.S. Government is also pending in U.S. courts.

The legal history of the Diego Garcia's indigenous population, despite the fact that the case is not settled, has nevertheless obtained some stunning victories, both in formal courts and in the court of public opinion supporting their struggle. The foremost argument that led to that victory relied on the population's human rights and on the demonstration of their impoverishment through forced displacement. This is a remarkable confirmation on the importance of the impoverishment argument against forced displacement and of the potential of sociological/anthropological research to generate the empirical data that may help defend the rights and livelihoods of displaced populations, even in the case of a weak tribal community opposing powerful government authorities.

IX.

DISPLACEMENTS FROM AFRICAN PARKS: THE POVERTY CASE FOR CHANGING PARK-CREATION STRATEGY

Another topic most relevant for tribal displacement worldwide – in which the use of the IRR model in Africa has led to recommendations for drastic policy changes – are the socio-economic and demographic variables of conservation parks (Cernea and Schmidt-Soltau 2006). Indeed, recent studies of impoverishment through displacement from Central and East African parks supply convincing empirical evidence into the on-going sharp international debate (see Adams, Aveling, Brockington and assoc. 2004) on the need to re-balance biodiversity conservation policy with poverty reduction policy.

The establishment of nature parks across Africa for conserving areas with precious biosphere resources has for decades predicated on the forced removal of the indigenous groups long inhabited those areas. Such displacements have been imposed not in every single instance, but in numerous cases they were the very premise of park creation and had terrible socio-economic effects on the livelihood of the locally affected populations.

It is a matter of record that the displacements initiated in order to create parks, game reserves, or corridors for wildlife passage have often involved the brutal violation by the state itself of the populations' basic human and customary rights. Yet while each new park was hailed as a conservation triumph, the forced human removals and their dire effects have been kept out of the public glare. Case by case anthropological studies on such removal processes did signal the issues, but couldn't offer an aggregate macro-image of the destructive social processes set in motion. Biodiversity sustainability is surely a paramount objective, essential for global and national reasons, but park creation cannot be deemed a success if predicated locally on *socially* un-sustainable and morally unacceptable conditions. The establishment of conservation parks must also include *sustainable* alternative livelihood for the indigenous people of the areas allocated for parks and nature reserves.

a) From case narratives to macro-synthesis

Starting from 1999, an original research on displacement resettlement from parks in several Central African countries has been carried out by Kai Schmidt-Soltau. He was the first to systematically apply the IRR model to analyzing the displacement effects of the national parks of several countries: Republic of Congo, Gabon, Cameroon, Equatorial Guinea, Central African Republic and Nigeria. The original contribution of Schmidt-Soltau's research methodology is the application of the IRR model to displacements from a *cohort* of parks considered together, all located in a contiguous region of Central Africa, in order to *distinguish the general characteristics* of such processes.

The benefits of methodology and synthesis became immediately obvious: instead of the case-by-case narratives, customary in the anthropological literature, Schmidt-Soltau has constructed with the help of the IRR model an integrated image of what is *typical about a class of processes* –the processes set in motion for establishing large nature conservation parks and protected areas. The IRR methodology enabled him to produce not only a narrative account, but also generalizing propositions about the characteristics of population displacement out of Africa's new parks.

Schmidt-Soltau (2000, 2003) has found that despite Central Africa's low population densities and despite the large territories to which the resident tribal groups had access previously, the affected tribal groups, once displaced, were suddenly rendered landless. The states and agencies which uprooted them did not provide, in exchange, land entitlements elsewhere. Marginalization and social disarticulation materialized in severe forms. Conflicts and competition with unwilling "host" populations resident at the relocation sites escalated and the compensation of both populations (already at low living standards previously) aggravated further.

Risk analysis, however, can be nuanced and can deconstruct synchronic processes. Thus, Schmidt-Soltau found that under the local Central African circumstances the risks of the IRR framework surfaced with different intensities. Homelessness, for instance, didn't prove to be a severe impoverishment risk, because the simplicity of local housing enabled the relocated people to rebuild relatively easy, and materials were plentiful. Similarly, during displacement the risk of food insecurity did not materialize either. With differences carefully considered, the generalized picture of impoverishment through displacement built along the IRR framework provides what is probably the most comprehensive synthesis of such processes in Africa to date.⁴⁶

⁴⁶ A Cameroonian researcher, Innocentia Ankungha Awoh (2005), has also done research in Cameroon's Korup National Park, covered by Schmidt-Soltau as well. In this research, and in another study on

b) Emerging Policy Recommendations

The empirical findings about multisided impoverishment risks and real-life outcomes, analyzed from the perspective of conservation and development, led further also to policy recommendations. In subsequent studies, produced jointly with the writer of the present paper, the authors relied on the IRR framework to critically re-place in discussion *the current strategy itself* of park creation: namely, the strategy and practice of forcibly removing the areas' previous inhabitants without effective counter-impoverishment safeguards and compensations (see Cernea and Schmidt-Soltau 2003a, 2003b, 2006). Our studies strongly argue the need to ensure "double sustainability" –that is the sustainability of biosphere resources and of people's livelihoods. Since brutal displacement practices have demonstrably worsened livelihoods, *park-creation predicated on forced displacement of people must be discontinued* (Cernea and Schmidt-Soltau 2003a and 2003b).

The legitimacy of this recommendation results from the consolidated empirical analysis of several cases carried out with *the same methodology* in various countries. The aggregation of pauperization indicators, and the similarity of findings across a cohort of cases, lent added force to this argument.⁴⁷ Further, its empirical basis has been broadened in the authors' 2006 study by corroborating findings of other park researchers of parks in East Africa (Risby 2001; Rudd 2004). In sum, the recognition of poverty risks and of the added pauperization inflicted on forest people justifies replacing the compromised, old displacement approach with a radically new strategy, socially protective as well.

c) Corroboration from East Africa

Two interesting replications of the study in Central African parks, both done independently, come from research done in East Africa by Kristina Rudd (2004) in Southwest Uganda's Bwindi Impenetrable Park on the tribal Batwa population and in Mozambique by Chad Dear on Displacement in Banhine National Park (Dear, 2006-2007).

Unrelated to Schmidt-Soltau's study, Rudd did a virtually similar "year-long research project exploring the situation of the Batwa, using the IRR model as a theoretical base," seen by Rudd as "the most helpful theoretical model for understanding displacement and impoverishment".⁴⁸ The Batwa are a pigmy indigenous ethnic group,

displacement caused by the major disaster at Lake Nyos effecting numerous surrounding communities. Ankungha Awoh has also employed the IRR model, briefly reporting on her findings in a paper presented at the IASFM Conference in 2005. The full account of Ankungha's research is written up as a PhD dissertation, approaching presentation, and publication.

⁴⁷ At the World Park Congress, held in Durban, South Africa, the debates around these findings on impoverishment were intense and generated considerable support, but also the opposition of some prominent conservation practitioners. The fact remains, however, that unmitigated forced displacement as park creation strategy in developing countries sharply conflicts with poverty reduction. After decades of experiences with the displacement approach, the argument is that this strategy has exhausted both its potential and its credibility. It has produced great damage, has not fulfilled expectations, and is compromising the reputation of the efforts for biodiversity parks conservation by inflicting aggravated poverty on resident people.

⁴⁸ Rudd writes:

"The impact of Bwindi Impenetrable National Park on the Batwa can best be analyzed through the framework of Cernea's Impoverishment Risks and Reconstruction (IRR) model. I understand the Batwa's situation as one of absolute poverty – a poverty that extends far beyond monetary terms

displaced from Bwindi Park in 1991 and uncompensated for their loss of land. Over 80% of the group remained still landless six years after their displacement, squatting without security on land owned either by private individuals (66%), by the government (8%) or by churches (8%) (Rudd, after Kabanankye).

This risk-by-risk analysis confirmed all eight risk-categories, and Rudd generated significant new data particularly on health, demonstrating the Batwa's "*decreased access to health care*". Given that the Batwa have, in most cases, moved physically closer to health clinics, this finding may appear counter-intuitive. But the researcher convincingly argues, based on field-studies in seven Batwa settlements, that the "interconnectedness" of all the other materialized risks, along with other factors, "*has resulted in a decrease in access to health care which is one of the root causes of increased morbidity and mortality in their community.*" For instance, the Batwa have infant and child mortality rates up to four times higher than other ethnic groups in the same region.

"I found, writes Rudd, that the child mortality rate in these villages was 47.7 percent. This means that nearly half of the children who are born to Batwa women die before the age of five years. This figure is much higher than Uganda's national average of 14.1 percent (according to World Bank 2004 data), but is similar to Kellermann's (2003) values of 40 percent and 41 percent." (2004: 101)

Resettlement has indeed changed the Batwa group's terms of access to inputs affecting health conditions, including access to both traditional and Western medicine: because of marginalization and discrimination, their access remains "unequal to that of their non-Batwa peers", and, in addition, they now have lost the prior access to their traditional medicinal plant resources.

Based on this analysis, Rudd reformulates the "increased morbidity and mortality" risk of the IRR model and proposes to replace or define it differently (at least for the case studied) as the risk of "*inadequate access to health care*" which in turn leads to increased illness and mortality. Overall, the researcher concluded that the impoverishment risks model "is affirmed by the case of the Batwa, and can be used to analyze their situation of displacement, as well as to predict, and hopefully prevent, impoverishment secondary to conservation projects in the future" (2004: 13). The risks, she observed, "are deeply interconnected, and cannot be analyzed outside of the context of the full model." Rudd conducted her risk study with a view to facilitating social improvements, and therefore turned the analysis into a set of

proposed recommendations for the Batwa, including: ways to address the issues of marginalization and landlessness; changes in international conservation ideology and policy; and an increase in indigenous rights legislation in multilateral, bilateral, and non-governmental institutions. (2004: 2).

If anything, the findings from Bwindi Park reinforce the conclusion derived from the Central African park research about "just development and conservation strategies", that is – about the need to set aside forced displacement as approach to park creation, because of its unchecked impoverishment effects. The debate, of course, is still open. But new research is continuously surging on this subject in Africa. A recent paper by

to encompass a broader social struggle – that is effectively outlined in the eight risks of the IRR model. While all of the risks are applicable in analyzing the Batwa's relationship to the park, they have impacted the community to varying degrees. Using this model as an analytical framework allows us to better evaluate the impact of Bwindi on the Batwa people, and to apply those findings to the formulation of more effective and just development and conservation strategies." (2004: 54)

Brockington and Schmidt-Soltau (2004) calls in again the IRR methodology arguments and findings, and outlines a larger scale research program on the poverty and parks issues. Several other convergent research projects revolving around the same theme were announced at the IUCN's World Conservation Congress in November 2004, likely to expand further the empirical evidence.

The research done by Chad Dear on the communities displaced from the Bahine National Park is also guided by the IRR risk model. Bahine National Park is one of three national parks that form the core areas of the Mozambican component of the Greater Limpopo Transfrontier Conservation Area. The other two parks are Zinave National Park and Limpopo National Park. A project supported by a credit from the World Bank and a grant from the GEF trust fund (Global Environmental Facility) covers the Transfrontier Conservation Areas in Mozambique (World Bank 2005). The data resulting from Chad Dear's research are still under processing, but they indicate the same impoverishment effects of displacement (Dear 2006-2007). The process itself and its impacts are complicated by the broader population transfer program of the Mozambican government at creating concentrated settlement.

Although the forced displacement strategy for park establishment is being now increasingly discredited by the evidence of its impoverishing effects and human rights violations, so far no formal change in official park strategies of the involved governments or international agencies have been placed on record yet. But risk-analysis has demonstrated the ability to reveal the pervasiveness of the induced impoverishment processes, has built a powerful poverty case *against* forced displacements, and has helped elevate the reasoning and the debate to the higher level of policy-changing arguments. I expect that, on its own multiple merits -developmental, conservationist, and moral, considered together- this argument will eventually win.

X.

MAJOR DAMS: SCUDDER'S IRR ANALYSIS OF DISPLACEMENT OUTCOMES

To conclude this analysis, I will discuss some of the most recent research carried out on dams and resettlement by Renu Modi (India) and by Thayer Scudder (USA), with the IRR methodology. (see also dam building in Ethiopia, earlier in this paper)

a) Comparing Findings on Women in Dam-Caused Displacement

Africa's dam-caused major displacements in the '1960s-1970s, studied early, became the cornerstone of academic scholarship about forced resettlement worldwide -- particularly the Kariba dam's resettlement analyzed in Colson's (1971) and Scudder's (1993)⁴⁹ landmark studies, and in Butcher's and Chambers' studies on Akosombo dam on the Volta river. The comparison of these early processes in Africa and today's dam-caused resettlements is aptly made by several studies contrasting the '1960s Kariba with the '1990s Sardar Sarovar dam on the Narmada river in India. Among them, I'll highlight in particular the monograph by Indian anthropologist Renu Modi (2002) assessing resettlement processes at these two big dams several decades apart.

Modi explains that she used "*the impoverishment risk and reconstruction (IRR) model as a theoretical framework for (my) analysis*" and applied it, retroactively, to data

⁴⁹ The 1993 paper is a synthesis of Scudder's several papers on this case.

on Kariba in Africa, comparing them with recent data on Sardar Sarovar in Gujarat, India. Her comparison focuses on a major group at risk – the women -- "seeking to study the gendered impact of relocation on women and family with the IRR model". For this, she regrouped the original Kariba data along the model's risks of impoverishment [landlessness, homelessness, food insecurity, marginalization, common property a.o.], and her own field data, to inquire whether the 40 years that passed between building the two dams have brought changes in how women needs are recognized in resettlement practice. In the case of land, for instance, Modi notes that the displaced women, both among the Hindu tribes or casts and among the Gwembe Tonga, did not have land ownership rights, but had usufruct rights over land and thereby access to it. But she found that women have lost out on access, and virtually little has changed in this respect, if not for the worse. "Following relocation, -adds Modi- women also lost out on access to common property resources".

Based on her systematic analysis of risk variable after risk variable, Modi observes:

In the case of the Gwembe Tonga women and women displaced by the SSP we can surmise that displacement has had an injurious impact on their economic, social and cultural capital or they were further impoverished. When the resettlement of the Kariba Dam took place, concerns for equity and justice in the social or gendered context did not inform the discourse on DIDR. But such concerns did exist at the time of the SSP resettlement (2002).

Nevertheless, the change in discourse didn't go far enough to result in real change.⁵⁰ Despite the World Bank policy on involuntary resettlement, the distributional impact in the social or gendered context remained skewed against women. Modi emphasizes repeatedly " *the transformational potential that large dams can have, and the positive changes they can bring about if the actual project planning and implementation are sensitive to the gendered aspects*". Therefore, she concludes her analysis with the strong recommendation that general policies, however indispensable, are not enough: they need to be specified with respect to distinct groups at risks, such as women, and must give guidance on women's options in resettlement in more detail:

Equity or a better distributional impact of large dams can be achieved only if resettlement policies and implementation are gender sensitive and are accompanied with a vision of women's empowerment in the economic, social and cultural context (2002).

b) A comparative synthesis on 50 hydropower dams

A multi-year, and most comprehensive, analysis of displacement caused by hydroelectric dams was carried out by Thayer Scudder and reported in a recent massive monograph (2005). Scudder speaks with great authority on this topic, since his body of research and writings on dam-caused displacement has made a seminal contribution to what is scientifically known today about forced resettlement.

The 50 dams synthesis undertaken by Scudder, the first of its kind, is relevant for our analysis in the present paper for obvious reasons. First, it includes Africa and

⁵⁰ Modi criticizes the policy of the World Bank for not being strong enough on women's entitlements, and India's Governmental authorities responsible for project implementation for the same weaknesses. It is also noteworthy that, in the case of the Sardar Sarovar Project, when the World Bank Commission Report made exacting formal requests that India's Government adheres rigorously to policy, India's Government responded by asking for the Bank's withdrawal from overseeing and financing this project, even though it had to forgo over US \$ 100 mil. in unused yet Bank project financing.

reflects a vast amount of resettlement research on the continent, part of it done and published by Scudder along the years, and part carried out and published by many other well known scholars, such as Adu Arie, Brokensha, Butcher, Chambers, Colson, Fahim, Fernea, Horowitz, Kalitzi, Koenig, Salem-Murdock, Sorbo, and others. Second, it makes conceptual and methodological use of the IRR model as an essential analytical tool. The sample of 50 dams includes 12 dams in Africa, and out of the 29 countries included 10 are African countries: Egypt, Ghana, Kenya, Ivory Coast, Lesotho, Mali, Mozambique, Nigeria, Togo, Zambia. The aim of the study is to sum up essential aspects of the "global experience in resettlement" in terms of the impacts of dams on the welfare of the populations displaced and resettled.

Attempting to construct comparative matrices of resettlement impacts from hydroelectric dams, Scudder employed both the IRR framework to interpret and organize his main findings and the four-stage model that he developed with Colson (Scudder and Colson 1982). Scudder took an interesting road to using the IRR model: he painstakingly collected socio-economic impact data from studies on 50 large dams, organized them along the poverty risks indicators of the IRR paradigm, and subjected them to secondary analysis and generalized interpretation. The research questions he posits are: what has resettlement achieved regarding displaced people's livelihood? Have prior living standards been improved? Restored? Have the displacees ended up worse off?

To answer these questions factually but in a generalized form, Scudder 'interrogates' the collected data about whether or not the impoverishment defined in the IRR model have materialized in the set of 50 large dam cases examined. The findings are relevant both from the perspective of distilling development lessons and from an epistemological perspective, confirming the ability of the IRR methodology to produce generalizations through the secondary analysis of primary research data.

Scudder found sufficient data for analysis of seven of the IRR's eight impoverishment risks, verifying once again their generality.⁵¹

'While the IRR's impoverishment risks were especially important in explaining failure', Scudder writes, 'the frequency with which the most important occur is itself a condemnation of the nature of resettlement outcomes in connection with the 50 dams sample'.

To generate a quantified image, Scudder constructed a 'well being index' of the resettled populations by combining five of the IRR model's impoverishment risks. Both the consolidated index itself and each of its five components were found 'to have a significant relationship to outcome', with a small standard deviation. For instance, the landlessness risk materialized into reality in 86% of Scudder's cases, and the joblessness risk – in 80%. "Looking to the future", he writes, 'the importance [of landlessness] can be expected to rise as an increasing proportion of dams are constructed in the tropics'.

Equally relevant results came out about the other risks: food security surfaced as a grim reality in 79% of the cases; loss of access to common property resources materialized as an impoverishing loss of both natural capital, community power and social organization; and "marginalization, as Scudder wrote, had the highest association with an adverse outcome of any of Cernea's impoverishment risks". As to social disarticulation, in analyzing the primary data Scudder coded it mainly as an outcome of the "inability or unwillingness of project authorities to resettle people in communities and

⁵¹ For the 8th risk of the IRR framework – increased morbidity and mortality – Scudder reports that he has found insufficient research data in the primary dam impact studies to allow statistically valid processing.

social units of their choice": in this somehow narrow interpretation, it still scored as a problem for a majority of resettlers in 34% of cases. My own definition of social disorganization, however, is considerably broader, since it results from intrinsic complex changes in displacement beyond what project authorities are willing to do, and therefore social disarticulation effects are likely to be more widespread.

Finally, Scudder found that

'least problematic of Cernea's impoverishment risks was homelessness, provision of housing being the most successful resettlement component worldwide. Housing was considered adequate in 81 percent of 47 cases and inadequate in none.'

Indeed, this risk is confirmed by many researchers as being largely preempted, due largely to the strong aspiration of poor resettlers, and their own resource mobilization, to acquire a better dwelling.

Positive outcomes in resettlement from dams have also occurred, but in a small number of cases. Their analysis, in turn, illustrates what is required to enable a majority of a resettling population to become not victims but rather gainers from resettlement. For that to happen, reconstruction post displacement must reverse risks and follow a full-fledged multisided strategy.

Whether or not the social results achieved so far demonstrate that dams are inherently unsustainable projects, or that they can be sustainable and beneficial at both national and local levels, appears to depend primarily on implementing policy norms and allocated means, and on handling better the social complexities of resettlement. Despite my full agreement and appreciation of Scudder's own IRR analysis of outcomes in the 50 dams sample, and despite our common assessment that the current planning and execution of many hydropower projects "continues to be seriously flawed", I cannot share his statement when he writes that *"I'm convinced that large dams do not constitute sustainable development"* (Scudder, 2004). The hugely positive contributions of hydroelectric dams to generating clean, non-polluting energy, to irrigation in agriculture, to flood control, and to drinking water *can be made sustainable and enduring*, provided that sound policies, adequate investments and equitable profit sharing with those adversely affected are implemented as well. It is precisely the virtue and due of the IRR analysis to reveal what *can and must be done early on to preempt de-capitalization risks and, with political will, to allocate commensurate financial and institutional resources for implementing realistic counter-risk action*, at satisfactory social, economic, and equity standards.

XI.

BRIEF CONCLUSIONS

At the end of this analysis several main conclusions virtually impose themselves. Yet it may be proper to state that the vast material examined is much too rich to be summarized simply. It can be best looked at as a vast platform of knowledge for further reflection, analysis, scientific and public discussion, and mostly, for policy and practical action.

First and foremost, we must conclude that the study of risks in forced resettlement has hugely expanded in Africa. The social science research on resettlement is today much more robust, with more breadth and sharper depth. It has entered sectors of the economy in which forced displacements have happened before as well, but have not been studied in depth previously. The "classic" knowledge on resettlement in Africa is being used, built upon, compared with new experiences,

developed further, and enriched. Surely, the overall resettlement research field and literature in Africa are much larger than the risk-related research analyzed here, but it is clear that this new and expanding interest in risk studies is moving the frontier further and is broadening the entire domain. New cohorts of researchers have joined the ranks. Tribute must be paid to the growing numbers of social scientists whose endeavor has produced this vast research panorama on the risks of displacement/resettlement processes embedded in the fabric of Africa's today's struggle for its development.

The main overall finding of the present analysis is the direct causal relationship between forced displacements and the generation of "new" poverty processes, aggravating existing poverty.

Like in the developing countries of Asia and Latin America, the political discourse of African countries proclaims the reduction of chronic poverty as the governments' paramount objective. Yet the ubiquitous and massive displacement irrefutably demonstrates that on top of what we call "*existing old poverty*" targeted by all poverty-reducing programs, some "*new poverty*" is emerging as well. This new poverty appears as a tragic and unacceptable pathological consequence of development programs that uproot and dispossess traditional communities without adequately mitigating such effects by adequate social safety nets. Such development programs, in both the public and private sectors, can definitely be better designed to implement such safety measures and to finance them properly. The sponsors of such development programs do not meet adequately their responsibilities *vis a vis* the negatively effected populations. The civil societies in Africa increasingly grow to oppose such practices, but their struggle is still weak and their opposition is little organized. Resettlement research, in turn, is very insufficiently addressing the political issues underpinning imposed resettlement. The researchers using the IRR model have indeed to compliment every time their research of impoverishment with analysis of the political factors that contribute to it.

The aggregate analyses of recent social research glaringly reveal and factually document that new impoverishment does take place now in Africa. This must be recognized as the biggest paradox, and the most unacceptable, in induced development: the fact that some development programs, although launched, financed, and designed to reduce poverty, end up causing more poverty to a segment of their populations. And nonetheless, this paradoxical outcome is ineptly and immorally tolerated, and it occurs again and again. It is predictable, and yet it is not preempted. Impoverishment from displacement becomes a strange and routine outcome of most projects that displace a number of people, but do not provide effective safeguards to protect their livelihood. The risks to livelihoods can be avoided or much mitigated. But investments in safeguard measures are not made and the risks of pauperization materialize again and again into disastrous actual impacts.

As the risk analyses discussed above revealed aptly, impoverishment through displacement occurs, in most cases, as a process of *multidimensional* pauperization. Such impoverishment is not just an "economic" or "cash poverty" matter, it is a political one as well, it causes also asset-poverty, health poverty, nutritional poverty, it is also power poverty and disempowerment. The findings of many researchers on the risks of poverty has produced a multidimensional picture of impoverishment stemming from now ongoing forced displacements in Africa, inadequately carried out when induced by development intervention ungoverned by sound resettlement policy.

This broad picture sends a loud signal. Governments and international agencies must genuinely listen to and hear this loud signal; they must re-adjust both their policy

content and policy discourse about poverty reduction in light of this signal. It is not only the old, inherited poverty that must be reduced and eliminated. "New poverty" emerges surreptitiously while the "old poverty" is being fought. Yet the scourge of this new poverty is not pre-ordained: it is man-made. Some of it comes, unacceptably, on the wings of development programs that are needed, but are incomplete or one-sidedly designed. But precisely because this new poverty is man-made, it is not inevitable. It can be preempted when potential/incipient risks of poverty are arrested before they grow, proliferate, and materialize into actual poverty impacts.

Unfortunately, however, while displacement by development projects is expanding at a fast clip in Africa, with severe impoverishing effects, the regulation of displacement processes in Africa through formal state policies is almost nil. Such policy regulations in Africa lag behind the policy advances made in all other continents. This *policy-vacuum* should be a matter of high concern to all governments interested in promoting faster development in Africa.

Through the numerous recent studies analyzed above, the Impoverishment Risks and Reconstruction Model has been tested, and validated, due to the efforts of many independent researchers, as a robust scientific tool capable to predict, diagnose, and incisively deconstruct the anatomy of impoverishment risks. It appears that in a short period the analytical applications of the IRR have grown rapidly and have considerably fertilized resettlement research. The explicit use of the IRR methodology and conceptual apparatus has empowered resettlement research in Africa to focus – stronger than ever before – on risks indicators and poverty's measurable dimensions. Bridges are being built, linking resettlement research to the dominant paradigm in development today – the paradigm of poverty reduction – thus gaining important strategic space for a forceful argument in international development: the argument that forced displacement and resettlement, when it is absolutely unavoidable, must be done much better, sounder, to become itself one of the roads upon which those affected could step towards poverty reduction writ large.

An insightful commentary on IRR, made by Chris de Wet and Fox (2001) in their important book on transforming settlement in Southern Africa, highlighted the flexibility and versatility of the IRR model, its "open-endedness". Observing that the model gives researchers and planners the possibility to enter risk analysis and the risk framework from various angles, either analyzing one single risk distinctly, or several risks in their interconnection. They wrote: "While Cernea presents what is essentially a system-oriented analysis, in which a number of variables influence each other, *it is open-ended in the sense that one can enter his 'matrix' from the direction of any one of the eight sub-processes* which separately and cumulatively make for socio-economic impoverishment. Planners can thus select the risk of landlessness arising out of re/settlement, and consciously incorporate plans to counteract that risk. Similarly for homelessness, joblessness, ill-health, marginalization, etc." (Pg. 26-27) What de Wet and Fox noticed several years ago, rather early in the life of the IRR model, what they observed several years ago is now fully confirmed by the analysis presented in the present paper, which shows indeed how various researchers have benefited from the model's versatility, as they "entered" and used it for either broad or focused risk analyses.

As evident from the studies discussed in this paper, during its use the IRR methodology was not only "applied", it was also enriched and diversified, adjusted and improved, by the scholars and researchers who have used it, through their precious contributions. With adequate adjustments and caveats, its application has been advanced and expanded creatively beyond development-investment projects to other types of

displacements, such as population transfer and territorial redistribution programs, and conflict-caused forced displacements, and conservation-park programs. It has been also tested and used for analyzing the impoverishment risks affecting host populations as well, not only resettlers. A good number of research techniques, indexes, scales, matrices, indicators, etc. have been devised inventively in support of employing the IRR effectively, with due consideration to local contexts and to different research goals. Much creative use of the IRR methodology and concepts has been also done beyond Africa by many researchers in other continents, particularly in Asia, upon which the present paper did not dwell. The robustness of the IRR has gained much through all these contributions.

Beyond these advances, however, there also are yet un-traveled research territories in risk analysis. The programs of further research on resettlement risks and their ramifications must be outlined collectively by the resettlement research community. The expansion of research on risks and counter-risk activities in resettlement still has gaps to fill, in my view, in terms of "scaling up", to analyze the state's social policies and public expenditure patterns, and the private sector's practices. The IRR methodology is also apt to strategically guide planning and reconstruction programs, but in the present analysis I found much less current research in Africa on how state policies are or are not framed, on how reconstruction is being pursued, and how reparation of harm and losses is or is not carried out, when they are identified and recognized. Institutional constraints and contradictions in managing displacement's risk have specificities not encountered in, so-to-say, 'normal' development work. Yet the well-established domain of *risk management* research, although highly respected in the, 'social protection' sector, has yet to include the social protection from imposed displacement risks.

There is much un-traveled research territory also in the opposite direction, in "scaling-down", to explore deeper the strategies of those displaced themselves: this needs to include not only research on coping and adaptation-to-risk strategies, but also research on resisting displacement risks through political action (a topic still virtually absent in African resettlement research). The IRR framework also calls for expanding the practices of risk-communication, yet quite often the risk-generating development actors tend to hide the risks from the risk-bearers. There is as well, in my view, a rich agenda to be ploughed by research on risk-information and communication of responses to risks, but such research is still lacking. Also, the more intimate human and cultural-psychological aspects, the perceptions and traumas of displacement stress and the fear of risks are frequently recognized declaratively but not systematically examined. Computing the aggregate numbers of forcibly displaced people, however important, only *seems* to tell the full story of displacement's proportions, but it doesn't. The full story is larger, because the micro-dimensions of forcible displacement at the individual human level, at the level of what men and women, the elderly and the children, actually experience in displacement, constitute an entire universe, with its own proportions.

The facts on poverty revealed by the many IRR studies on which this paper relies are deeply painful, and deeply true. Beyond numbers and percentages of risks and losses are countless real families and human beings, which suffer these losses as tragic setbacks in their daily existence and in their aspiration for a better life. The obligation to prevent and reduce these risks of further impoverishment is a developmental and ethical high commandment. I'd like therefore to conclude these thoughts by affirming that doing research on impoverishment risks gives the social researcher a great privilege: the privilege of, hopefully, being useful to many people deeply affected, vulnerable and exposed to losing much out of the very little they possess. This privilege and duty, together, are a tall call. This call does deserve the most committed response.

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DISPLACEMENT AND REHABILITATION OF DISPLACED PEOPLE IN INDIA

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The displacement of inhabitants or the people who live in a particular home-land with their agricultural lands turned into a chronic problem of the Government of India (GOI) and the State Governments from the first Five Year Plan which started with the advent of Independence. In the first phase of Five Year Plan, GOI took up the agricultural development of the country with World Bank loan under the scheme called PL-480. Under this scheme GOI took up Mega Projects like Hirkud Multipurpose Dam Project in Orissa, Bhakra Nangal-Govind Sagar Dam in Punjab, Thilaty-Mayurakshi Dams in Damodar Valley in Bihar and many other Mega Projects in the Southern States of India. These Projects were supervised by the experts who came to India under the aegis of World Bank. The GOI had constituted various Rehabilitation Committees to acquire lands, which could be irrigated down stream of the Dams where the displaced families could resettle in colonies with irrigated lands and with financial compensation as per the Land Acquisition Acts of the GOI. Since the people displaced, received adequate financial compensation and received land for land and better houses in place of old houses, the problems of the people did not surface much during the first Five Year Plan period.

During the Second Five Year Plan the Planning Commission gave emphasis to Industrialization along with agricultural development and infrastructure development with emphasis on improvement of surface communication systems in the country. The development processes also displaced quite large population in the country. Their Rehabilitation and Resettlement of the displaced created a lot of problems. I had the opportunity to observe myself these problems from close quarters. In those days, I was working as an Employment Officer of Rourkela, posted to Panposh Sub-Divisional headquarters. The Rourkela area was inhabited by tribal people. A big area measuring about 35 sq. Kilometers was earmarked for Rourkela Steel Plant (R.S.P). Besides, Government acquired land for ancillary industries. Of course people were given employment as a part of resettlement in the Jhirpani Colony, Vedavyash area and in many other periphery areas.

Since the tribal people were illiterate, anti-socials and corrupt officials exploited them. I remember some heart burning pathetic cases how the swindlers robbed the innocent tribals. Many illiterate tribals did not know how to count the 100 rupee currency notes, as they were unable to count beyond 10. For them it became a most difficult task to count many thousand rupees they were to receive at a time. There were only few Banks. Hence the anti socials got a very fertile ground to make money for themselves. Thus the Industrialization has reduced the Tribals to a state of deprivation everywhere. In those days GOI did not conceive the programme of educating the tribals in a big way. Had the GOI thought of starting with proper planning, tribals should have gone up the ladder of economic, social and educational development by now.

Since I belong to the tribal community myself, I feel that the tribal people everywhere in the country have not been given due attention by GOI. After the partition of India, the refugees from West Pakistan and East Pakistan were given a lot of benefits for their resettlement. I have seen in Punjab and Hariyana and also in West Bengal and Orissa that these refugees were rehabilitated with abundant care by GOI. The Dandakaranya Project of Orissa is a glaring example of that. While the refugees were treated like adopted children, the local displaced persons were treated as orphans. This has created unhappiness in the minds of tribals, which needs to be removed as quickly as possible.

DEVELOPMENT PROJECTS AND DISPLACEMENT OF TRIBAL PEOPLES*

*Hari Mohan Mathur***

The territories dominated by tribal people are often rich in hydrologic, mineral, oil, gas, forest and other resources, and this at once makes them the most attractive sites to locate large projects of various kinds. It is not surprising that a number of development projects undertaken in India in the years since Independence are located in areas largely inhabited by the tribal people. The Bhilai steel plant, the Hirakud dam, the CIL coal mines, the NTPC super thermal power projects, are all located in predominantly tribal areas. For multinational companies, looking for investment opportunities, these areas are fast becoming the most favoured destinations. The fact is there is no such territory not coveted by some international corporation. "It is coveted for its mineral wealth, its oil deposits, its pastures, its forests, its medicinal plants, its suitability for commercial plantation, its water resources or its tourist potential". (UNDP 2004: 67)

One would normally expect the resource-rich region to be a boon for the local population. In India, the rich natural endowment has, however, been of little avail to the tribal people. On the contrary, large-scale development projects undertaken in tribal areas have cost them dearly. Millions of tribal people have been displaced from their lands, their homes, their livelihoods, and their communities to make way for projects. A recent estimate is that at least 55 per cent of those displaced are tribal people. (Government of India: 2004:2) It is largely this group that is paying for the development of India with economic insecurity, poor wages, social disorganization and cultural shock. (Jones: 1978) Human and Pattanaik (2000:5) provide a vivid description of the development impact on their homelands: "Their ground has been dug up for its minerals, their rivers dammed for power and irrigation, their soils ploughed for commercial agriculture, and their forests felled for their timber".

Development creates both winners and losers, but it is the poor tribal people who invariably end up as losers, not the rich non-tribal groups who are winners all the time. Discussing land conservation efforts that are giving rise to a new breed of refugees, (Geisler 2002: 81) reported: "It is the wealthy inhabitants of the planet who benefit most from greening – enjoying exotic vacation destinations, new targets for their tax deductible largess, windfall gains in value for their high-end properties in or near protected zones... Local inhabitants are rarely so fortunate. Many live on marginal lands in marginal places with marginal rights to remain in their communities. Their contributions to the ecosystem are taken for granted and appropriated with little compensation".

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Involuntary resettlement experience worldwide suggests that its impact on tribal people has been overwhelmingly disastrous. In most cases, development projects have only led to their further impoverishment. (Cernea: 2000 and 1996; Mathur: 1999; and Mathur and Marsden: 1998) As summarized by McCully (1996): "In almost all of the resettlement operations for which reliable information is available, the majority of oustees have ended with lower incomes; less land than before; less work opportunities inferior housing; less access to the resources of the commons such as fuel-wood and fodder; and worse nutrition and physical and mental health". The WCD (2000: 110) also observed: "Large dams have had serious impacts on the lives, livelihoods, cultures and spiritual existence of indigenous and tribal peoples." The Commissioner for Scheduled Castes and Tribes highlighted the poor treatment generally meted out to tribal people: "The spree of development in tribal areas without any consideration for the situation of the tribal people living there is in a way declaration of war against those people. The entitlements of the tribal people are being ignored in all cases". (CSCST: 1987)

Generally, projects that lead to displacement prove harmful to tribal people. People who are forced to relocate have to begin life anew in places that may be totally unfamiliar, if not altogether hostile. It is not only homes and livelihoods that are lost. Resettlement is also socially disruptive, because people are not necessarily moved together in a group as they have lived for years. With long established social networks gone, economic recovery becomes doubly difficult, and people are left to face an uncertain future in difficult circumstances. The trauma of resettlement is also exacerbated for tribal people because of their close spiritual ties to their homeland and their apprehension that once they move their way of life will be lost forever.

Displacement is a very traumatic experience, and as if displacement once in a lifetime is not enough there are cases where people had to relocate several times. One harrowing example from such multiple displacements comes from the Singrauli region. "The first lot of people were displaced by the Rihand dam in the 1960s. Subsequent projects in the form of mines, railway lines, thermal power plants and industries and the efforts of the Special Area Development Authority (SADA), all of which came up within a 20 km radius of the Rihand reservoir, forced the displaced to undergo the process repeatedly, sometimes as many as five times. Their displacement might still continue". (Thukral and Singh 1995: 110) Equally harrowing is the case of Bijasen, a Gond tribal village affected the Bargi dam, one of the first big dams on the Narmada river. The people of this village were relocated twice. Due to some miscalculation, the site at which the people were first moved and where the government allocated people homestead lands, complete with legal titles, was submerged. Most of the people fled to Jabalpur and Narsinghpur in search of wage labour. (CSE 2000:144)

Much displacement is avoidable, but often it occurs on a large scale due to the callous attitude of the project authorities that unthinkingly acquire large chunks of land, which then turn out to be in much excess of their requirement, and remain unused. In some cases, large areas are acquired by industries, which fail to come up! But this leaves the evicted people landless, without giving them in return any comparable means of sustenance. This happened recently in Gopalpur, a coastal town in Orissa, where the Tatas acquired 5000 acres of land to set up a 10 mta capacity integrated steel plant. The project compensated the affected people generously in cash and relocated 400 families to a nicely built resettlement colony at some distance from their original villages. A little later, the company decided to abandon the project in view of the changed market conditions and such other considerations, keeping the entire acquired land to

themselves. Meanwhile, people though living in a new place with better facilities have lost their lands, and have yet to rebuild their livelihoods on a sustainable basis. (Mathur: 1998) The disruptive consequences that result from such thoughtless actions, however, seem not to bother the project planners. It is the poor tribal people who suffer the worst effects of their failed projects. Appa and Patel (1996) recount similar cases of unnecessary displacements from Gujarat that could have saved many lives from being torn asunder.

Project authorities regard consulting with people a waste of time. Even vital information of concern to them is not shared. Often, people come to know about projects and their dire consequences at the last minute, forcing them to virtually run for their life. (Mathur: 2006) The Alamatti dam in Karnataka provides an example of how the lack of planning can add to woes of the project area people. Here, in 1996 and 1997 water caught the people before the new sites were ready to receive them, so that emergency action had to be taken, including boats and helicopters to evacuate a large number of people. Clearly, the construction schedule for the dam was not synchronized with that of resettlement, and the dam took priority. Flooding people out of their homes turned out to be the de fact relocation method used in this case. (Picciotto, Wicklin and Rice 2001:8)

Just how many people, tribal people included have been displaced for the sake of development projects is not precisely known. They are systematically undercounted. The rough indication about the number of people now getting displaced is nearly one million a year, but with the new emphasis being put on infrastructure development this number will reach to two million before long. However, the figures that are doing the rounds are all based on guesswork.

Until recently, dams were a major cause of displacement. Projects in other development sectors are however quickly catching up. Urban and transport are among the development sectors that have seen a rapid rise in the number of persons affected due to development activities. In India, for protected areas alone, one estimate suggests that as many as 600,000 tribal people have been displaced. (PRIA:1993) A common misconception about displacement from parks and protected areas is that it causes little harm where it occurs, and that the impoverishment it brings to the evicted is tolerable, given the larger stakes in development. Dispelling such false notions, Giesler (2003) argues that displacement from conservation efforts contributes to impoverishment in multiple ways. Conservation refugees are often poor at the outset of their ordeal. They are victims of displacement in part because of their combined poverty and powerlessness, which is then compounded by forced removal.

Generally projects tend to displace a disproportionately large tribal population. A UNEP (2003) report cites the examples of Karjan and Sukhi reservoirs in Gujaat that displaced only tribal people. Again, people who bore the brunt of displacement in two other projects in Orissa were also overwhelmingly the tribal people. In the Balimela Hydro Project, 98 percent of those displaced were tribal people. Equally disastrous were the consequences for tribal people affected by the Upper Kolar Dam. In this project they constituted 96 percent of the total affected population. According to WCD (2000) "Overall, 40 to 50 per cent of those displaced are estimated to be tribal people, who account for barely 8 per cent of India's total population of over a billion".

As tribal people constitute a disproportionately large segment of those adversely affected, there are some who view development projects as some kind of a design to

target them as their victims, and have gone as far as labeling this situation as 'development cleansing'. (Rajagopal 2001: 4) Even McCully (1996) finds it intriguing that indigenous and tribal peoples and other marginalized ethnic minorities make up a disproportionately large percentage of those who lose their livelihoods to dams, and sarcastically remarked: "Areas with people who are well off and well connected do not make good reservoir sites". Such insinuations are, however, not well founded. In many projects the people who lose are neither tribal nor poor. Development projects in urban metropolitan areas are a case in point. In fact, "...there are many cases – for example Nam Ngum and Pak Mum Dams in Lao PDR and Thailand respectively – where those affected are from the majority population. These cases give the lie to the idea that it is ethnic status per se that disadvantages those affected". (Hirsch: 1999:38) The reason why tribal areas are favoured project locations is due to their suitability on technical considerations, not because of any sinister plan against them.

Although displacement is generally hurtful and none can possibly escape from its devastating impact, it is particularly disruptive of tribal livelihoods and cultures. They have to leave behind their land and the forests which are their sources of livelihood. They have no skills to start any other activity for a living. As the WCD (2000) pointed out: "Due to neglect and lack of capacity to secure justice because of structural inequities, cultural dissonance, discrimination and economic and political marginalization, indigenous and tribal peoples have suffered disproportionately from the negative impacts of large dams, while often being excluded from sharing in the benefits." They face relatively more risks of impoverishment because they rarely go to courts to vindicate their rights or get the wrongs redressed. The legal system is cumbersome, dilatory, expensive and often weighted against them partly due to their poverty, illiteracy and low social status. (Dhagamwar: 2006) On the contrary, project officials tend to deny them even their due. It is common for the officials to keep the project cost low by calculating compensation amount for land on the lower side, denying especially the tribal displaced the real value of his properties.

The reasons why the tribal people when displaced are often more at risk, facing more dire consequences than the non-tribal people was succinctly highlighted in a Government of India report. The Report (GOI 1984: 178) noted: "While the problem of displacement upsets not only the tribal population but also the general population who come within the submergence of acquisition area, there are some basic points of difference in the type of difficulties faced by the two communities. The most important one relates to the cultural aspects of life. While the kinship of the general population is spread far and wide, this is not true of the tribal groups whose habitation may be confined only to certain specific areas. Any unsettlement in the case of the later, therefore, deals a far more crushing blow to their socio-cultural life than in the case of the former. Secondly, on account of low educational level and a tradition of a life of comparative exclusiveness and isolation, the Scheduled Tribes find adjustment more difficult in an alien location. The third important reason for which the displacement is felt more acutely by the Scheduled Tribes than by the general population is that the former depend for their living including trade, profession and calling, on roots and fruits, minor forest produce, forest raw materials, game and birds and the natural surrounding and endowment, far more than the general population. The rehabilitation programmes of the displaced families taken up in various states generally do not take into account this particular aspect of the tribal displacement. Finally, the Scheduled Tribes being economically the weakest of all communities find it harder than others to settle on new avocations on a different site of settlement."

Compensation, a critical issue in resettlement planning, is seldom addressed satisfactorily. The impoverishment risks which the tribal people face mainly arise from neglecting to compensate their losses. (Mahapatra: 1999) The tribal people have little experience of handling cash and therefore compensation paid in cash rarely aids them in regaining their previous levels of living. It quickly slips through their fingers on drinking, weddings, ill-planned business enterprises. Yet, there continues to be heavy emphasis on issuing compensation in cash. Perera (2000) found even NGOs in the Singrauli region supporting cash compensation option, rather than other better sustainable income generating options. Not only is cash compensation culturally inappropriate, but also involves other problems. People never get the true value for their land, as it tends to get undervalued for compensation purposes due to prevailing flawed land valuation methods. For tribal people the land option remains the best resettlement strategy, but this alternative is often dismissed out of hand on grounds of land scarcity, without examining the possibilities of buying land from willing sellers for the displaced people. Even in the National Resettlement Policy, issued recently, the provisions regarding land for tribal people are non-committal, at best. All it states is those who lose land will get some if it available with the government in that district. (GOI: 2004) The policy has already come under attack on this issue. (Fernandes: 2004)

The reason why the tribal people suffer more is largely due to legal codes and governmental practices that often do not recognize their ownership of resources, especially individual rights to lands. The resettlement literature, however, is replete with cases where ignoring the customary rights of the tribal people and treating them as illegal occupants of government land has only led to the impoverishment of once settled communities, just the opposite of what development stands for. In the absence of legal title there is no basis on which to prepare a compensation package in lieu of their lands that projects take over. (Morse and Berger: 1992) Compensation packages have been utterly inadequate to compensate for the loss of land, livelihoods, and what is more important, the break-up of their communities and culture. The tribal people are further impoverished due to diminished access to natural resources in the areas to which they are moved, as these are not compensated. Cernea (2000) considers loss of common property resources as a major risk factor contributing to socioeconomic impoverishment in resettlement projects. "Such impoverishment is even more pronounced when people have to move from resource rich areas such as those targeted for conservation" (Fabricus and de Wet: 2000)

Relocation is rarely achieved without the use of force but where the tribal people are involved, eviction is invariably carried out in the most ruthless manner imaginable. (Bhatia: 1997) Any sign of resistance to move always invites the severest police action and worse. In Kacheipadar and Sunger, the two villages of Orissa, a study team found overwhelming evidence of excessive use of coercive methods by the district authorities against the tribal population. In both the villages, hundreds of people, including young boys and girls, were arrested and taken into custody. Teargas shells were fired in Kacheipadar. In the Sunger area, the company let loose goons to harass the villagers. An elderly woman in Sunger village informed the observers that she had never seen police in her life until the recent incident, and now, policemen were frequently knocking on the door. Strangely, the attention to the plight of these people by Agrabamee, a local NGO, was misunderstood in the government circles, resulting in its blacklisting. (CSD: 1999)

Many sites developed to resettle tribal people often fail to attract them, as the availability of livelihood opportunities is a factor that is not taken fully into account in resettlement plans. What makes resettlement sites particularly unattractive, often resulting in their complete abandonment, is the neglect of socio-cultural aspects of tribal life in the planning process. Mathur (1997: 16) found this to be the case in colonies built for the Bhil tribals displaced by the Kadana dam on the Mahi river: "The colonies that the government agencies especially built for rehabilitation did not attract the Bhil oustees. The prospect of living in new settlements, with civic amenities not in accord with their lifestyle, was not very attractive. Like tribals elsewhere, the Bhils are deeply attached to their soil and their hamlets on forested hilltops, which are dispersed and separated from one another by long distances. Living in clustered colony conflicts with their traditional dispersed pattern of living on top of their own forested hills...No wonder, then, that the number of oustees actually relocated to colonies is small, except in the colony at Dungarsaran...The popularity of Dungarsaran as a resettlement sites lies in the fact that it comes closest to the hilly forest setting of a tribal village". Similarly, a lack of socio-cultural concerns of the tribal people backfired in a resettlement colony set up in Andhra Pradesh. The Gond tribals from two regions found their customs and manners so incompatible that they could not live together at the same place. One group then left the colony. People brought together from antagonistic segments are bound to carry with them the traditions of their past antagonism, making living together an impossible arrangement. Burman (1968: 188) added that the ignorance of tribal ways of life frequently has been one of the reasons for people deserting the resettlement sites.

Summing up the resettlement experiences of Batang Ali, a tribal community in Sarawak, Malaysia, Perera (2000a) observed: "The Batang Ali resettlers are a broken community, feeling uprooted and dispossessed...The resettlers as a group have thus suffered a 'multi-dimensional insult', resulting in a shared sense of loss, failure and vulnerability. This has not been compensated for by increased income (which has actually declined) or by the other aspects of development which they had been promised". These observations aptly describe the Indian scene as well. For the tribal people of India, development has been too often experienced not as an opportunity, but as disruption and impoverishment.

Issues and concerns of tribal peoples can no longer be ignored or suppressed in today's globalizing world. They have become better organized and capable of demanding equality in sharing benefits from development projects in both national and international forums, and are searching for ways to overcome various obstacles to the eradication of their poverty and underdevelopment. (Gonzalez-Parra: 2001) "Indigenous peoples have dynamic living cultures and seek their place in the modern world. They are not against development, but for too long they have been victims of development and now demand to be participants in – and to benefit from – a development that is sustainable". (Magga 2004: 91)

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DISPLACEMENT OF TRIBAL PEOPLE WITH LAND RESOURCES FOR DEVELOPMENT PROJECTS: THEIR RIGHTS AND ENTITLEMENTS FOR REHABILITATION

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1. APPROACH TO THE STUDY OF TRIBAL RIGHTS AND ENTITLEMENTS IN LAND, FOREST, WATER BODIES AND OTHER RESOURCES IN ORISSA

The enormity of the problem of forced resettlement for development projects may be judged from the estimate (25 millions) of the project displaced persons directly displaced from the sites of the development projects given by Mahapatra for the period since independence in India. (Mahapatra, 1999: 4). However, when the persons denied the livelihood sources derived from the common property resources are taken into account, Fernandes sets the estimate at 50 millions of Project-Affected Persons (PAPs) in the same period. (Fernandes, 2004: 1192). Two thirds of the massive land area dams use is CPRs (i.e., Common Property Resources) as against 40 percent by other projects. Thus, Fernandes' estimate includes 25 millions of displaced persons and 15 millions affected by CPK denial, solely in the water resources projects. (Fernandes, 2004: 1192). Among the PAPs the poor are the hardest hit because the affluent groups do not loose so completely. They are in a better position to adjust to change... for them uprooting is certainly less traumatic. (Mathur, 1995).

Based on research experience since mid-1970's, it is a known, patent fact that the Tribal Project-Affected-Persons (PAPs) always received a raw deal in situations of displacement for development, whether in river dams, mining, industry, sanctuaries, highway projects, urban water supply project etc. This is especially traced to discriminatory Government practice and policy on recognition of their rights to land, forest, common property resources, metals and gems under the soil, etc., denying them legal and law-based rights and entitlements. Most of these are recognized under the Constitution, the laws of the land as also under International Conventions and Agreements between India and the World bodies.

Most of these tribal rights and entitlements were enjoyed by them since time immemorial (Ramsay, 1910:50) and were conceded without being questioned by India's rulers, before the colonial masters came to codify the property rights on individual ownership basis and on formal document granted by the colonial authorities. Under the ancient rule in India, the tribal people were lords and masters of many regions, in which the rulers from outside came to hold sway as overlords and kings. But in most places and times, the dominant tribes and tribal chiefs were very much powerful, politically, economically and ritually, so that the aspiring overlords or kings had to depend on their good-will and help in order to rule their kingdoms. This two-way process was to mutual advantage of the tribal people and the kings. Such two-way process of building or

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maintaining the polity came to an end when the colonial powers wrested authority to rule. Most often they did not recognize the ancient rights and entitlements of the tribal people, unless these people were violent or very aggressive and turbulent as in northeastern border areas or in northwestern border areas now in Pakistan.

In Orissa the Kond rebellions over suppression of *meriah* sacrifice and female infanticide had given the Kond a formidable position, so that their clan-owned territories were not seized or de-recognized by the British. Similar specific situations had allowed the tribal people to enjoy their rights and entitlements more or less without diminution for decades, especially in the princely states. To serve their colonial interests, the British had gradually restricted the freedoms to use the forest, not only in the British territories, but also in the princely states.

That is why, the land tenure system and other rights of the tribal people were found to have varied from place to place and from time to time during the British days, when the land settlement operations were regularly undertaken to increase the revenue and restrict the freedoms and concessions enjoyed by the tribal and other people.

When India gained independence and the princely states in Orissa and elsewhere were merged in the independent country of India unfortunately the same old colonial policies and practices were continued in former British-held territories. In the ex-princely states, however, the policies of restricting the rights and concessions of the tribal and other people were most often made equal to those in the former British territories.

It will be, therefore, very essential to understand the dynamics and development of tribal rights and entitlements before the British days, during the British days and since after independence, when many people-friendly changes were introduced. For the tribal people, now designated Scheduled Tribes, the State and the Constitution made many provisions to protect them and their interests including basic human rights, which should be discussed in the light of their forced deprivation and marginalization due to development projects.

The main objective in compiling information on tribal rights and entitlements over land, forest and water resources etc. is to achieve and ensure legitimate, adequate and comprehensive compensation package for the tribal people at the time of displacement for development projects. This will benefit not only the land holding (i.e. *raiyyatwari patta* holding) peasants, but also the greater majority of tribal people not fortunate enough to hold proprietary record of rights over their natural resources, based on which they eke out their livelihood. The latter group includes the landless, whose common property resources hitherto enjoyed from time immemorial, now form part of government lands under the colonial principle of 'eminent domain'.

Many countries in the world follow the utilitarian concept of "greatest happiness of the greatest numbers". It might also represent, as critics point out, the viewpoint of the socially, economically and the politically dominant "numbers". Proceeding along these tracks of developmental goals would be arbitrary, unfair, unreasonable and unjust and therefore against our basic sense of justice. Today the argument that a few might have to sacrifice for the greater good of the society is no longer acceptable. (Sethi:2005) We must not forget that we are progressively traveling towards individual concerns and needs from the shadow of utilitarian collectivism, that has most pathetically failed to address blatant inequalities based on human diversity. Hence the immediate need to promote "participation" and "inclusion" of the poor and the marginalized people in the development project, to help them actively realize their rights and entitlements. It is the positive obligation of the State to help make this possible.

It has been realized by Mahapatra through survey of R&R literature in India, that payment of compensation is the first and foremost resource for a displaced family to plan its future course of life. (Mahapatra, 1999: 54-74). *If the compensation amount is substantial and, is based on the replacement cost of the assets lost, there is every possibility of attaining the earlier level of living. The rehabilitation package must then contribute towards improving the standard of living over and above the pre-displacement level.*

2. RIGHT TO DEVELOPMENT

The State of affairs or the paradigm of rehabilitation and resettlement policy could change drastically if we adopt and integrate human rights approach into our developmental endeavours. It would not only have effects on the structure of the economy but also influence societal growth on the basis of equality and justice. Human Rights are also political and ethical claims that constitute a good way of formulating social goals in terms of the individual lives involved. By doing so they transcend the doctrinal confines of utilitarian, communitarian and Rawlsian traditions.

In the Samatha judgement, the Court allowed exploitation of national mineral wealth for the welfare of these communities. There was an element of exclusivity in it whereby the tribal peoples rights over their habitat was duly recognize. It advocated for setting up local level cooperatives consisting of tribal people to manage these resources instead of giving them to non-tribals. This perfectly harmonizes with the United Nations Convention on the Right to Development, which India has ratified. Art. 1 of Right to Development makes it an inalienable human right. *By virtue thereof every human person and all people are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms would be fully realized.*

It is indeed pleasant to mark that the human rights approach is slowly getting into policy frame-works as is evident from the draft National Environment Policy that was released in August 2004 by the Ministry of Environment and Forests. The Preamble to the policy declares "*National Environment Policy 2004 is a response to our national commitment to a clean environment, mandated in the Constitution in Art. 48A and 51A (g) strengthened by judicial interpretation of Art. 21.*"

• The policy espouses the spirit of partnership with local communities, recognizes the problems of environmental degradation, admits dependence of tribal people on forest and acknowledges that the village commons – water sources, grazing grounds, village forest, fisheries etc. were better protected by the local communities.

The policy objectives are to secure conservation through participative efforts; develop Intra-generational equity whereby livelihood security is secured by ensuring that poor communities which are most dependent on environmental resources for their livelihoods are assured secure access to these resources; develop Inter-generational equity to secure resources for future generations; integrate environmental concern with Economic and Social development and cause enhancement of resources.

The governing principles are (1) human beings are at the center of sustainable development concerns (2) right to development (3) environmental protection is integral part of development process (4) precautionary approach (5) economic efficiency through polluter pays principle (6) entities with 'incomparable' values in habitat resources should be respected and (7) the concept of equity to govern all policy initiatives.

The draft National Environment Policy (NEP) 2004 in Section 5.2.2 envisages legal recognition of the "traditional rights" of the forest dwelling tribes to remedy the

serious historical injustice, secure their livelihood and provide long term incentives to the tribal people to conserve the forests. The term "traditional rights" needs to be defined in the draft, so as to ensure that State Governments do not misuse its provisions. The State Governments often take advantage of the loose definition of the traditional rights and infringe on the rights of the tribal.

In these days when the corporate sector, and not the Government, which comes to be the major player in development projects, "polluter pays" principle needs to be replaced by criminal liability along with payment of compensation provisions.

The National Environment Policy 2004 aims to increase forest and tree cover from current levels of 23% to 33% through afforestation of degraded forest lands, wastelands and tree cover on private and revenue land based on multi-stake holder partnership comprising forest department, local communities and investors. Most important issue here is to first extend "traditional rights" to all tribal people and other weaker sections in Scheduled Areas and not just restrict it to a narrow definition of "forest dwelling tribes". It would have been more appropriate to call these local tribal communities and other weaker sections as "forest dependent tribes". The forest for them is the source of livelihood; hence when resettled, there should be some forest created in their new environment to fulfill their sustenance needs.

3. RIGHTS AND ENTITLEMENTS OF TRIBAL PEOPLE IN ORISSA

The tribal land, water and forest alienation took place through a process of gradual, systematic and dubious appropriation of these rights under the British colonial State's penetration into the domain of customary communal property resources. The State intruded into this resource base through a series of forest laws and forcefully regulated land tenure system based on imperialistic notion of individual property. (Singh, 1986). *These mechanisms of exploitation were intentioned to secure the political and economic interests of the colonial elite through stringent application of arbitrary rules and regulations executed by a quasi-judicial administrative structure than on the lofty ideals of English common law like equity, conscientiousness and judicial fair-play.* The colonialist process of depriving tribals of their rights was accomplished through hasty tactics, that was simply dubious-- issue notification and expect the illiterate tribal to file objection petitions within a short period of three months and after the lapse of this period- lands so notified passed on to the state. The colonial administrators and even the post-independence administrators apply the colonial doctrine of the "eminent domain" and the allied juristic principle of *res nullius*, leading to the assertion of proprietary right of the State over all lands in Arunachal Pradesh or elsewhere in tribal areas, invoking the theory of abrogation of earlier rights through conquest. The correct juristic principle should be applied in tribal areas where land and other national resources are held as common property resources. The appropriate juristic principle here should be *lex loci rei sitae* (the law of the place where the thing is situated --- To certain extent this concept is respected in parts of North East India as a matter of compulsion arising out of geopolitical context of the region. In fact a equitable application of Constitutional provisions with respect to tribal customary rights should extend this concept to all tribal areas or areas with higher tribal population). Even Jawaharlal Nehru advocated for this line of thought. He not only rejected the narrow and pedantic interpretation of the colonial administrator and their favorite concept of "*res nullius*" but strongly advocated for securing to the tribals their long held customary rights over land and forest. (Jawaharlal Nehru, 1958). Unfortunately very little has been achieved.

The predatory role of the State, which began with the colonial state structure, has tragically continued under the welfare state after independence. This has struck at the

root of the customary rights of the tribal people, despite the benevolence and paternalistic stand of the freedom struggle experienced political elite.

Therefore, any attempt at improving tribal development policy, creating adequate compensatory package for tribal displacees and strengthening resettlement and rehabilitation processes on a sustainable basis must address the core issue of locating their legitimate claims over common property resources. This would help us develop a new perspective that endeavors to root itself realistically on the ecological and physical specifics of tribal way of life. The forced evacuation that takes place throws off these hapless oustees, displacees, resettlers, relocates (as they are variously called) into a grim future, often much worse than that of the international refugees from other countries sheltered in their own country. The problem is these "internal refugees" (Mahapatra 1983/1991) or "development refugees" as they are called by Thayer Scudder (1996:51) are not recognized as "refugees" by the international agencies," even though both the triggers and the consequences of their displacement may be identical. In India this difference in recognition results in great difference between the levels of public and private assistance provided to these groups" (Cernea, 1990:5)

Being alive and sensitive to the needs of the tribal population of India the Supreme Court has aptly summed up the tribal situation in India, "*Tribal areas have their own problems. Tribals are historically weaker sections of the society. They need the protection of the laws as they are gullible and fall prey to the tactics of unscrupulous people and are susceptible to exploitation on account of their innocence, poverty and backwardness extending over centuries. The Constitution of India and the laws made there under treat Tribals and tribal areas separately wherever needed ... The tribal need to be settled, need to be taken care of by the protective arm of the law and be saved from falling prey to unscrupulous device so that they may prosper and by an evolutionary process join the mainstream of the society. The process would be slow yet it has to be initiated and kept moving.*" (Amarendra Pratap Singh v. Tej Bahadur Prajapati, AIR: 2004 SC3782).

This differential treatment would in no way go against the concept of equality and equal protection of laws enshrined in the Constitution of India, as is commonly feared by some learned scholars, but would rather achieve the lofty ideals enumerated in the Constitution to protect and promote the interest of the tribals and other disadvantaged groups. It would also arm us with the rationale to restore back to these communities their traditional rights and entitlements through legislative, executive and judicial interventionist approaches in the true spirit of "affirmative action." Various studies have marked out that- all cases of involuntary displacement sub serving development projects are inequitable in which the displacees are not the targeted beneficiaries .In virtually every project it is seen that the primary costs are being paid by the poor and the tribal people, while the benefits are flowing to the dominant classes (Mahapatra :1994a) Those who are displaced by such projects are usually too poor and politically weak to safeguard their own interest.(Singh,Kothari,Amin 1992:182)There among the oustees the affluent groups do not lose out so completely. They are in a better position to adjust to change....for them the uprooting is certainly less traumatic" (Mathur,1995:156-156) What is essentially required is an equitable balancing of pains and gains.

A thorough analysis of various statutes, rules, regulations, revenue board orders, survey and settlement reports, British gazetteers, Government of India gazetteers, judicial orders, case studies, research papers and other sources have proved beyond reasonable doubt that the tribals did exercise various rights and entitlements over their habitat and forest etc.. The extinction of such rights took place through a gradual process based on colonial legal epistemology of positivism.

While advocating strongly for the restitution of the customary rights to their rightful claimants, the first question therefore, is, who actually uses the land? A distinction needs to be drawn between the title to the land and its actual use. One naturally stumbles over the conflict between statutory right to land and traditional land use patterns. The state may lay claim to areas of land which are 'unused' or 'vacant' but not those lands which are already used customarily.

The Supreme Court of India while rejecting the application of the concept of 'adverse possession', to alienate tribal immovable property declared, "Where the object of legislation is to prevent mischief and confer protection on the weaker sections of the society, the Court would not hesitate in placing an extended meaning even a stretched one, on the word, if doing so the statute would succeed in attaining the legislative intent." (Amarendra Pratap Singh v. Tej Bahadur Prajapati, AIR: 2004 SC3782). This judgement should enable us to open our hearts and mind afresh, to look into the complex issues involved in tribal development and should meaningfully enrich our understanding of their customary rights over land, water and forest resources. We should not ignore the fact "tribal property" is always a "protected category" whose sanctity should be vigilantly maintained. Acknowledging their right/entitlements is a very viable safety-valve technique to strengthen not only their ancestral domain but also contain their violent political outbursts in the near future.

Previously the rights of the Kondhs of Phulbani to transfer, mortgage and sell their lands was restricted by Section 61 of the Angul Laws Regulation 1913. Statutorily it required the prior permission of Deputy-Commissioner to alienate tribal land to a non-tribal. This was done to stop lands being alienated in favour of non-Kondhs. Furthermore to improve the economic and social condition of the disadvantaged tribals, the state imposed land revenue on the Kondhs at 30% concession and treated them leniently. [CRBS, 1967: 16-17] (Woodhouse, 1967: 2-3).

A special category of customary rights in land, forests, water bodies etc. as constituted by the clan-held land among the Kondh, each clan territory being called a *muttah*. We find this clan-territory divided into lineage-held territory among the Dongria Kondh of Niyamgiri Hills, Kuttia Kondh in Phulbani district and the Kashipur Kondh (*Pengo*). Among the Upper Bonda in Bonda hills, we come across the same clan and lineage territories, which are held, as Justice Hidayutullah described, with multiple customary rights to land use. Such clan and lineage territories are not recognized or even conceptually acknowledged by the Settlement Officers in survey and settlement operations in present-day Orissa. However, the British had recognized these clan rights of the Kondh in 19th century when they suppressed *meriah* sacrifices or female infanticide and pacified the wild hill areas.

4. FOREST RIGHTS OF TRIBAL PEOPLE IN ORISSA

As mentioned earlier, to usurp tribal land, the British introduced the colonial-legal concepts or *res nullius* and *terra nullius*, according to which land not having individual ownership document belonged to no one and hence was the property of the colonial administration. (Fernandes & Paranjpye, 1997: 22). Continuing with this policy, the British refused to acknowledge the tribals' rights over their common property resources (CPRs), particularly the forests, by declaring them as the property of the Forest Department. Every land survey and settlement report in Orissa reflects the gradual extinction of tribal rights and entitlements over forest. . *The 19th Century colonial laws like the Land Acquisition Act 1894 and the Coal Bearing Areas Act are still used to further the needs of development projects. These laws do not admit of the concept of the*

right to life, and therefore, most tragically the will of the erstwhile Raj has been accorded the wily status of 'public purpose'.

Orissa had a very long history of customary rights over forest, abundantly evidenced in various land settlement and survey reports belonging both to the colonial as well as independent India. Interestingly, the native ruler was sensitive and liberally disposed towards the needs of its people and thereby allowed varying degrees of access to forest. (Wylly, 1904: 85-86). The subsequent attempts by these native Chiefs to conform to the Colonial policy on land and forest did in fact lead to dual alienation-- alienate the native rulers from their own people and the people from their habitat. The *ryots* (tenants) in Orissa had continuously exercised forest usage rights, which though similar, varied from region to region largely due to the existence of different land tenure systems.

It is a well known legal fact that wherever the theoretical ownership of land and trees may be assigned, the cultivating population has a strong prescriptive right to appropriation of forest produce for domestic purposes and needs of animals. Such rights were therefore part of his cultivating tenure and whenever interfered with, he regarded it as an encroachment on his right. (Ramadhyani, 1937).

The pedantic and restrictive application of tenurial laws is best exemplified in the case of the large tracts of *dangar* lands or upland slopes for cultivation. These lands, under Madras Estates Land Act, were constantly and continuously used by the tribal people in many parts of Orissa, especially South Orissan tribal belt. They were excluded from the application of twelve year rule of "adverse possession", while other areas under Madras Estates Land Act enjoyed this provision. (Behuria, 1966: 197-198). In our view the first flaw in understanding 'podu cultivation' was committed when such cultivators were wrongly located as "discontinuous cultivators" as opposed to "continuous cultivators" – an interpretation that made these upland *podu* cultivators (swiddeners) losers by not being extended the *rayoti* status, as provided by the Madras Estates Land Act. It is interesting to note here that some progressively liberal officials held a different view altogether. The Director of Land Records and Surveys, Orissa, in his inspection note of April 1961 met this objection with the following observations. "There is no doubt that in Podu (Swidden) cultivation destruction of forest to some extent is inevitable. But Podu has been admitted as a right for a very long time in Kalahandi and it cannot be extinguished unless alternative source of livelihood is provided for those who practice it." (Sundarajan, 1969: 64).

Even the Orissa Land Reforms Act 1960 in Section 5 explicitly mentioned that the existing rights of the ryots (raiylats) are not to be affected. "For removal of doubt it is hereby declared that, save as otherwise provided in this Act either expressly or by necessary implication the rights in land in any area held by a person who is a *raiylat* within the meaning of this Act, shall be in addition to and not in derogation of his rights, if any, in respect of such land under any other law relating to land tenures including any law relating to landlord and tenants or customs or usage for the time being in force in such area and applicable to such *raiylat*." (Note: Unless the rights of a *raiylat* are contrary to the terms of the Statute, even by implication, the same rights shall be in addition to his rights, under the statute.)

As in the case of Orissa, the loss of land and forests, the tribals and the indigenous people of Jharkhand lose their very socio-cultural identity. For land and forests are not only the sources of their livelihood but also the very foundation of their socio-cultural systems and practices. Land in the tribal society is held in common. This to say that the community has the ultimate ownership rights over the land. So even if a household owns some land, it simply means that it has the usufructory rights over

resources. People have to till and harness it and live from its produce. They cannot sell it nor transfer it. The community ownership of property is manifested in the traditional practice of community management of CPRs like forests, pasture lands, rivers and water bodies etc. Every tribal household has equal rights to benefit from these resources. Even the religious beliefs are embedded in their relationship with nature. Thus, not only the gods and spirits are residing in the sacred groves, but also in the whole of nature-hills, mountains, fields, rivers, trees, village boundaries and everything the earth sustains. Their feasts and festivals are woven around their agricultural practices. They have their own system of self-governance called the Parha-Panchayat or the Manki-Munda system. Land alienation for development projects and the consequent displacement not only causes enormous impoverishment to tribals but also imperils their very socio-cultural identity. No R&R measures so far have taken into account this aspect of the loss of dignity and marginalization of tribals.

Because of the fact that only the *patta* holders are considered landless when their land is acquired for the project, women are not even considered landless in a strict sense of the term, since the land documents are in the name of the male members of the family. *This has serious implications for the giving of compensation to women and for an equal right to resettlement and rehabilitation benefits. Involuntary resettlement has a particularly adverse impact on women as they have no control over the cash compensation that is paid to the man of the family.* (Thangaraj, 1986). Together with the menfolk, they even forfeit their traditional and customary rights over forest land which the Government considers as encroached by the tribals. Even when each 'major son' above the age of 18 years, as on the date of issuing of notice for land acquisition u/s 4 of the Land Acquisition Act 1894 (as amended in 1984), is considered a separate family, as in the case of the Sardar Sarovar Project in Gujarat, no such provision is made for the 'major daughters' or say the unmarried women. Moreover, land is a relationship for women and not a mere source of income. Tribal women in the rural areas do not differentiate between work and lifestyle. Landlessness has a separate implication for them - a change in lifestyle, a change in relationship. (Agarwal, 1996) Women suffer more being homeless, especially at the time of transition from their old house to the resettlement colonies. Deprived of land, forests and non-wood forest products, women are no more equal partners with men even in the tribal society in food gathering, hunting and cultivation. This results in the loss of their freedom in social matters, their independence in economic matters and almost no gain in the political and educational fields of social change. Displacement also leads to tribal migration. A study reports that 60 per cent of those who migrated to the Delhi slums were found living below the poverty line and were being easily exploited by the contractors. (Fernandes, 1990.)

Locating tribal land use in proper perspective is the key to just and adequate compensation. This would not arbitrarily restrict such compensation only to *patta* (Record of Rights) holding and homestead lands, but it would also include their Common Property Resources (CPR) as well. These resources are the backbone of their livelihood sustaining systems. Therefore, the need to immediately restore to the tribal people their rights, legally, belonging to them. More so in the current Constitutional context of 5th schedule and the progressive judicial directions, expressed by Lordships of the superior courts in India, as in the case of *Samatha vs State of Andhra Pradesh*. (AIR 1997 SC 3297).

The U.N. document of 1966 defines customary rights as "the rights to use or dispose of use rights over land which rests neither on the exercise of brute force, nor on the evidence of rights guaranteed by government statute, but on the fact that they are recognized as legitimate by the community, the rules governing the acquisition or transmission of these rights being explicit and generally known, though not normally

recorded in writing." Though this definition is a generalist approach to customary rights as it excludes statutes and religious codes recognizing these rights, Professor B.K. Roy Burman considers it rather narrow. To me this definition has reflected the essence of customary rights that lies more in usage and continuity rather than on its legal recognition.

Furthermore, the Government of India has ratified, and hence committed to follow the spirit of, the ILO Convention No. 107 of June 1957 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries. This convention, in Article 11, prescribes: "The right of ownership, collective or individual, of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognized." Articles 12.2 and 12.3 provide for "their present needs and future development" by making available "lands of quality at least equal to that of the lands previously occupied by them" and alternative employment as also compensation in money or in kind as per their preference. Persons thus removed "as an exceptional measure" have to be fully compensated and rehabilitated "for any resulting loss or injury." (Mahapatra, 1994: 6).

In line with these and other international conventions and humanistic and equity concerns, the World Bank and its affiliates have adopted, in their rehabilitation policy for displacees, the principle that the project-affected be compensated adequately to enable them to regain their livelihood and quality of life, if possible, at a higher level. (World Bank, 1994). The means to attain this are:

- (a) compensation for the assets at replacement cost,
- (b) opportunities to share in the project benefits, and
- (c) compensation for informal customary rights to land and other resources, enjoyed by the tribal and analogous populations in India.

However, these stipulations by the World Bank have exerted pressure on the Government of India and State Governments in formulating their rehabilitation policies.

The next step is the mode of paying compensation. While agreeing with the steps taken to ensure that the money due to the poor is not given to them in a lump sum, so that it is not squandered away, our analysis of the mode of spending the amount shows that merely denying them access to their money without alternatives can have negative consequences on the DPs/PAPs. Immediately after their displacement or loss of land/CPR, they are thrown into a new economy and have to pay even for their daily requirements like food. While denying them access to ready cash is meant to ensure that they are not exploited by the merchants and moneylenders, who leave them with trinkets bought at exorbitant prices, taking these steps without viable alternatives also deprives them of the money they need for their daily food. This pushes them into the hands of the moneylenders who either deprive them of the amount as soon as it becomes available or turn them into bonded labourers. Food and other supplies have to be made available either free or at subsidized rates and access to cash should be ensured for these minimum needs. That would be helping them to cope with the mainstream economy they are integrated into by the project.

5. IMPLICATIONS OF SAMATA JUDGEMENT FOR ORISSA'S R&R ISSUES

The core achievement of Samatha judgement at the Supreme Court lies in expanding the scope of the word 'person' contained in the various Regulations, made under the mandate of the Fifth schedule. As per this landmark judgement the word person would encompass in its ambit natural person, juristic person and constitutional mechanisms of governance in a democratic set up, therefore also the "State". The word

'person' in Section 3 of the Andhra Pradesh scheduled areas land transfer regulation (1 of 1959) includes Government. Any lease to non-tribals even of a Government land situated in Scheduled area is in violation of Section 3 and so is void.

Meaning of the word 'person': The word 'person' is simple and plain, in the context of prohibition on transfer of land between natural persons, namely tribals and non-tribals. That is made manifest by the Statement of objects and reasons of the amended Regulation which envisages that the Regulation was brought on Statute to prohibit alienation of lands in the scheduled area by tribal in favour of a non-tribal.

The maxim "reddendo singula singulis" will apply to the interpretation of the word 'person' so that the general meaning of the word 'person' in its generic sense with its width would not be cut down by specific qualification of one species i.e. natural 'person' when it is capable to encompass, in its ambit, natural persons, juristic persons and constitutional mechanism of governance in a democratic set up.

In "English law" by Kenneth Smith and Denis Keenan [Seventh Edition at page 163] it is stated that, "The Crown is the executive head in the United Kingdom and Commonwealth, and government, departments and civil servants act on behalf of Crown." In "Salmond on Jurisprudence" by P.J. Fitzgerald [12th Edition at page 66] it is stated that "A legal person is any subject matter other than a human being to which the law attribute personality. This extension, for good and sufficient reasons, of the conception of personality beyond the class of human beings is one of the most noteworthy feats of legal imagination'. At page 72 it is further amplified that "The king himself, however, is in law no mere mortal man. He has a double capacity, being not only a natural person, but a body politic, that is to say, a corporation sole." In "Jurisprudence by R.W.M. Dais [Fifth Edition at page 265] it is stated that "the value of personifying group activities is further reduced by the fact that, Courts have evolved ways of dealing with such activities without resorting to the device of persona'.

Therefore, the word 'person' cannot be used in a restrictive manner to defeat the legislative intent. Consequently, the transfer of land by juristic person or allotment of land by the State to non-tribals would stand prohibited achieving the object of Para 5(2) of the Fifth schedule and of the amended Orissa's 1956 Regulation.

The Second important point concerned Articles 298, 245, Schedule 5, Part 8, Para 5 and its scope. The Court maintained that the Executive power of the State is subject to legislative power under clause 5(1) of Fifth Scheduled. The sub-para 5(2) of the Fifth Schedule combines both legislative as well as executive power. Therefore, in view of para 5(2) of the Fifth Schedule there is implied prohibition on the state power of allotment of land to non-tribal in scheduled areas. The legislative power of the State under Article 245 is also subject to the Fifth Schedule to regulate the allotment of the Government land in the Scheduled areas. This is indeed an enabling provision that empowers the state government through its legislative and executive organs to guard the sanctity of tribal lands and endeavour to make 'public-purpose' developmental plans sub-serve this goal.

While going through the facts in Samatha case, it was seen from evidence that mining leases were granted by the State Government or were transferred and retransferred with the sanction of the State. The lands within mining area are situated either in the reserved forest or forest land or within the Scheduled Area. The Court maintained that they stand in violation of Section 3(1) (a) read with Section 3(2) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 and Forest Conservation Act. *Therefore, they are all void.*

The Samatha Judgement prescribed that the Chief Secretary of A.P. State (by implication, or of any State with Scheduled Areas) should constitute a committee consisting of himself, Secretary (Industry), Secretary (Forest), Secretary (Tribal Welfare/Social Welfare) to have the factual information collected and consider whether it is feasible to permit the Industry to carry on mining operations. If the committee so opines, the matter may be placed before a Cabinet Sub-Committee consisting of Minister, Minister for Industries, Minister for Forest and Minister for Tribal Welfare to examine the issue whether licenses would be allowed to continue until they expire by efflux of time or whether it is expedient to prohibit further mining operations in the light of Section 11(5) of the Mining Act.

In cases where the similar Acts in other States do not totally prohibit grant of mining leases of lands in the Scheduled Area, a similar committee of Secretaries and State Cabinet Sub-committees should be constituted and decisions taken there after. This is required in Orissa where grant of mining leases is not totally prohibited.

Before granting leases, it would be obligatory for the State Government to obtain concurrence of the Central Government, which would, for this purpose, constitute a sub-committee consisting of the Prime Minister of India, Union Minister for Welfare, Union Minister for Environment so that the State's policy would be consistent with the policy of the nation as a whole.

The Judgement (Samatha) further provided that it would also be open to appropriate legislature, preferably after a thorough debate/conference of all the Chief Ministers. Ministers holding the concerned ministry and the Prime Minister and the Central Ministers concerned, to take a policy decision so as to bring about a suitable enactment in the light of the guidelines laid down above so that there would emerge a consistent scheme throughout the country, in respect of tribal lands under which national wealth in the form of minerals is located.

6. TRIBAL PROPERTY: LEGAL PERSPECTIVES

As mentioned earlier statutory safeguards for tribal people of Orissa has a long history that dates back to late 19th Century. With the dawn of Independence these necessary protections were incorporated into various Acts. The **Orissa Merged States (laws) Act 1950** Section 7 (b) says "an occupancy tenant shall be entitled to freely transfer his holding subject to the restrictions that no transfer of a holding from a member of an aboriginal tribe to a member of a non-aboriginal tribe shall be valid unless such transfer is made with the previous permission of the sub-divisional officer." On the issue of free rights Section 7(b) (ii) allows an occupancy *raiyat* or tenant to have full right over all kinds of trees standing on his holding. Explanation (1) to Section 7(b) defines an *occupancy tenant or raiyat as a tenant having occupancy right in his holding under the tenancy laws continued in force in the merged states.*

The sanctity and communal management of common property resources was recognized and secured vide Section 3(1) and (2) of the **Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act 1948** whereby no landlord shall without the previous sanction of the Collector sell, mortgage, lease or otherwise assign or alienate or convert into *raiyati* land any communal forest or private land or create occupancy rights therein.

Section 3 of the **Orissa Vesting of Properties (in Grama Sasans) Act 1964** provided for vesting of possession, management and control of orchards, tanks and trees belonging to Government in the Grama Sasans for better management. Control

and Utilization of such properties in public interest. It also provided enough legal space for accommodating compensatory claims, over these lands.

Section 4 (2) allows the Claims Officer to hear the parties asserting rights over these lands and also accord an opportunity to the concerned Grama Panchayat, under whose jurisdiction such lands are located, of being heard. And after holding an enquiry in the prescribed manner he should determine the nature of rights and the compensation, if any, payable in respect thereof with the provisions of sub-section(1) of 23 and 24 of the Land Acquisition Act 1894 (1. of 1894).

Where the Government decides to withdraw management from the Grama Sasan vide Section 7(1), the Grama Sasan shall be entitled to such compensation as may be determined by Government in respect of improvements of a permanent nature, if any affected by the Grama Sasan at its own cost; and the rights, if any, created in favour of any person by the Grama Sasan at any time during the time such Grama Sasan remained in possession shall stand extinguished and any such person shall be entitled to compensation, so far as he may be, in accordance with the provisions of Section 4 on an application made in that behalf within sixty days from the date of the said order.

To involve the locals in management of forest resources the **Orissa Village Forest Rules 1985** in Rr 3(1) says "The management of every Village Forest shall vest in a committee comprising the Sarpanch(s) of the concerned Gram Panchayat(s) and Ward Member(s) belonging to the village for which the Village Forest is notified, the Forester(s) Revenue Inspector(s) concerned and such other selected persons not less than three and not more than five of the said village. Opening the ground for gender equality and involvement of women in the management of local resources Rr 3(1)(iii) mentions *that there shall be at least one women member among the members so selected. Due regard shall be paid to the need for representation of the Scheduled Tribes, Scheduled Castes and Landless labourers.*

Though the rules make an attempt to make a people-participative effort, there seems to be enough control of Government instrumentalities to make the process a superficial exercise. Take for example, Rr 3(2)(ii) which says "Every meeting of the committee shall be convened by the Forester and the Chairman shall preside over the meeting." It is known and complained that the Forester may not convene the Committee for long. Rr 8(1) says "No wood or other forest produce shall be removed from the village forest except under and in accordance with the decision taken by the committee authorized for the purpose by it and counter-signed by the Forester." However, the committee is made responsible for proper distribution of all available forest produce from village forest [Rr 9(2)]. The committee is also authorized to undertake pasture development on Gochar lands within the village limits.

To save the interests of the tribal people over their trees the **Orissa Protection of Scheduled Castes and Scheduled Tribes (Interest in Trees) Act 1981** vide Section 3(1) says "No contract entered into after the commencement of this Act by an owner of any specified tree for the sale of the timber thereof shall be valid if such owner is a member of the Scheduled Castes or Scheduled Tribes and if the contract has been entered into without the previous permission in writing granted by the Range Officer on an application made in that behalf giving adequate description of the timber proposed to be sold." If the consideration is inadequate the Range Officer may require the owner to sell the trees to Orissa Forest Corporation limited or to any other State Owned Corporations. The Act thus places too much restriction on the S.T. and S.C. owner of trees, even if the buyer is an S.T. or S.C. person.

The Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 (as amended in 2000)

The tone, tenor and texture of the Orissa Scheduled area transfer of Immovable property (By Scheduled Tribes) Regulation 1956, hereinafter called Orissa Regulation, is similar to that of Andhra Pradesh Regulation in many respects. To begin with Section 3(1) of Orissa Regulation prohibits the transfer of tribal immovable property to a non-tribal.

However, Section 3(1) of Orissa Regulation does not provide any scope for alienating tribal immovable property to any society or tribal cooperative in the Scheduled Area as is the case with Andhra Pradesh Regulation. *The Government of Orissa may take advantage of this sub-section to deny the applicability of the Samatha Judgement to Orissa.* This defense is not tenable because the mandate of the Fifth Schedule 5(2) prohibits alienation of tribal lands to non-tribals. According to K. Ramaswamy, J., "*The executive power of the State is, therefore, subject to the legislative power under cl. 5(1) of the Fifth schedule. Similarly sub-para (2) thereof empowers the Governor to make regulation for the peace and good government of any area in a State which is for the time being a scheduled area.... In other words sub-para 5(2) combines both legislative as well as executive power.....*" The word "regulate" the allotment of land to members of Scheduled Tribes in Scheduled area in the Fifth Schedule by Clause 5(2) (b) must be read as a whole to ensure regulation of the land only to and among the members of the Scheduled Tribes in the Scheduled area". Since the Honourable Supreme Court has extended the term 'person' to include State and State instrumentalities, the exercise of 'eminent domain' is restricted and any land alienation beyond the scope of Fifth Schedule is not allowed. **The Samatha verdict enjoins other State Governments, where Scheduled Areas lie, to evolve mechanisms to restrict tribal land alienation. Therefore, Orissa cannot be an exception to this rule more so under Article 141 of the Constitution.**

Where Section 3(2)(b) of Andhra Pradesh Regulation totally prohibits alienation of tribal property, the Orissa Regulation Section 3(2) allows the State Government to settle tribal immovable property with "any other person". (term not defined in the Regulation) in accordance with the Orissa Government Land Act 1962. This blatantly violates the spirit of Fifth Schedule. The Regulation needs to be amended by adding a proviso to Section 3(2) that tribal immovable property shall only be alienated in favour of a Cooperative of member of the Scheduled Tribe, or a member of the Scheduled Tribe, failing which this will vest in the Government.

The word *immovable property* "in Section 2(f) of the **Orissa Scheduled Areas Transfer of Immovable Property Regulation 1956** should for the purpose of this interpretation include "any land" in the Scheduled area: "*Land of tribals, Land in Tribal (Scheduled) Area and immovable property of tribal people shall carry the same meaning for the purpose of this Regulation.*" This is suggested to make the application of the term comprehensive and unambiguous, which actually is the essence of the legislative intent in the context of tribal property. It is necessary to assert here that every aspect of development policy should therefore, reflect this Constitutional scheme, *thereby making realistic attempts to integrate the tribal people with development and make them beneficiaries and share-holders of such processes.*

"Vacant land" in Scheduled Area as property of the state, shall not be allotted to a non-tribal, except in accordance with rule made by State Govt. in consultation of the Tribal Advisory Council." The TAC being the determining authority in Scheduled Areas should be made aware of the human rights perspective relating to tribal people as also the current statutory provisions relating to land. They should also be enlightened about the

implications of judicial law making so that the impact of monumental judgements like Samatha vs. State of Andhra Pradesh are not lost track of.

For example, in Section 3-A of Orissa Regulation, which prescribes the eviction procedure of 'persons' in unauthorized occupation of such tribal property. Juridically in the post-Samatha Judgement phase the meaning of the term 'person' should undergo interpretative change. [The meaning of the term 'person' used here should carry the same meaning and interpretation as given by the Hon'ble Supreme Court with regard to Section 3 of Andhra Pradesh Regulation in the landmark Samatha judgement (AIR 1997 SC 3297)]. **The Section provides that the competent Authority may on application from the Grama Panchayat or suo moto proceed to vacate such lands and restore the same to the said member of the Scheduled Tribe or to his heir. This needs to be immediately put to force.**

Section 3-B(1) of Orissa Regulation further prescribes for reversion of lands of members of Scheduled Tribes which was transferred by fraud. The Amendment Regulation of 2000 makes it mandatory to declare possessions of tribal land and explain such possession, if in the hands of a non-tribal.

Section 3-B(3) of Orissa Regulation mentions that no mortgaged tribal immovable property shall be sold to non-tribal, and a member of the Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer will be reduced to less than two acres in case of irrigated land and five acres in case of unirrigated land.

Section-6 of Orissa Regulation prescribes a bar to attachment of immovable property belonging to a Scheduled Tribes. *No right, title or interest held by him in any immovable property within any Scheduled Areas shall be liable to be attached and sold except as and of prescribed.*

The Orissa regulation does in fact provide enough safeguard to immovable property but it does not go ahead with the real job of securing to the tribals their due in their own habitat as is the case with Andhra Pradesh Regulation which tries to give a participative share in the exploitation of natural resources to tribal populace, through cooperative societies comprising of tribal people. Section 3(1) of the A.P. Scheduled Areas Land Transfer Regulation, 1959 read as under:

Section-3, Transfer of immovable property by a member of a Scheduled Tribe-

- (1) (a) Notwithstanding anything in any enactment, rule or law in force in the Agency tracts any transfer of immovable property situated in the Agency tracts by a person. Whether or not such person is a member of a Scheduled Tribe, shall be absolutely null and void, unless such transfer is made in favour of person, who is a member of a Scheduled Tribe or a Society, Andhra Pradesh Co-operative is composed solely of members of the Scheduled Tribes.
- (b) Until the contrary is proved, any immovable property situated in the Agency tracts and in the possession of a person who is not a member of Scheduled Tribe, shall be presumed to have been acquired by person or his predecessor in possession through transfer, made to him by a member of a Scheduled Tribe.
- (c) Whether a person intending to sell his land is not able to effect such sale, by reason of the fact that no member of a Scheduled Tribe is willing to purchase the land or is willing to purchase the land on the terms offered by such person, then such person may apply to the Agent, the Agency Divisional Officer or any other prescribed officer for the acquisition of such land by the State Government, and the Agent, Agency Divisional Officer or the prescribed officer as the case

may be may by order, take over such land on payment of compensation in accordance with the principles specified in Section 10 of the Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 (Act X of 1961) and such land shall thereupon vest in the State Government free from all encumbrances and shall be disposed of in favour of members of the Scheduled Tribes or a Society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 (Act 7 of 1964) composed solely of members or in such other manner and subject to such conditions as may be prescribed.

This in fact is the recognition of the tribal people's rights over their ancestral domain, though limited, because the Land Acquisition Act 1894 is still in force and robs the tribals of actual benefit. Therefore the need to radically amend the Land Acquisition Act, 1894 which is within the legislative competence of the State Government. What is urgently needed is the political will to do it.

The Orissa Regulation is hell bent to stop alienation, so much so that the explanatory note to section 3(B) treats transfer of immovable property in favour of a female member of a Scheduled Tribe who is married to a person not belonging to any scheduled Tribe, shall be deemed to be a transfer made in favour of a person not belonging to a Scheduled Tribe. Now this approach is most restrictive and narrow. It does not care of the human rights of the tribal female. Is she not to exercise her personal liberty and freedom of choice? This section goes against the spirit of Article 21, Article 14 and Article 19 of the Constitution of India and therefore, should be removed from the Orissa Regulation as soon as possible, if need be, through judicial interventionist approach.

Orissa Land Reforms Act 1960 Section 5 says: Existing rights of *raiyats* not to be affected - For removal of doubt it is hereby declared that, save as otherwise provided in this Act either expressly or by necessary implication, the rights in land in any area held by a person who is a *raiyat* within the meaning of this Act shall be in addition to and not in derogation of his rights, if any, in respect of such land under any other law relating to land tenures including any law relating to landlord and tenants or customs or usage for the time being in force in such area and applicable to such *raiyat*.

This becomes more important in the context of the rights of tribal upland (*dongar*) swiddeners who have enjoyed these lands as their ancestral domain from time immemorial, but unfortunately, are not recognized as owners of these lands. The Government has erroneously used the colonial concept of eminent domain and terranullias to appropriate these lands and thereby deny *patta/ROR*. The above Section 5 of Orissa Land Reforms Act 1960 opens up enough legal space to recognize and grant these rights.

Note: Unless the rights of a *raiyat* are contrary to the terms of the Statute, even by implication, the same rights shall be in addition to his rights, under the statute.

Section 22 of **Orissa Land Reforms Act 1960** prescribes restrictions on alienation of land by members of the Scheduled Tribes to non-scheduled tribe members.

Section 22 states: Restriction on alienation of land by Scheduled Tribes (1) [Any transfer] of holding or part thereof by a *raiyat*, belonging to a Scheduled Tribe shall be void except where it is in favour of

- (a) a person belonging to a Scheduled Tribe; or
- (b) a person not belonging to a Scheduled Tribe when such transfer is made with the previous permission in writing of the Revenue Officer:

Provided that in case of a transfer by sale, the Revenue Officer shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe willing to pay the market price for the land is not available, and in case of a gift unless he is satisfied about the bona fides thereof.

Case Law :

Section 22 – Transfer of property by persons belonging to Scheduled Caste in favour of non-Scheduled Class persons who come into possession – Permission was refused though prayed for – The document registered was declared invalid. 2000 (1) OLR 226.

Further more while Section 23 prescribes restriction of property belonging to Scheduled Caste & Scheduled Tribe, Section 23-A prescribes eviction of persons in unauthorized occupation of immovable property belonging to members of ST & SC.

Section 23 Effect of transfer in contravention of Section 22 – (1) In the case of any transfer in contravention of the provisions of [Sub-section (1) of Section 22] the Revenue Officer on his own information, or on the application of any person interested in the land may issue notice in the prescribed manner calling upon the transferor and transferee to show cause why the transfer should not be declared invalid.

[(2) After holding such enquiry as the Revenue Officer deems fit and after hearing the persons interested, he may declare such transfer to be invalid and impose on the transferee penalty of an amount not exceeding two hundred rupees per acre of the land so transferred for each year or any part thereof during which the possession is continued in pursuance of the transfer which has been declared to be invalid] [and may also order such portion of the penalty as he deems fit, to be paid to the transferor or his heir.]

- (1) On a declaration being made under Sub-section
- (2) the Revenue Officer suo motu or on the application of any person interested cause restoration of the property to the transferor or his heirs and for the purpose may take such steps as may be necessary for compliance with the said order of preventing any breach of peace:

Explanation –Restoration of the property means actual delivery of possession of the property to the transferor or his heir.

Case Law :

Section 23 – Permission for sale as required under Section 22 of the Act was obtained on a later date, though applied for on the date of registration of the sale deed – As on the date of registration, no permission was there, sale deed is void and non est in the eye of law: 1986 (1) OLR 14 : 61 (1986) CLT 30: [See also 1990 (1) OLR 369 : 32 (1990) OJD 280 (Civil).

Section [23-A. Eviction of person in unauthorized occupation of property – Where any person is found to be in authorized occupation of the whole or part of a holding of a *raiyat* belonging to a Scheduled Caste or of a *raiyat* belonging to a Scheduled Tribe within any part of the State other than a Scheduled Area, by way of trespass or otherwise, the Revenue Officer may either on application by the owner or any person interested therein, or on his own motion and after giving the parties concerned an opportunity of being heard, order eviction of the person so found to be in unauthorized occupation and shall cause restoration of the property to the said *raiyat* or to his heir in accordance with the provisions of Sub-section (3) of Section 23.]

Case Law:

Section 23-A – Unauthorized occupation In Bolangir District – Orissa Merged States (Laws) Act, 1950 – Section 7(1) (b) – Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 – Bolangir District was not included in Scheduled Areas – Provision of Section 7(1) (b) of Orissa Merged States (Laws) Act, 1950 was not repealed by Regulation 2 of 1956 – Transfer in contravention of Section 7(1) (b) of Orissa Merged States (Laws) Act is invalid and so occupation unauthorized: 1993 (11) OLR 95.

The above sections of Orissa Land Reforms Act are in furtherance of the broad mandate of Fifth Schedule, but unfortunately misses out its soul - that tribal resources over land, water and forest belongs primarily to these communities. The State can exploit these resources only through the tribal population that inhabits these habitats. This is the essence and core conscience of the Fifth Schedule, brought out so well through the Samatha Judgement.

The above case laws and legal provisions under various Acts highlight the need for rectification of land records in favour of Scheduled Tribes, which entitle them to proper compensation in R&R situations.

7. TRIBAL RIGHTS UNDER PESA 1996 IN ORISSA

Under the Orissa adaptation of Central PESA Act in 1997, for the first time in Orissa it is legally provided that the Grama Sabha or Srama Sasan will exercise ownership rights over the minor forest produce. However, the control and regulation of grant of prospecting licence or mining lease for minor minerals or grant of "concession for the exploitation of minor minerals by auction" have been denied to Grama Sabha in Orissa, and it has been reserved for Zilla Parishad, though under PESA 1996 This was to be exercised by Grama Sabha or other Panchayats at the appropriate level. This right of the Grama Sabha should be restored by amendment, as this affects the entitlement to compensation for R&R Power to manage local village markets and to regulate utilization of minor minerals confers some other avenues of revenue for the Grama Sabha.

Only Zilla Parishad, but not Grama Sabha or Panchayat Samiti level, has been empowered to have any right of prior consultation in land acquisition for development projects or for resettling or rehabilitating persons affected by such Projects.

However, the actual planning and implementation of the Projects in the Scheduled Areas shall be coordinated at the state level, as provided under PESA 1996. But, there is every possibility of erosion of the right of the Grama Sabha which has been empowered by PESA 1996 to "approve plans, programmes and projects for social and economic development before.... These are taken up for implementation by the Panchayat at the village level."

The PESA Act provides for mandatory recommendation of the Gram Sabha prior to giving lease for a minor mineral. As minor minerals are under the purview of the State Government, they formulate the rules required there under. In order to make PESA meaningful, more so after the Samatha judgement, the Government of India issued Executive Instruction in 1998 describing the modalities of consultation with the Gram Sabhas, thereby detailing the procedure for land acquisition in Fifth Schedule areas.

The GOI Executive Instruction mentioned that all the land acquisition proposals for acquiring land in the Schedule V areas should include:

1. Gram Panchayat-wise schedule of land proposed to be acquired;

2. A separate letter of consent from each of the Gram Panchayat in favour of the proposed acquisition. This should be in the form of a written resolution of the Gram Sabha;
3. In case a Gram Sabha expresses a disagreement, a copy of the resolution showing the reasons for disagreement including alternative suggestions if any, made by the Gram Sabha..

The district Collector has to examine the letter of consent and continues to hold the right to overrule the dissent of the Gram Sabha, but is expected to follow procedure providing for a tripartite meeting with the villagers, Government and interested party. In case even after this the issue is not resolved *the Collector can proceed with the acquisition as provided under the Land Acquisition Act*, which makes nonsense of the rights of the PRIs in this matter.

The instructions also detail the responsibilities of the State Government for coordination and monitoring of land acquisition and rehabilitation and resettlement schemes in the Fifth Schedule areas.

These instructions require the Government to maintain a register showing year wise quantum of land acquired in the Schedule V areas and the formation of an Inter-ministerial Coordination Committee for monitoring. This Committee may publish a district wise land acquired for public purpose.

In Chhatisgarh, there is a provision in the rules that no lease is to be sanctioned without obtaining the opinion of the respective Gram Panchayat. Other important features are:

- Quarry permit is issued only to the residents of the Panchayat where the quarry is located.
- The Gram Panchayat has to obtain the prior approval of its Gram Sabha before final disposal of application for the permit.
- Quarries of certain minor minerals whose annual income is upto 10 lacs have been handed over to the Panchayat.
- Revenue from all minor minerals is now given to the concerned Panchayat for developmental work. Preference is given to ST, SC, OBC and Women and their Societies in sanctioning quarry leases.
- Department of Mines, Government of Chattisgarh issued an Executive Order in December 2001, stating that lease application for minerals available in the lands of scheduled tribes in scheduled areas of the state should be sent to the state government. **This has been the first post-Samatha judgement repercussion, whereby a Cabinet Secretaries level Committee will be the sanctioning authority.**

Public Purpose vs. Protection of Land Rights of Tribals

One of the most contentious issues has been that of 'public purpose' that relates to land acquisition procedure. Till now the Government used the district administration to exercise discretionary powers while dealing with the issue without seriously bothering itself to define and locate the term jurisprudentially. The state governments go by the recommendation of the district collector in this regard as he/she is considered to be in the best position to decide. The judiciary also has been of the view that the state should decide "public purpose" in the various judgements delivered in this context. Linked

closely to the argument of the public purpose is the concept of "eminent domain", which gives the government right on land, not owned with ROR by an individual. Thus, all the common property resource in the village belongs to the government by default and the villagers do not have any rights on them. This is an antithesis to the concept of life as per tribal systems, where the common property is considered to belong to the community and it is to be shared in a manner, which benefits the community and is also maintained for posterity.

As a consequence of such interpretation a host of governmental activity as also corporate activity fall under the category of 'public purpose', without seriously locating it within the specific context of the Fifth Schedule requirement. The state should strictly follow the Constitutional mandate of Fifth Schedule, more so because these are special provisions and as such have overriding effect on general provisions of our Constitution. The sanctity of the legislative intent has to be firmly secured in the specific context of tribal rights and entitlements. This has been the core contention of Samatha judgement of the Supreme Court. (AIR 1997 SC 3297).

Post Samatha judgement, 'public purpose' in Vth Schedule areas has to conform to the specific needs of the tribals. This is a good beginning that will remove Governments' discretionary and arbitrary decision making process and put in place a participatory approach. The Resettlement and Rehabilitation process needs to be handled with a lot more sensitivity to the tribal way of life instead of expecting them to change to the so-called national mainstream.

COMPENSATION ENTITLEMENTS

Historically, forest has been considered to be the habitat of tribal people in almost all countries with tribal population. Against the 92.2% of rural scheduled tribe population in India, the rural scheduled tribe population in Orissa is around 95.0% of which around 80.0 constitute forest dwelling population. They overwhelmingly depend on Non-Timber Forest Products (NTFPs) to eke out a living. Orissa has largest percentage of poor people (47.2%) in India, with 22.2% of tribal people, of whom 85.4% live below the poverty line. Growing marginalization of the rural poor in the forest-based regions in Orissa is not a new phenomenon. A large number of the tribal households in the forest-based regions also does not have entitlements to natural resources and they end up with low income and expenditures. With ongoing deforestation and increasing dependence on sale of NTFPs, the forest-dependent communities have undergone a major shift from a constructive dependence to a destructive dependence. A number of micro-level research studies conducted in the tribal-dominated districts in Orissa (Mallik 1994, 1997, 1998, 2000, 2004) suggests that *collection of NTFPs provide more than half of the total person-days of employment (58.0%) per household, with women accounting for a larger percentage, and nearly 40.0% of the total income (Rs. 1940/-) of a tribal household is derived from sale of NTFPs (Mallik 1994) & this increases with the poverty of household.*

Both the sale value of NTFPs 30.0% to 40.0% of total income per annum (accrued to a tribal household) and value of NTFPs consumed as food sustenance, small timber, fuel and fodder by the forest-dependent population in any conservative estimates may not be less than 70.0 to 80.0% of the total income (when these are computed at market prices). This precisely shows the degree of dependence of the forest dwelling rural livelihoods is through provision of subsistence products and services. Thousands of swidden cultivators utilize forests for food crop production. Thousands of compensation be evaluated for purpose of Land Acquisition. When computing

"After the formal announcement of the project in the media, and long before the formal notice for acquisition of land and other immovable assets is served under Section 4(i) of the Land Acquisition Act, two things usually happen. Many families belonging to the most vulnerable sections of the affected village, the landless, service providers, those with some sort of housing on encroached land, and may be also some artisans, flee from the site in search of workplace for resettling elsewhere. They usually leave little trace behind. Secondly, wily exploiters and land speculators come to the village and frighten and persuade the unlettered, ignorant and simple people, most of the tribal people, as in Upper Indravati Multipurpose Project in Orissa, to part with their meager marginal holdings. They achieve their goal by circulating the most effective rumours that the government would pay a pittance compared to what they offered and that the people would be forcefully evicted and left to themselves. Thus, by the time notification for land acquisition is publicized, a sizeable section of the population is either untraceable or cheated out of their assets, but in any case, rendered landless and utterly impoverished ab initio." (Mahapatra, 1984) At the same time, land prices begin to soar high in the would-be benefited zone, where later on the oustees may not be able to purchase any land with their compensation money, which, computed at the so-called 'market value', invariably falls far short of the prevailing speculatively raised land price. Parasuraman refers to 'secondary displacement' of those who buy lands far away from the resettled village, in whose neighbourhood land may be scarce or land prices soar high.

"The very processes of setting compensation levels and the payment of compensation before displacement have been mechanisms of impoverishment and destitution rather than of equitable restitution and reconstruction. I have mentioned above the non-recognition of customary usufructuary rights over land, forests and other resources. Only immovable properties with title deeds or other valid evidence of absolute ownership entitle one to compensation. Secondly, for many historic and current reasons land is undervalued in land records. The 'market value', which is the standard for compensation under the Constitution as well as under the Land Acquisition Act, is very much on the low side. If compensation were paid on basis of capitalized value of the annual products of the land, as determined by the law courts, or on basis of the replacement value, that would have been realistic and fair. (Mahapatra, 1994). For trees, the 'market value' for compensation has been fixed absolutely arbitrarily, without any reference to the market. It has been studied in depth by ISED, which comes to the finding: "The compensation values for mango, *mahul* trees have been between Rs. 100.00 and Rs. 150.00. But the tree owner can earn more than Rs. 500.00 from its fruits in a year. In all the projects, trees are undervalued. In survey and measurement low figure has been used (for compensation) for house, wells, ponds...." (ISED, 1996).

When "market value of land is sought to be determined on basis of the actual sale deed in the locality within three years prior to the notification for acquisition of land for the Project, land will be grossly undervalued. There was another basis, which was more sound. The Government of Orissa evolved the principle of determination of price of land where sale statistics are not available. The net annual profit the peasant derives from the land is taken as the 'letting value'. As per the decision of the High Court of Orissa in the case of the State of Orissa versus Bharat Charan Nayak, it was considered safe to pay 16 to 20 years' net annual produce, and it should not, in any case, be less than 16 times. The net annual produce is arrived at by deducting 50% of gross income towards the cost of cultivation. This is a more dependable and less objectionable mode of arriving at the market price which may be the basis for compensation."

Further "in a case decided in 1958 at Orissa High Court (reported in Indian Law Reporter, 1985, Cuttack, pp. 704ff) the judgement is paraphrased as follows: "Where for

the purpose of ascertaining the market value of the land at the date of notification under Section-4(1) of the Land Acquisition Act, 1894, definite material is not available, either in the shape of sales of the neighbouring land at or about the date of notification or otherwise, the Court would not be erring on the wrong side if it fixes the market value by capitalizing the net annual income at twenty years purchase. As this judgement is specifically applicable to land acquisition for river dam and other projects since 1960, there is no justification for denying the tribal oustees their legitimate due in compensation."

The Land Acquisition Act, 1894 also gives in detail the whole modality of the compensation to be given in lieu of the land taken over by the government. Though the valuation of land is not an exact science, the Act lays down rules for the guidance of the Collector and the court for determining the compensation to be paid for the required land. The very first requirement to determine the rate of compensation is to abide by the market value of the land u/s 23(1). It simply means the market value of the land under sale as on the date of publication of the notice u/s 4(1). In this the actual and potential use of the land also becomes relevant for assessing the market value. Besides, the standing crops and trees have to be included while determining the market value of the land. Similarly, the damage suffered on account of severance from other land as well as the damage resulting from reduction in profits of land is to be legally compensated for. And finally the interest at the rate of 12 per cent per annum is to be added to the market value awarded, besides the addition of the 30 per cent solatium to the principal amount as it involves involuntary resettlement. Unfortunately, the determination of market value of lands, trees, water bodies such as tanks, has been flawed in almost all cases of compensation where this has been legally challenged.

Compensation Hurdles Because of Entitlement Deficiency Due To Wrong or Inadequate Implementation of Government Policies and Regulations etc.

(a) Incomplete Implementation

- (i) The Government of Orissa took a land mark decision in 1992 with regard to Kashipur Tahsil (cf. Board of Revenue No. XL 11-46/91/LRS dated 5th May 1992) on conferment of *ryotwari* rights on shifting cultivation lands upto 30° slope and usufructuary rights above 30° slope in favour of the tribal swiddeners have not yet been fully implemented in all villages. As a result the Kashipur Kondh are being deprived of their legitimate and adequate compensation on the basis of replacement value in the affected villages for Alumina Mining for corporate sector.
- (ii) In pursuance of the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Amendment Regulation 2000 alienated tribal land or buildings etc. on it has to be restored from the non-tribal illegal occupant as per rules framed under the Regulation. The compensation and financial assistance etc. due to the legitimate tribal owner have to be paid by the Project. The process has to be taken up by a Fast Track Court or other such authority to enable on an urgent basis the tribal Project-Affected to derive their dues under the Land Acquisition Proceedings for a Project.
- (iii) Similarly, the "encroaching" tribal member, who may have actually occupied for generations the lands of the clan or village, (which are traditional common property lands) has to be granted ownership rights as per the Orissa Prevention of Land Encroachment Act 1972, given retrospective effect since 29th October, 1954. The Government had power to grant land ownership to "landless" persons out of cultivable waste lands "of the government".

Tragically this so-called "government land" derives its legality from the colonial concept of "eminent domain", which had disregarded the corporate ownership of common property resources like land, water and forests etc.

- (iv) Again, wherever, the tribal cultivator had constructed terraces up the hill slope above 10° slope (beyond which the Land Settlement Operations recorded land as "government land" and which could not be measured by plane table survey method), as in the Bonda Hills in Malkangiri, the lands should be surveyed and *ryotwari* rights conferred on the cultivators. This will enable them to claim proper and legitimate project compensation.

(b) **Wrongly Implemented Government Policy in Kashipur IFAD Project Area Denying Proper Compensation in Case of Displacement for Utkal Alumina and Other Projects:**

Based on our field visit to sample villages in Kashipur Tahasil, Rayagada District in August, 2004, we have come across many anomalies and wrong implementation of the grant of *patta* (ROR) to swiddeners in Kashipur.

- (i) Even in many Kondh villages, the settlement survey has not been done in accordance with the traditional land tenure system which is based on clan-centred collective rights. There was also complete misunderstanding of the traditional shifting cultivation; for example, in the village of Rasijhari under Kashipur block, the people occupy *dongar* on clan basis with further subdivisions of their land into various lineages or sub-clans and lastly into household holdings. And a household may or may not cultivate the same patch of land every year depending upon the fertility of the soil and the number of *dongar* patches in possession. Generally, a *dongar* patch is cultivated for two consecutive years and then abandoned for a few years for regenerating its fertility. **The people of this village claim that IFAD had given ROR only to those households who were physically cultivating their swiddens during their survey period and others who had abandoned their land for regeneration of fertility were denied ROR.** Therefore, now there are 6 households out of the total 34 households, who have not been given ROR on their paternal swiddens, since they were not in actual cultivating possession. Their land was kept fallow during the survey and settlement period. The local revenue officials also agreed with this fact when pointed out by the Rasijhari villagers. However, the revenue officials said they had to follow a government rule by which *only the households below the poverty line were entitled to have ROR on dongar lands* and richer Kondh/tribal households were not given even though they had been possessing such lands since generations as paternal property. Thus, the traditional rights of the people over this land have not been taken into consideration by the settlement officials while granting *patta* to the *dongar* owners. Under the Utkal Alumina Projects there are some villages directly affected and others likely to be affected for loss of land/household and other viz. trees etc. for the Project. *Our findings show that if their lands etc. are not freshly surveyed for grant of ROR/Pattas, they will be entitled to their due compensation for only a part of the holdings occupied.* The ascertained facts are: there are 5 villages in Tikiri, 7 villages in Kucheipadar and 6 villages each in Dongasil and Maikanch R.I. Circles that are being affected by UAIL project. Since these villages had been identified as the "Affected/To be Affected Villages" during 1985-86. But Settlement Survey for *Dongar* Land was undertaken during 1990-91, in other villages, when IFAD was operating

in the Tahsil. No fresh survey was undertaken in all these 24 Affected/To be Affected Villages. And, therefore, the *raiya*s of these villages have not received ROR/Patta on their *Dongar* Land. However, data on Maikanch R.I. Circle as collected from Kashipur Tahasil Office contradicts this statement of the Tahasil Officials, since of the 36 revenue villages of this Circle, they point out that in 32 villages Settlement for *Dongar* Land is over and Patta distributed to all the *raiya*s of these villages, while practically **there are 6 villages in this Circle that are "Affected/To be Affected Villages" under UAIL project, and therefore there has been no survey for *Dongar* land in these 6 villages.**

- (ii) We have also found that many households of Gotiguda village have been granted ROR/Patta on the abandoned hills of another village, though under continuous occupations by Khejapada village since time immemorial under customary clan-based collective occupancy rights. The Kondh people of Khejapada village point out that they had customarily occupied a large *dongar* (swidden cultivation block) near Gotiguda, *but the people of Gotiguda have been granted these rights under IFAD Project survey, when Khejapada villagers had temporarily abandoned these barren hill swiddens near Gotiguda.* Now, once granted these rights, the people of Gotiguda do not want to part with this newly acquired land in favour of the customary traditional occupant-owners, the villagers of Khejapada.

This anomaly and wrong-doing has occurred only because the survey and settlement officials were not familiar with, and presumably, did not consult the traditional leaders on the local land tenure system...

- (iii) The swidden plots for granting ROR on the basis of Government rules, have been demarcated from bottom to the top of the hills by the IFAD/Revenue officials in plots parallel upward without considering 30° slope and there is no space to expand the width of the plot for any cultivator. *In this regard the present revenue officials explain that the degree of slope varies from one *dongar* to another in the range of 10°-45° or more and no scientific method has been adopted to determine 30° slope anywhere in the whole tahasil.*

Thus, the real owners-occupiers go by default and lose their ancestral lands through an unthinking officialdom.

(c) Non-Implementation Because of Absence of Land Survey Rules and Procedures

The Government should also take its own sense of urgency and official resolution seriously to implement the trend-setting and unique tribal development policy in India, as the 1992 decision has been (cf. Revenue Department Order No. 14643/R dated 23.3.2000). This would guarantee the legitimate and adequate compensation to tribal landowners, who do not have *ryotwari* rights on their shifting cultivation lands held upto 30 degrees slope on common property land holding basis, not recognized by State as their age-old rights. **This policy was to have been implemented in the "extremist prone areas" on the basis of special survey in all Scheduled Areas of the State outside Kashipur Tahasil. But till March 2004 no effective steps have been taken to survey the areas not to speak of conferring the *ryotwari* rights on the tribals, who could claim compensation in development-displacement situations.**

8. COMPENSATION FOR INTELLECTUAL PROPERTY RIGHTS (IPR)

Compensation for the large traditional ethno-biotic knowledge and skill base possessed by the tribal communities in Orissa should be conferred collectively and

individually (for Processes and Product related IPR in traditional food and medicine systems), further provided that,

- (i) The R&R.O. with technical assistance shall undertake a comprehensive study & documentation of various IPR's of tribals and work out its value collectively or individually (as the case may be) and award compensation accordingly,
- (ii) [Please refer to relevant Sections of the Geographical Indications of Goods (Registration and Protection) Act 1999 and the National Biological Diversity Act 2002]
- (iii) Where such IPR's are not found in tribal habitats, the R&R.O. shall record the same in writing,
- (iv) Every R&R package should clearly declare the modalities of IPR compensation package, especially in tribal areas at the time of notification for acquisition,
- (v) The farmers' rights proposed to be protected under IPR should include the rights arising from the past, present and future contribution in conserving, improving and making available plant genetic resources (the R&R.O. should compensate the displaced persons, especially tribals for these resources).
- (vi) Provision for payment of royalties to the tribal displaced persons/Project-Affected Persons should be made for use of biodiversity resources for reproductive/commercial use.
- (vii) Compensation for IPR should be computed justly by taking into consideration the existing and prospective income from such traditional knowledge and its utilization.

9. POLICY DEFICIENCIES AND OBSTACLES TO PROPER AND ADEQUATE COMPENSATION

Adequate Compensation for Assets Lost has been bedevilled by Several Policy Deficiencies and Obstacles in Proper Implementation:

Compensation for Individual and Collective Rights: These rights in the ancestral habitat of the tribal people of Orissa which includes both their CPR's and the large bio-diversity resource base, should be immediately admitted and included in all R&R packages. (Please refer to the numerous historical, legal, Constitutional and judicial facts and arguments advanced in this report to substantially and reasonably establish the juridical basis of these rights and entitlements).

Fortunately, *the draft National Environment Policy 2004 in Section 5.2.2. envisages the legal recognition of the traditional rights of the forest dwelling tribes to remedy the serious historical injustice, secure livelihood and provide long term incentive to the tribal people to conserve the forests. Though restrictive in nature the draft NEP 2004 opens up the space for assertion of these traditional rights in forest, land and water resources, hitherto enjoyed on customary basis.*

Income from other Sources to be adequately compensated

Compensation for Trees

Cost of trees planted by a tribal on his own land or on some other's land, such as neighbour's land, or on village common land or the so-called government land should be determined and "adequate compensation paid through proper valuation."

- (i) Compensation for timber and the fruits on the tree should be done at current market value prevailing on the date of computation of value,

- (ii) Compensation for fruit bearing trees should be done compulsorily at replacement value,
- (iii) The rate of compensation should be decided by the competent authority in consultation with the Department of Agriculture, Forest, Horticulture, Sericulture etc. as the case may be, (special statutory provisions with regards to STs/SCs should also be applicable),
- (iv) Compensation granted for trees should be acceptable to the Displaced Person and he should intimate his consent to the competent authority in writing, the records of which should be duly maintained by the competent authority.
- (v) Where the tribal displacee rejects the "*Compensation awarded by the competent authority for trees*", he should be allowed to sell his timber at open market, [Please refer to Section 3(1) of The Orissa Protection of Scheduled Castes and Scheduled Tribes (Interest in Trees) Act, 1981]
- (vi) Once compensation is awarded and the Displaced Person acknowledges acceptance of the same in writing to the competent authority, the compensation amount should be immediately paid to the entitled Displaced Person, and
- (vii) Provision for escalation and revision at current market rates/replacement value (as the case may be) should be extended to the entitled Displaced Person's in cases where payment of compensation awarded is delayed beyond 3 months.

Compensation for Livelihood Sources in Forest

Compensation for cash income and livelihood sources lost by Tribal people dependent on the forest – In Orissa the tribal people depend overwhelmingly on NTFP for eking out their living and draw upon the forest resources for their physical survival, especially when their crops fail or are insufficient to carry them throughout the year. A number of micro-level research studies conducted in the tribal-dominated districts in Orissa (Mallik 1994, 1997, 1998, 2000, 2004) suggests that *collection of NTFPs provide more than half of the total person-days of employment (58.0%) per household, with women accounting for a larger percentage, and nearly 40.0% of Both the sale value of NTFPs 30.0% to 40.0% of total income per annum accrued to a tribal household) and value of NTFPs consumed as food sustenance, small timber, fuel and fodder by the forest-dependent population in any conservative estimates may not be less than 70.0 to 80.0% of the total income (when these are computed at market prices). The total income (Rs. 1940/-) of a tribal household is derived from sale of NTFPs (cf. Mallik, 1994) and this increases with the poverty of household.*

Both the sale value of NTFPs 30.0% to 40.0% of total income per annum accrued to a tribal household) and value of NTFPs consumed as food sustenance, small timber, fuel and fodder by the forest-dependent population in any conservative estimates may not be less than 70.0 to 80.0% of the total income (when these are computed at market prices).

Therefore, computation of compensation of all these losses of income and subsistence should be done at replacement value at the current market rate for the tribal family.

10. INADEQUATE COMPENSATION BECAUSE OF INCOMPLETE IMPLEMENTATION OF EXISTING POLICIES SHOULD BE RECTIFIED BEFORE COMPUTATION OF COMPENSATION FOR THE TRIBAL FAMILIES:

- (i) The Government of Orissa took a land mark decision in 1992 with regard to Kashipur Tahsil (cf. Board of Revenue No. XL 11-46/91/LRS dated 5th May

1992) on conferment of *ryotwari* rights on shifting cultivation lands upto 30° slope and usufructuary rights above 30° slope in favour of the tribal swiddeners have not yet been fully implemented in all villages. As a result the Kashipur Kondh are being deprived of their legitimate and adequate compensation on the basis of replacement value in the affected villages for Alumina Mining for corporate sector.

- (ii) In pursuance of the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Amendment Regulation 2000 alienated tribal land or buildings etc. on it has to be restored from the non-tribal illegal occupant as per rules framed under the Regulation. The compensation and financial assistance etc. due to the legitimate tribal owner have to be paid by the Project. The process has to be taken up by a Fast Track Court or other such authority to enable on an urgent basis the tribal Project-Affected to derive their dues under the Land Acquisition Proceedings for a Project.
- (iii) Similarly, the "encroaching" tribal member, who may have actually occupied for generations the lands of the clan or village, (which are traditional common property lands) has to be granted ownership rights as per the Orissa Prevention of Land Encroachment Act 1972, given retrospective effect since 29th October, 1954. The Government had power to grant land ownership to "landless" persons out of cultivable waste lands "of the government". Tragically this so-called "government land" derives its legality from the colonial concept of "eminent domain", which had disregarded the corporate ownership of common property resources like land, water and forests etc.
- (iv) Again, wherever, the tribal cultivator had constructed terraces up the hill slope above 10° slope (beyond which the Land Settlement Operations recorded land as "government land" and which could not be measured by plane table survey method), as in the Bonda Hills in Malkangiri, the lands should be surveyed and *ryotwari* rights conferred on the cultivators. This will enable them to claim proper and legitimate project compensation.

Wrongly Implemented Government Policy in Kashipur IFAD Project Area Depriving Proper Compensation in Case of Displacement for Utkal Alumina and Other Projects:

Based on our field visit to sample villages in Kashipur Tahasil, Rayagada District in August, 2004, we have come across many anomalies and wrong implementation of the grant of *patta* (ROR) to swiddeners in Kashipur.

- (i) Even in many Kondh villages, the settlement survey has not been done in accordance with the traditional land tenure system which is based on clan-centred collective rights. There was also complete misunderstanding of the traditional shifting cultivation; for example, in the village of Rasijhari under Kashipur block, the people occupy *dongar* on clan basis with further subdivisions of their land into various lineages or sub-clans and lastly into household holdings. And a household may or may not cultivate the same patch of land every year depending upon the fertility of the soil and the number of *dongar* patches in possession. Generally, a *dongar* patch is cultivated for two consecutive years and then abandoned for a few years for regenerating its fertility. **The people of this village claim that IFAD had given ROR only to those households who were physically cultivating their swiddens during their survey period and others who had**

abandoned their land for regeneration of fertility were denied ROR. Therefore, now there are 6 households out of the total 34 households, who have not been given ROR on their paternal swiddens, since they were not in actual cultivating possession. Their land was kept fallow during the survey and settlement period. The local revenue officials also agreed with this fact when pointed out by the Rasijhari villagers. However, the revenue officials said they had to follow a government rule by which *only the households below the poverty line were entitled to have ROR on dongar lands* and richer Kondh/tribal households were not given even though they had been possessing such lands since generations as paternal property. Thus, the traditional rights of the people over this land have not been taken into consideration by the settlement officials while granting *patta* to the *dongar* owners. Under the Utkal Alumina Projects there are some villages directly affected and others likely to be affected for loss of land/household and other viz. trees etc. for the Project. *Our findings show that if their lands etc. are not freshly surveyed for grant of ROR/Pattas, they will be entitled to their due compensation for only a part of the holdings occupied.* The ascertained facts are: there are 5 villages in Tikiri, 7 villages in Kucheipadar and 6 villages each in Dongasil and Maikanch R.I. Circles that are being affected by UAIL project. Since these villages had been identified as the "*Affected/To be Affected Villages*" during 1985-86. But Settlement Survey for *Dongar Land* was undertaken during 1990-91, in other villages, when IFAD was operating in the Tahsil. No fresh survey was undertaken in all these 24 *Affected/To be Affected Villages*. And, therefore, the *raiyats* of these villages have not received ROR/*Patta* on their *Dongar Land*. However, data on Maikanch R.I. Circle as collected from Kashipur Tahasil Office contradicts this statement of the Tahasil Officials, since of the 36 revenue villages of this Circle, they point out that in 32 villages Settlement for *Dongar Land* is over and *Patta* distributed to all the *raiyats* of these villages, while practically **there are 6 villages in this Circle that are "*Affected/To be Affected Villages*" under UAIL project, and therefore there has been no survey for *Dongar land* in these 6 villages.**

- (ii) We have also found that many households of Gotiguda village have been granted ROR/*Patta* on the abandoned hills of another village, though under continuous occupations by Khejapada village since time immemorial under customary clan-based collective occupancy rights. The Kondh people of Khejapada village point out that they had customarily occupied a large *dongar* (swidden cultivation block) near Gotiguda, *but the people of Gotiguda have been granted these rights under IFAD Project survey, when Khejapada villages had temporarily abandoned these barren hill swiddens near Gotiguda.* Now, once granted these rights, the people of Gotiguda do not want to part with this newly acquired land in favour of the customary traditional occupant-owners, the villagers of Khejapada.
- (iii) **This anomaly and wrong-doing has occurred only because the survey and settlement officials were not familiar with, and presumably, did not consult the traditional leaders on the land tenure system of the local people.**
- (iv) The swidden plots for granting ROR on the basis of Government rules, have been demarcated from bottom to the top of the hills by the IFAD/Revenue officials in plots parallelly upward without considering 30° slope and there is

no space to expand the width of the plot for any cultivator. *In this regard the present revenue officials explain that the degree of slope varies from one dongar to another in the range of 10^o-45^o or more and no scientific method has been adopted to determine 30^o slope anywhere in the whole tahasil.*

- (v) Thus, the real owners-occupiers go by default and lose their ancestral lands through an unthinking officialdom.

Denial of Proper Compensation because of Non-Implementation of Land Survey Rules and Procedures

The Government should also take its own sense of urgency and official resolution seriously to implement the trend-setting and unique tribal development policy in India, as the 1992 decision has been (cf. Revenue Department Order No. 14643/R dated 23.3.2000). This would guarantee the legitimate and adequate compensation to tribal landowners, who do not have *ryotwari* rights on their shifting cultivation lands held upto 30 degrees slope on common property land holding basis, not recognized by State as their age-old rights. **This policy was to have been implemented in the "extremist prone areas" on the basis of special survey in all Scheduled Areas of the State outside Kashipur Tahasil. But till March 2004 no effective steps have been taken to survey the areas not to speak of conferring the *ryotwari* rights on the tribals, who could claim compensation in development-displacement situations.**

DEVELOPMENT FOR WHOM? ENTITLEMENT AND DEPRIVATION

M.S. Swaminathan wisely asserts: Development, which is not equitable, will not be sustainable in the long term. "Unfortunately, all cases of involuntary displacement for development projects are inequitable. In a Class-Benefit Analysis, Singh, Kothari and Amin note: In virtually every project it is seen, that the primary costs are being paid by the urban elite. Those who are displaced by such projects are usually too poor and politically weak to safeguard their own interests."

When, under the land-for-land rehabilitation programme 3,652 oustees of Mahi Bajaj Sagar Project in Rajasthan were allotted land, only 1085 (29.71 per cent) could take possession of their land. The large majority, mostly tribal, were deprived of their allotted land due to encroachment by others and so, 39 per cent of the allotted land was "uncultivable". Even the forest department had encroached on the land allotted to oustees (cf. Sekhar, 1995: 51). However, the land allotted to oustees was not in the command area of Mahi project; and hence, they were, obviously not among the beneficiaries of the project. There are few river valley projects in which oustees have been allotted the irrigated or irrigable land.

IMPORTANT CONSIDERATIONS IN RESETTLEMENT AND REHABILITATION OF THE DISPLACED, ESPECIALLY THE TRIBAL ONES

1. The Displaced Persons, mostly tribal and Scheduled Castes, illiterates, powerless people, have, in overwhelming cases, not attained rehabilitation with a quality of life higher than what was prevalent in their families before displacement.
2. Adequate and properly assessed compensation at the level of replacement cost is *sine qua non* for launching the displaced family in a new life at a higher level of living.
3. Compensation for houses, land, common property resource uses, income from services, trees, sustenance and cash income from forest products, artisanal skills, trading networks, social capital, and diseases and damages due to

environmental degradation, and loss of biotic medicine and intellectual property rights etc. should be paid in addition to the resettlement expenses (transfer, transport, transit camp, maintenance allowances) and the rehabilitation package, as in Orissa State Water Resources Development R&R Policy 1994.

4. Indian Constitution, International Conventions and Agreements between India and the World Organizations such as ILO, and Court decisions at various levels, especially High Courts and the Supreme Court, have recognized rights and entitlements of the vulnerable people in general and of the tribal people in particular. Recently, the International Economic Covenant, which India has ratified, makes prior Consultation and resettlement mandatory in all cases of displacement. (cf. The Hindu, 9.1.2007 on Nandigram Violence)
5. The predatory role of the state which began with the colonial state structure has tragically continued even under the so-called constitutional safeguards for the tribal people under the Fifth Schedule and the paternalistic hegemony of the power elite has been sanctified by making the Governor and the State Government arbiter of the autonomy, economic well-being, land alienation, resource dispossession, and degradation of life and dignity etc.
6. Even the newly acquired rights of the tribal people in Schedule V area to have effective consultation on use of their land for any development project or for resettlement of displaced people from outside their village, Block, or District as per the 1996 PESA of the Central Government, has not been conceded in favour of Gram Sabha or Palli Sabha in Orissa. Similarly, the tribals have been denied effective say in the leasing or auction of the minor minerals, as provided under PESA 1996 at the level of the Gram Sabha and Palli Sabha. The correlated 1997 Orissa Acts for Scheduled Areas are to be amended imaginatively to make them acknowledge tribal rights and entitlements and thus, to enable the tribal people to claim compensation for many of their entitlements under Central PESA 1996.
7. By ensuring the proper delivery of the rehabilitation package and cash grants, resettlement and survival expenses, and product-share as holders of preferred shares or stocks against the value of the lost or unusable common property resources, or dividend, the Project-Affected-Persons become Project-Benefitted-Persons through generations. The Comprehensive and correct enumeration of Project Displacees, Project-Affected Persons, Displaced Villages, and Displaced Families should be made exhaustively, so that all vulnerable sections and dispossessed people are covered without exception, with the 1994 Water Resources Policy as model with some corrections e.g. in gender bias. **In Sardar Sarovar the eligible oustees were recounted and increased from 35000 in 1979 to 300,000 by current estimates.**
8. Changes in the legislative provisions, policies and rules and procedures are to be effected at the levels of the Constitution of India, Land Acquisition Act in the Concurrent List, the protective and ameliorative Scheduled Areas Regulations, and amended PESA-related Acts and Rules for benefitting the tribal people as Project-Affected People. *This will enable them to lead dignified, culturally, socially and morally autonomous lives and also to leave adequate socio-economic bases for their progeny to attain higher standard of living than the Project-Affected development victims ever did.*
9. The Supreme Court has made the inalienable tribal rights over land and forest sacrosanct in V Schedule Areas, as in Andhra Pradesh through the Samatha

Judgement. Other States like Orissa having the V Schedule tribal areas are trying their best to deviate from the application of these judgements, so that non-tribal corporate bodies, multinational corporations, *and not the tribal cooperatives*, as the Samatha Judgement prescribes, can benefit from alienation of the land and forests to the permanent deprivation and dispossession of the tribal people. Under the Samatha judgement the State is a non-tribal "person", who can use tribal lands in Scheduled Areas only for public purposes.

10. Special and additional provisions for 13 Primitive Tribal Groups in very backward and remote corners and pockets in Scheduled Areas will have to be tailor-made according to their special needs, capacities and problems faced. For example, the Hill Bonda are no longer ignorant of the money economy or emergence of the economic classes, the richer employing even "goti" bonded labourers from among the poorer Bonda. **The menfolk are great masters in preparing liquor and spirits out of several cereals and locally grown fruits including jackfruit, which can be patented for process and product.** The Bonda, Hill Saora, the Dongria Kondh of Niyamgiri hills as also the Kuttia Kondh of Phulbani practise clan/lineage customary collective ownership of land as among the local Pengo Kondh of Kashipur. Most of them have traditionally made hill terraces even beyond 30° slope. *All these terraced lands should be surveyed and recorded under fresh Survey and Settlement operations, so that they may secure proper and adequate compensation in case of displacement for development projects.*
11. And lastly, for proper rehabilitation, the mindset and the political will of the power elite will matter most. Because of the politically organized struggles of the Rengali Dam non-tribal oustees in Central Orissa, not only the "landless" displacees secured full rehabilitation package for the first time in India, but also compensation for the lands lost was enhanced four times. Because of this, the Upper Indravati tribal and other displacees could also get higher compensation. *Hence, not only in Orissa, but also in India as a whole, "Act or no Act, policy or no policy, if the government of the day is forced to take decisions, it can do so in the interest of the oustees."* (Mahapatra: 1999). *That the power language and power play only works, the tribal people are learning and learning fast, even in Orissa!*
12. Joseph Stieglitz, Nobel Laureate in Economics has warned that economic growth especially when calculated on income basis, not on the nutrition intake basis, does not aid to development of the lower economic strata. Trickle down economics does not work anywhere. All agree that if there is no purchasing power acquired by employment, availability of food etc. does not help. He finds most modern technologies do not use much labour, as these are very capital intensive. Hence, Swaminathan had wisely declared, in India there is no famine of food, work.

RECOMMENDATIONS FOR URGENT ACTION

This empirical study on tribal rights and entitlements in Orissa was specifically to serve the ends of formulation of a Comprehensive R&R Policy of the Government of Orissa. This exercise has not come a day too soon. For, the State Government is very keen, and indeed, has embarked upon rapid and massive industrialization of Orissa with establishment of mineral-based mega industries with Indian and Foreign mega corporations.

The Government of Orissa has finalized its policy on rehabilitation of the displaced and Project-Affected people for water resources, industrial, mining and roadways development etc.

However, when the MOUs have been approved to the tune of much more than hundred thousand crores, impact of this fact and extensive projects would, without doubt, result in wide scale pollution of water sources, stagnant water in the opencast mining sites, deforestation and depletion of biotic and genetic resources, depletion of herbal medicine, and displacement of cultural heritage. Extinction of traditional rights and entitlements, disappearance of traditional arts and crafts, traditional skills and knowledge etc.

The passing of the Scheduled Tribes (Recognition of Forest Rights) Bill with the cut-off year 2005, and not 1980, will empower the non-Scheduled tribe population to use and share the forest resources minerals and disappearing wild life. This will also deprive them of their age-old privileges of the first rights to use them and also to conserve them, as best as they could, so that these resources were replenished every year or every season, as required. Commercialization and exploitation of resources with different, most often, more efficient technology would see the fast depletion and disappearance of biogenetic and other resources.

On the other hand, if there is no immediate and large-scale establishment of institutions for reskilling, and teaching new skills and knowledge base to enable the displace tribal and other people to seek employment in the new factories, mines and other avenues for high absorption, there will be unrelieved pauperization and deprivation of the rightful inheritors of the fruits of their utter sacrifice for the technological advancement and diverse development resources. Already there is widespread seasonal migration and inter-state migration of the displacees to other states, resulting in harrowing talks of exploitation, denial of rightful wages, and even callous for leading to diseases physical injuries and death.

As under globalization there is hardly any trickle down effect of the GDP growth, and there is mostly the expause of the informal economy, and there is intense competition and privatization, the deprived people will be left almost cruelling to their fate.

In order to save them from this known doom, whether in development economies or in the Third World economies, the state has to swing into corrective and anticipatory action without any further delay.

As a reviewer of the tribal situation in India since 1953, I have no doubt that Orissa State will be a pioneer trend-setting state to also bring about peace and harmony between the tribal and non-tribal people on a firm and legitimate basis for the foreseeable future.

Without such committed and immediate action by the Government of Orissa, formulation of any number of policies, Acts or Regulations will not be meaningful for solution of the tribal problems on an enduring basis.

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DEVELOPMENT-INDUCED DISPLACEMENT: IMPACT ON TRIBALS

* *Walter Fernandes*

At the launching of the five-year plans national leaders spoke of nation-building by which they meant development of every Indian. They assumed that some would have to pay the price of national development for example by being displaced, but that eventually they too would get the benefits of what Jawaharlal Nehru called the temples of modern India. Today, however, many realise that most benefits of development for which the livelihood of the poor is alienated, reach another class. This paper will take a look at it based on the data generated by studies on development-induced displacement 1951-1995 completed in Kerala, Andhra, Orissa, Jharkhand and Goa and others for 1947-2000 completed in West Bengal and Assam and in progress in Gujarat, Meghalaya, Mizoram and Tripura.

They indicate that tribal communities pay the highest price. They are a little over 8 percent of India's population but are more than 40 percent of persons displaced (DP) or deprived of livelihood without physical relocation (PAP) in the name of development. A large number of them depend on the common property resources (CPRs) to which they lack legal titles (*patta*) since the eminent domain based land laws recognise only individual ownership and ignore the CPRs play in their sustenance, and thus legalise their alienation. It has a negative impact on their community and gender dynamics.

TRIBAL TRADITION AND DISPLACEMENT

To understand the impact of displacement and deprivation on the tribals one has to begin by looking at their traditional social structure that was community-based and accorded a higher status to women than caste societies did. The system differed from tribe to tribe and some of their traditions have changed because of dominant values entering their societies but even today most tribes retain some of their major customs (Roy 1995: 32-37), the most important being a community ethos in the management of CPRs that encompass the natural resources such as land, forests and water sources.

Most tribes of Jharkhand practise settled agriculture but keep a community ethos or *khuntkatti* rights. The descendants of the founder of the village are given special rights that the village council decides (Sarkar 1993: 101-103). A few like the Aka of Arunachal Pradesh, lack the very concept of individual ownership and recognise only usufruct rights. In the *jhum* season each family cultivates as much land as it requires for its sustenance. It reverts to the village after it. Others like the Angami of Nagaland and the Dimasa of Assam combine individual ownership with clan land that is understood as being under community control (Fernandes, Pereira and Khatso 2005: 31-34). Thus, CPR management is different from that of the individual ownership based settled agriculture. In it the man takes charge of both the family and society, owns land as an individual, takes decisions on the crops to grow and determines the division of work. Men do what is called 'difficult' work such as ploughing and allot to women tasks that involve standing in wet fields and bending for a long time (Misra 2000: 74-77).

Moreover, as long as their sustenance was community owned, women exercised partial control over it because central to tribal culture is a gender-based division of work and decision-making between the family and society. In most tribes the village council made up solely of men, controlled the CPRs and their social system but the woman was in charge of

the family economy and production. In matrilineal tribes also descent and inheritance are through her (Marak 2002: 161-162). An example of the gendered division of work is *jhum* (shifting) cultivation on which 25 percent of the Indian tribals sustain themselves (Roy Burman 1993: 176-177). A study in Orissa shows that traditionally its village council decided which plot to cultivate in a given year, the amount of land to be allotted to each family according to the number of mouths to feed and which family with excess adults would assist a family with a deficit of adult workers. After it the male head of the family chose the plot to cultivate that year and performed religious rites to mark the beginning of cultivation. At this stage the woman took charge of it and organised its work (Fernandes and Menon 1987: 77-82).

Thus, as long as she was in charge of the family economy and production and depended on CPRs she had some control over community resources as seen in this division of work. This partial control was also the basis of her relatively high status in her community without being equal to men (Menon 1995: 110). Because of it her dependence on the CPRs was greater than that of men and created in her a greater vested interest in their sustainable use (Pathy 1988: 26). Because they take an active part in the family related production, women from tribal and some other subaltern communities like the Dalits are also considered economic assets. This relatively high status is symbolised by bride price that was not meant to buy a wife but was a mode of compensating the family for the loss of a worker (Fernandes and Menon 1987: 72-73).

Researchers point out that, because of this separation between the family and social spheres the subaltern traditions gave less importance to power than to the division of roles. Power was not absent among them. Division of roles is based on power relations but the role was more important than power (Klesing-Rempel 2001). Their roles in the family and society gave men and women power within their own realms. By contrast, in the hierarchical caste, urban middle class or individual based systems, the division of roles also indicates domination-dependency syndrome based on power relations (Vats 2004). The division of roles did not make the tribal woman equal to men. Both patrilineal and matrilineal tribes were patriarchal.

The Legal System and the CPRs

There is also a contradiction between the land laws of the country and their customary law according to which they have managed the CPRs for a thousand years and more. But the land laws are governed by the colonial principle of eminent domain that treats land as only a commodity and a place for cultivation and building and ignores the fact of it being the sustenance of its dependants. Individual property is its basis and a written ownership document (*patta*) in the name of an individual is its norm. Such a document endows a person with the right to use it according to his/her will, with no obligation to anyone else unless it goes against the rights of another individual. Eminent domain is called *terra nullius* (nobody's land) in Australia. The White colonisation of southern Africa, the Americas, Australia and New Zealand was based on the principle that anyone can occupy land ostensibly belonging to none. In 1992 in the Mabo case the Australian judiciary declared it unconstitutional (Brennan 1995: 16) but it continues to be the basis of land laws in India under its American version of eminent domain. Its first facet is that natural resources such as forests as well as land without a *patta* belong to the State. Its second facet is that the State alone has the right to decide what constitutes public purpose and to deprive individuals of their assets in its name (Ramanathan 1999: 21-22).

Only in the Sixth Schedule areas of the Northeast the law recognises community ownership but the administrative systems favour individual male ownership and class formation. For example, in the matrilineal Garo tribe of Meghalaya, the woman inherits land and the family name is through her. However, today male relatives wield considerably more

economic and political power than in the past when the maternal uncle had an important role to play in the management of her land (Marak 1997: 58-61). Though the woman remains the official heiress, in practice her husband manages the inheritance. The administration recognises him as the head of the family and consults him alone in decisions regarding land transactions and transfer. In parts of East Garo hills there has also been a slow transition to growing cash crops that are not fully conducive to community control over land. The State gives loans and subsidies only to individuals though in their tradition the community owns this resource. Such transfer to individuals is encouraged with a distinct preferential slant towards men who are better equipped than women to manage cash crops. It has far-reaching consequences for women's status (Fernandes and Barbora 2002: 128-130).

CPRs and Development-Induced Displacement

In this contradiction lay also the seeds of impoverishment and women's marginalisation. Development-induced displacement and other forms of deprivation result from this principle. Since the *Land Acquisition Act 1894* (LAQ) recognises only *patta* land CPRs can be alienated from their dependants without a legal procedure or compensation since they are considered State property. Most States followed this principle till a few years ago and did not even count their dependants among the DPs/PAPs. For example, by official count, in the 1950s the Hirakud dam in Orissa displaced 110,000 persons (Govt. of Orissa 1968) while researchers put their number at 180,000. The 70,000 persons who were not counted were CPR dependent tribals, Dalit agricultural labourers and "backwards" like fish and stone quarry workers (Pattanaik, Das and Misra 1987). The Nagarjunasagar dam in AP has officially displaced 30,000 persons when the reality is more than a lakh (Fernandes et al. 2001: 62). Out of 1,401,184.8 acres used by all the projects 1947-2000 in Assam, the State counts only 393,236.7 acres of private land and some 375,000 DPs/PAPs while the conservative estimate is 1,909,368 DPs/PAPs from 14.1 acres (Fernandes and Bharali 2006: 77 & 107). More than 10 lakh acres of CPRs and the livelihood of over 15 lakh persons are not accounted for because the law does not recognise community ownership though these communities have inhabited them for centuries before the colonial land laws were enacted. In the eyes of the law they are encroachers who are evicted, not displaced.

As a result, tribals account for more than 40 percent of the DPs/PAPs. In 1985, the SC-ST Commission pointed out that 40 percent of the DPs of most development projects during the preceding three decades were tribals (Govt. of India 1985: 19). Tribals are 22 percent of the Orissa population but 42 percent of its 16.2 lakh DPs/PAP 1951-1995 whom we could identify (Fernandes and Asif 1997: 111-112). Of the 32.5 lakh DPs/PAPs of AP 1951-1995 whom we could identify, 30 percent were tribals who constitute 6.7 percent of its population (Fernandes et al 2001: 80-81). Besides, 20 percent of the DPs/PAPs each are Dalits and the poorest among the "backwards". For example in Kerala most DPs of the Vikram Sarabhai Space Centre in the 1950s were fish workers and 45 percent of the 4,346 DPs of the Nedumassery International Airport in the 1990s are Dalits (Muricken et al 2003: 116-125).

The Extent of CPRs Lost

One of the reasons why tribal proportion is high among the DPs/PAPs is that many mineral and other resources are in the regions they inhabit. For example, 80 percent of coal and 60 percent of most other minerals are in the tribal areas (Areeparampil 1996: 6). That fact combines with the non-recognition of their CPRs to make it easy for the State to deprive them of their livelihood without any legal process, compensation and at times even without counting them. One can see it from the extent of CPRs lost. In Orissa, for example, 30.2 percent of the 25 lakh acres acquired 1951-1995 were forests and 28 percent were other

CPRs (Fernandes and Asif 1997: 84). In AP common revenue and forestland together accounted for 32 percent of 25 lakh acres for which we got reliable data (Fernandes et al 2001: 56-57). In Goa, 50 percent of the 130,000 acres acquired 1965-1995 are CPRs (Fernandes and Naik 2001: 36-40). Only in Kerala that has very little common revenue land, non-forest CPRs are below 1 percent but forests are 26.2 percent of the land used 1951-1995 (Muricken et al 2003: 105-112).

In the Northeast where the proportion of tribal CPRs is high, very few projects have been implemented till now. As a result, displacement is lower than elsewhere but will rise in the near future. 48 massive dams are under active consideration in this region, 13 of them in the final stages of planning and approval. There is another list of 156 possible dams (Menon et al. 2003). Among them the Tipaimuch dam in Manipur will displace some 26,000 persons and Pagladia in Assam will affect 105,000. That CPRs will be high in the land they use can be seen from the fact that by official count Pagladia will displace 18,457 persons while research puts their number at 105,000 (Dutta 2003). Most other dams will have relatively low displacement because of the low population in Arunachal Pradesh where more than a third of them will be built but loss of CPRs will be high. For example, the Lower Subansiri inter-state (Arunachal-Assam) dam will displace 38 families but will submerge 34.36 sq. km of land that will deprive several thousand families of their livelihood. However, its Environment Impact Assessment mentions only the cultivable land of two villages that will be submerged (WAPCOS 2001: 4-6) and ignores the rest of the land that is unde. community ownership.

To the CPRs should be added the wildlife sanctuaries to which land is transferred from the forest department. Only a notification is issued declaring them sanctuaries on land most of which is in the possession of the forest department. That land has not been included in the total given above. Their mostly tribal inhabitants experience a major change in their land use since they are deprived of access to the non-timber forest produce (NTFP) such as fruits, edible flowers and leaves, medicinal herbs, fodder and small timber that sustain them. *The Wild Life Protection Act 1972* says that their "rights should be settled" not that they should be displaced. However, more often than not the forest department interprets it to mean denial of access to the NTFP over which they had enjoyed rights.

Besides, most tribal communities live in "backward" regions as such are paid a low compensation for the little private land they own. For example, 58 percent of all land acquired for the National Aluminium Corporation (NALCO) plant in the mid-1980s at Damanjodi in the tribal majority Koraput district of Orissa was CPRs. No compensation was paid for it. An average of Rs 2,700 per acre was paid for the little private land they owned. By contrast, only 18 percent of the land acquired in the same year for another NALCO unit in the 'high caste' Angul district was common, mostly schools, roads and other facilities that were replaced. Its *patta* land losers were paid an average of Rs 25,000 per acre (Fernandes and Raj 1992: 92).

To it should be added individual land alienation despite protection accorded to it through the 5th or 6th schedule or other laws banning its alienation to non-tribals. Records are manipulated or other ways are found to ensure such alienation. As a result, by official count 753,435 (48%) of a total of 1,848,000 acres of land in the tribal districts of Andhra Pradesh are in non-tribal hands. The reality is worse than that (Laya 1998). Similar is the case in Orissa (Pradhan and Stanley 1999), Madhya Pradesh (Mander 1998) and other States.

The Impact of Displacement on the Tribals

As a result after land loss they have to begin a new life with very little support. Very few projects resettle their DPs. If they do they are mostly *patta* holders. Orissa has resettled about 34 percent, Andhra 28 percent and Kerala 13 percent of their DPs 1951-2000. West

Bengal has resettled 9 percent of its DPs 1947-2000 and Assam has resettled around 5 percent. It results in their impoverishment. For example, in AP out of 104 tribal families in our sample that cultivated CPRs before the project, 45 became landless after it because even the projects that had a "land for land" package excluded them since they were landless according to the eminent domain based law. 16 of the remaining 59 got only homestead land and the rest were given individual land when they agitated demanding rehabilitation (Fernandes et al 2001: 165-167). In Manipur 58 Rongmei families in our sample of 110 have become landless because the Loktak hydel dam displaced them but did not resettle them. So they resettled themselves on the CPRs of other tribes that the law considers wasteland. It has resulted in competition for the same resource, ethnic conflicts and more displacement (Fernandes and Bharali 2002: 22-23).

Impoverishment is the result of the absence of alternatives to the livelihood lost. For example, in AP in our sample of 635 families, 27 were in the process of displacement or deprivation. Of the remaining 608 families, the availability of work had declined from 509 (83.72%) before the project to 253 (41.61%) after it (Fernandes et al. 2001: 141). Here we are referring to work as sustenance not salaried jobs, very few of which are given by the project. In Orissa out of the 266,500 families of DPs/PAPs for which we got data we got confirmation of one project job per family to only 9,000 (Fernandes and Asif 1997: 137-139). No job was given in Goa and very few in Kerala (Muricken et al 2003: 267-269). In our West Bengal sample of 724 families, 125 (20%) were given a permanent job each, most of them by two recent projects.

Other psycho-social consequences follow. DPs are inserted as workers into the industrial economy and culture without social and psychological preparation. The society and economy they are confronted with have a timeframe and culture different from theirs. It is not unusual for many of them to lose their job as did a large number of DPs employed by the Rourkela Steel Plant in Orissa because of what the management called "drunkenness" or "indiscipline". Its real cause was the shift that they had to make from an agricultural economy and timeframe to an industrial culture with no psychological or social preparation (Veigas 1992).

In the Northeast, the refusal of the economic decision-makers to invest in productive jobs ensures that the people of this region with much higher levels of education than in most other regions of India, continue to depend on land (Baishya 1991: 44-45). For example, in 1996 the seven North Eastern States had only 166 major and medium industries against 364 in "industrially backward" Orissa in the same year. As a result, more than 70 percent of its people depend on the primary sector against around 64 in India as a whole (D'Souza 1999:14). Land alienation thus destroys their livelihood more than elsewhere.

Implications for Women

The above figures also show that displacement not only deprives the family of its CPRs but also alienates the woman from the source of her economic autonomy on which her relatively high social status was based. Changes in the traditional social systems also involve a transition to individual land ownership. One of its consequences is the introduction of new power relations in a society that formerly maintained a separation of male and female realms and roles. Even if resettled, the subaltern woman rarely maintains her economic autonomy. In land-based resettlement, land is allotted in the name of individuals, invariably men. Women in subaltern groups had decision-making power in the family and controlled its production and economy as long as the community sustained itself on CPRs. With individual *patta* becoming the norm, power is transferred to the man and from him to his son. She ceases to be a decision-maker and becomes fully dependent on men (Thekkekkara 1993: 30).

Also her social status deteriorates with the emergence of class formation in their erstwhile egalitarian society. Her relatively high status changes with the deprivation of her livelihood and the transformation of traditional institutions, which used to be more gender just. They now take on patriarchal biases, in part due to male centred administrative policies and laws. However, alienation does not reduce the workload of most subaltern women because even after they are deprived of the resource base required to care for the family, the gender-based division of labour dictates that they continue to play this role. Given their low literacy and lack of exposure to the world outside their community, their sense of vulnerability increases. Moreover, the trauma of forced deprivation is not dealt with. One of men's coping mechanisms is drunkenness, which results in frequent wife beating (Fernandes and Raj 1992: 154-155).

The few R&R policies that exist are discriminatory of women particularly. For example, the T. N. Singh Formula 1967 that was formulated in response to the agitation of the DPs of the Rourkela Steel Plant and is named after the then Minister of Industry, was the only all India post-independence provision that had some semblance of an effort to rehabilitate the displaced. It stipulated that public sector mines and industries give a job per displaced family. This step in the right direction had many shortcomings, one of them being that the job almost always went to the male head of household. Women, particularly tribal, who were deprived of land and forests, the source of their relatively high status and economic utility were denied a job (Ganguly Thukral and Singh 1995: 94-95). The Formula was abandoned in 1986.

Among the few jobs given to the DPs fewer go to women than to men. For example, of the 125 jobs given in West Bengal, only 8 permanent (6 of them unskilled) jobs went to women. Most jobs given to the tribals, particularly to women, are unskilled and based on daily wages. For example, in West Bengal none of the 45 semi-skilled jobs went to tribals or Dalits and only 2 were given to women (Fernandes et al. 2006). 90 percent of the jobs got by tribals in Andhra Pradesh were unskilled, often temporary in nature. In Orissa, some tribal men got semi-skilled jobs at NALCO, Damanjodi because a voluntary agency trained them in a few skills. All other semi-skilled jobs went to persons from the dominant castes since NALCO did not train any tribal. Some projects give technical training to DPs/PAPs who have adequate educational qualifications but it rarely helps women. Even among the dominant castes, in rural areas only boys study up to the high school. Girls even of these castes lose out (Fernandes and Raj 1992: 141-142).

Women who are deprived of their sustenance have to depend on the single salary of their husbands. If they get jobs outside the project, they are mostly daily wage unskilled ones. Many men who are given jobs as peons or maintenance staff in the project office refuse to allow their wives to take them up because it is "below the dignity of an office worker" to have his wife doing "menial work" (Menon 1995: 111). Thus women are reduced to being housewives alone and are no more contributors to the family economy. Since their role as caretakers of the household remains unchanged, they have to purchase their basic needs such as food that they used to get from their land and forests. Influenced by outsiders men spend a substantial amount of their earnings on clothes, entertainment and other trivia, thus leaving a relatively small amount for the woman to run the household (Goga D'Souza 2002: 87-88). Thus even when the family's economic status improves, the woman's social status deteriorates.

With women ending up with unskilled jobs in the informal sector, patriarchal norms are reinforced and dominate the social fabric. It is accompanied by a decline in their nutritional and health status because of deforestation and displacement. One of its consequences is that the community members including the women internalise the ideology of women's subjugation and accept their subordinate status. For example, in a context of

food shortage, girls and the housewife get very little food. Malnutrition is its consequence. In other cases impoverishment forces the family to send young girls out to middle class families as domestic workers as many Adivasis in Orissa (Fernandes and Raj 1992) and Assam tea gardens and elsewhere do (Fernandes and Barbora 2002).

We witnessed it in many study areas. For example, when asked why women get only unskilled jobs or end up as housewives without contributing to the family economy, more than 50 percent of the men and a third of the women (including tribals who have a relatively high status) interviewed in Orissa and Andhra Pradesh said that women are not intelligent or capable of taking up other jobs and that their place is in the home. John Gaventa (1980: 7-30) explains this process by stating that no unequal social system can be maintained unless the subalterns internalise the dominant values. In many cases the tribal customary laws are manipulated in favour of men and against women (Nongbri 1998: 224-225). The State and the legal system support this transition instead of working towards equality (Haksar 1998: 191-192).

Such internalisation also takes place when young Adivasi girls become domestic helps in middle class homes. The employer, conditioned by the caste mentality of "untouchables" doing menial work, often sees them as "low castes". Over time they themselves internalise a caste mentality and develop a low self-image of their own community (Fernandes and Barbora 2002). This leads to a vicious circle because a low self-image convinces them as a group that they cannot develop themselves and should depend on others for their own growth.

Conclusion

This paper has examined the processes of alienation of tribal sustenance on which their communities depended. The woman's crucial role in CPR management resulted in her relatively high status without making her equal to men. Because of this great dependence, women have traditionally also had a larger vested interest than men in the sustainable use of these resources. However, the law based on the eminent domain does not recognise their link with the CPRs. It allows them to be deprived of their livelihood without alternatives. Other political and economic processes result in further alienation of their livelihood and have negative implications for their communities in general and women in particular. This is reason enough for the State and others interested in social justice to re-examine the processes of development and the prevailing legal system, in particular the principle of eminent domain that encourages both class formation and women's subordination. One does not oppose individual ownership in itself but states that changes have to be introduced within their capacity. They should ensure that benefits reach them and that they do not pay the price of the development of another class.

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CRITICAL R&R ISSUES OF DISPLACED TRIBALS IN MINING PROJECTS

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Mining does much more than displace people. Apart from severing the umbilical link of the Tribal people with the nature, it replaces their simple, cocooned and contented lifestyle with an alien, complicated and competitive way of life they find extremely difficult to cope with. It strikes at the root of their cultural moorings and ushers in the value system of the big, strange world that they are completely unfamiliar with. But companies seldom take these apparently intangible factors into consideration while planning the Reconstruction and Rehabilitation package for them. They are just content to provide compensation for the eligible land or property acquired. This precisely is the reason mining projects in India often evoke extreme reactions from the indigenous people and run into rough weather because of it.

This paper is based on extensive research work done by author in the field of R&R for past 15 years and the author seeks to identify some such issues that need to be factored in while planning mining operations so as to ensure that they go on smoothly without incurring the wrath of the tribal community and without causing impoverishment to the tribal people impacted on account of such mining endeavor.

1.1 TRIBAL PEOPLE & MINES:

Mining is seen essentially as a means of earning revenue for the country and the concerned state but sold to the tribal people as a godsend for the speedy socio-economic development of the region. The people, who stand to be uprooted from their home and hearth, are rarely consulted while planning and executing mining operations. While governments and companies rake in the *moolah* year after year, the displaced people are expected to be content with the one-time compensation package given to them, let alone expecting a share of the taxes, royalties or other benefits accruing from exploitation of mineral resources.

1.2 SOME CORE ISSUES:

There are three factors that need to be given top priority while planning mining operations, whether by governments or companies, to ensure that they are executed in a socially and culturally compatible manner without posing a major threat to their livelihood and lifestyle. They are:

- I. **Building Rights:** Recognition of the human rights of the tribal people is the first step towards the formulation of a sustainable development agenda that seeks to establish a relationship of trust and harmony between the tribal peoples and the mining sector.
- II. **Building Capacities:** The capacity of the tribal community needs to be enhanced to give them a bigger say and an equitable participation in planning and execution of mining operations.
- III. **Building Relationships:** The mining industry must think beyond its legal obligations on the issue of human rights and seek to build a relationship of trust and understanding with the community that is mutually beneficial to both sides.

The world over, the local people have been at the receiving end of the adverse effects of mining activity, irrespective of its location and type. But in the Indian context, the tribals are affected in greater measure than their non-tribal counterparts (disproportionately). This is so because of the dependence of the tribals on forests, the absence of legal rights over their land and their low level of education.

There are various factors which are responsible for such adverse effects caused by mines, most of which can be avoided if a proper risk avoidance mechanism is adopted by the executing agencies. In this exercise, some such factors have been discussed at length and possible remedies suggested to ensure an improved livelihood for all categories of impacted people, including tribals.

1.2.1 Capacities to sustain or resist:

The most important dimension is the indigenous culture's capacity to sustain or resist a prolonged engagement with mining interests and their allies. A stakeholder's capacity to sustain or resist a negotiation is determined by knowledge, organization, resources, and time needed to reach a consensus or agreement on a plan of action. Non-tribal stakeholders hold considerable advantages over tribals in this regard. This includes not only access to capital but also knowledge of the potential market value of tribal resources and legal implications and political influence. In contrast, tribal people are rarely trained in the culture and economics of the other stakeholders they meet during an encounter. How long a tribal group can resist or sustain the risks arising out of mining operations depends not only on the internal capacity of the group but also on the ability of mining promoters to forge strategic alliances with the government and other non-tribal stakeholders. Conversely, tribal people are largely dependent on NGOs and other sympathetic interest communities such as religious, labour, academic and environmental organizations for restoration of their sustainable livelihood, minimization of risks and sharing of profits. *Hence it is necessary to enhance the capacity of the affected people, particularly the tribals, through an informed participation before setting up a mine in a given area.* This will have a definite positive bearing on both the impacted people and also the mine – as the former can improve their livelihood and the latter can set up mines without time and cost overruns due to resistance of the local population.

1.2.2 Sustainability risks:

Socio-economic and environmental risks may also threaten the sustainability of the local people, particularly the tribals. Some risks are associated with the physical activities of mining while others strike at the people's ability to accumulate, maintain, enhance and transfer wealth for future generations. With the opening of roads and the movement of machinery, animals and people are frequently injured and on occasion killed. Avoiding and preventing these potential risks is a necessary first step for any company working in an area inhabited by tribal people.

The degradation of vegetation cover, soil fertility, water quality and quantity and loss of bio-diversity often take away the livelihoods of the impacted community, particularly in case of the tribal community. The consequences of environmental changes are usually not immediately discernible and manifest themselves over a long period. Hence, it is only natural that the consequences are not anticipated or understood by the impacted communities or even by mining companies and governments. The mines under the study are no different. *Therefore, it is necessary to adopt risk control mechanisms in and around areas where mines are to be set up in consultation with the impacted community much before mining activities start.*

1.2.3

Indigenous wealth and impoverishment risks:

All stages of the mining process – from the earliest days of planning and consultation, exploration and exploitation through decommissioning – usually disrupt the accumulation and intergenerational transfer of indigenous wealth. Those unfamiliar with tribal culture may mistakenly believe that mining poses minimal risks since tribal people have little income or wealth to lose and high unemployment. Mining is sought to be justified on the ground that income generated from it would break the unending chain of poverty and unemployment that plague the tribal community. Both the mining industry and governments feel they have fulfilled their obligations once they compensate the affected community by way of the market value of lost land, material goods and public facilities.

As a matter of fact, earned income represents only a small portion of tribal wealth. The wealth that supports the sustainability of their culture and identity is found in institutions and social support systems that include access to common resources, local prestige, culturally appropriate housing and food security. Tribal people invest vast amounts of time and resources to perpetuate their culture, institutions and social support systems.

Tribal people have flourished for generations, often in highly adverse environments that are ill equipped to sustain non-indigenous ways of life without substantial injections of external capital, energy, and technology. Besides, indigenous sustainability hinges on protecting environmental and resource endowments. Tribal people protect their resources and draw on the fruits of the land, much like one draws interest on an account without touching the principal.

The risks to sustainability from impacts of infrastructure projects on the tribal include landlessness, homelessness, loss of income (from traditional sources), loss of access to communal resources vital to their survival, cultural destabilization, food insecurity, health degradation, marginalization, disruption of social organization and traditional leadership, spiritual uncertainty, restriction of civil and human rights, limitation of the capacity to participate in the broader society and threats from environmental disasters.

Mining affects indigenous wealth in eight different ways. First, it may break the flow of social and economic life. Second, the encounter may make excessive demands on the time and capacity of the local people and their traditional leaders. Third, it disrupts educational activities, both traditional and formal. Fourth, it may exacerbate factionalism resulting from inadequate consultation. Fifth, it may also disrupt the leadership structure or improper legitimization of individuals as 'authorities.' Sixth, it may undermine civil rights and traditional decision-making by ignoring prior informed consent. Finally, symbolic structures that define the essence of indigenous/tribal culture are in danger of being desecrated by mining operations.

Therefore, restoration of indigenous/tribal wealth is a more realistic parameter than mere compensation for land to judge benefits to tribal communities. Such restoration means full compensation to cover the market values of lost wealth, including lost social and environmental services. Restorative action should include a long-term sequence of non-monetary steps, institution building, training, environmental restoration and extended financial arrangements to ensure that people retain or regain their ability to accumulate wealth. The effectiveness of these efforts, judged from the perspective of indigenous sustainability, rests on whether the project leads to an accumulation of indigenous wealth – within the broader definition of wealth. The effectiveness of all restorative and mitigating action, in the end, will be judged by the key question: do the tribal peoples give more than they receive? If so, they are subsidizing the mining project – which is morally and economically unacceptable. In view of this, there has to be a

mechanism to ensure that the tribal people are not alienated from their traditional/indigenous wealth. In case it is unavoidable, they should be provided access to such wealth in the post-establishment period of the mines so that the possible impoverishment can be avoided.

1.2.4 Development-induced displacement and resettlement:

It has been seen in case of most mines/mining projects that mining-induced displacement and resettlement significantly increase the risks of impoverishing local populations, threatening their livelihoods and truncating their chances for sustainable development or even survival (Cernea 1999, 2000, 2001; Pandey 1998; Fernandez 1994; Downing 1996 and 2002; Government of India 1993). Societies that have endured for hundreds, if not thousands, of years can quickly disintegrate under the pressures of forced displacement. Avoidance of this catastrophic outcome demands detailed planning and the allocation of adequate financial and human resources. Integral to any successful resettlement is the use of skilled development-induced resettlement specialists. Extensive development knowledge and scientific research show that rehabilitation and restoration (R&R) of livelihoods is more likely when all potential impoverishment risks are identified early and arrangements are made to mitigate or avoid them. Informed, timely, widespread and active participation of the project-affected people is an essential prerequisite of an effective R&R policy. Involuntary resettlement is a socio-economic, not an engineering issue. The chances of risk mitigation and restoration are greater when stand-alone financing is provided for displacement, since this removes the conflict of interest that tempts companies to view displacement as an unnecessary social service rather than a necessary cost. **To ensure an improved living condition for the impacted people in general and the tribals in particular, companies should take appropriate steps in consultation with the impacted community, identify the possible impoverishment risks from a very early stage of the project and take risk mitigation measures for sustainable R&R.**

1.2.5 Loss of sovereignty:

One of the primary causes for the resistance of tribal people to mining is the potential loss of sovereignty, which has been corroborated by the findings of many empirical studies. Sovereignty refers to an acknowledgement by the executing agencies of the collective rights of tribal people to their traditional territories and heritage. Among tribals, just as among non-tribal people, sovereignty is a sacred concept, like freedom and justice. It refers not only to land and common property rights but also to political and economic self-reliance and the right to determine the extent of cultural distinctiveness (d'Erico 1998). Threats to group sovereignty may come in many ways, the most common being the loss of human and civil rights and the capacity to pass along a culture, including its wealth, to subsequent generations. Mining frequently disrupts indigenous ways of life and institutions, threatening people's sovereignty. People's relationship with land is fundamental to 'indigenous sovereignty' struggles. The loss of this symbiotic relationship is often the major reason for the stiff resistance to mines in Orissa and elsewhere in the country. **In order to protect the sovereignty of the tribal people, all safeguards should be taken so that the affected persons continue to live with dignity. This will result in reduced resistance by the tribal people.**

1.2.6 Stakeholder Strategies and Tactics:

The chances of the preservation of the distinctive culture of the tribal people increase, if impoverishment and sovereignty risks are avoided or at least mitigated.

Likewise, stakeholder costs and conflicts are reduced when tribal issues are addressed strategically early in the project preparation.

This section enlists the various strategies that need to be adopted by governments, mining companies, international financial intermediaries, NGOs and tribal people as stakeholders when a mine is set up in an area – particularly in tribal pockets.

✓ *Government Strategies and Tactics:*

National legal frameworks define the rights and obligations of stakeholders during an encounter. The relevant legal frameworks pertain to eminent domain, the rights of tribal people, mining provisions and environmental protection laws. These frameworks frequently run counter to each other, paving the way for appeals.

It is seen that in most of the cases (in almost all the tribal inhabited pockets of the world), the federal government reserves the right to transfer sub-surface or other natural resources or take land under the doctrine of eminent domain. This poses a big problem for tribal people – especially those with unsettled claims to land. Exploration and exploitation usually take place at the expense of some groups or individuals in the name of common good, usually with the provision that landowners are fairly compensated. Vacant and encroached lands are usually not recognized as eligible for compensation. Besides, compensation is restricted to the value of the land – which is always difficult to determine given that land markets are weakly developed among tribal communities and that access to impartial justice for those who dispute company valuations are not available. The doctrine of eminent domain incorrectly assumes the elasticity of land, ignoring its spiritual and emotional value to a tribal community.

✓ *Company Strategies and Tactics:*

Strategies and tactics for dealing with tribal people usually rank low on corporate agenda throughout the world. The willingness of companies to deal with social (including indigenous policy) issues too leaves a lot to be desired. Only one of the mines under study has appointed an Anthropologist for dealing with the impacted communities, whereas the other three have assigned the job to engineers. The survey found that companies were reluctant to set up a compensation system for the affected communities or to negotiate with communities over land rights issues beyond their legal compulsions. They have maintained a safe distance from the impacted people. There is no consultation/interface with the impacted community in general and the tribals in particular on issues like acquisition of land, resettlement, the needs of the people, the adverse effects of mining activity and their possible solutions.

✓ *Non-governmental organization strategies and tactics:*

Tribal people have found a sympathetic ear in NGOs, especially where they have few or no avenues to air their grievances. NGOs have shown great diversity of objectives and organizational capacities. Some local organizations focus on particular mining projects. Others assume broader, global policy objectives by forming strategic alliances among themselves. Their positions range from militant resistance to uncritical promotion of mining interests.

NGOs also deploy a wide range of strategies and tactics, including national and international lobbying, civil disobedience, serving as information clearing houses, coalition building and community outreach. Other options include referrals to other support groups, meetings with the institutional financiers of mining, hosting conferences, organizing resistance campaigns and

subcontracting to assist in tribal development or cross-cultural brokerage to interested stakeholders. While setting up mining projects, executing agencies and the government should allow NGO involvement among the affected persons. They should see them as useful intermediaries rather than as adversaries and refrain from unleashing repressive measures on them.

✓ *Tribal People's Strategies and Tactics:*

The current empirical study corroborates the findings of earlier studies that the impacted tribal people have limited strategic and tactical options. Laws are ill defined and often skewed against them. In any case, they lack the resources to carry out a prolonged legal battle against the mines.

In the circumstances, the tribal people usually are left with only two options: resistance or acquiescence. Resistance strategies and tactics include violence, civil disobedience, and appeals to NGOs, religious groups or to any other organization that is likely to listen. While such groups may lend their sympathetic support, they may be guided by considerations other than the cultural survival of the affected people. They may exaggerate or downplay the possible impacts of a mining project depending on their primary interest and motivation. On the other hand, acquiescence means acceptance of any arrangement the mining companies and/or governments may bring to the table.

Mining companies should include in their plans at least nine components for protecting the interests of the impacted tribal people. They are:

1. Examination and explanation of the project's economic and legal aspects to the community in a way they will understand;
2. Full and honest assessment of the project's risks, including threats to sustainable livelihood, employment loss, disruption of productive systems, environmental and health risks and socio-cultural effects;
3. Budgeting and organization of actions to mitigate each risk;
4. Determination, by the people, of how the project fits into their cultural vision;
5. Institutional and financial steps to ensure that the project's benefits are opportunely and transparently allocated to the tribal people;
6. Equitable distribution of benefits and costs through a common community-defined process;
7. Development of new alternative resources to provide sustainable livelihoods to replace the ones lost;
8. Preparation of strategies for negotiating with project promoters, financiers, government and other key stakeholders on benefit-sharing arrangements over and above risk mitigation; and
9. Formalisation of negotiated arrangements with legally binding instruments.

1.2.7 Legal and regulatory frameworks:

There are a number of existing regulatory frameworks with provisions to protect persons affected by mines. But not many of them have specific provisions to deal exclusively with issues affecting tribals, though a large proportion of the affected persons are tribals in mining sector. As a result, the affected tribals are not able to restore their erstwhile livelihood standards. More often than not, they are worse off than before. Secondly, even if there are some preventive and protective regulatory frameworks, a majority of them are not complied with by the respective departments. This also

contributes to the non-mitigation of the adverse effects of the mines on the impacted persons, including the tribals. In view of this, governments/companies should envisage in their plans provisions, which are beyond the legal framework but will be able to mitigate the negative effects of the mines on the tribal. Thirdly, it should also be the prime concern of the company to ensure that the provisions embodied in the existing legal framework are complied with in letter and spirit. These steps will go a long way in minimizing the adverse effects caused by mines on the people in general and the tribal people in particular.

1.2.8 Lack of harmonization:

Tribal people and mining promoters are facing prolonged legal battles in the study areas (mines) because mining, tribal, environmental, and land tenure laws are not yet harmonized. This has set the stage for prolonged conflicts.

A possible first step to avoid these prolonged legal conflicts is necessary changes in existing laws that recognize and ensure the rights of tribal people. This proactive step might lead to a harmonization of laws and do away with conflicts between the affected people and the mining companies.

1.2.9 Corporate belly-flopping:

Most mining projects in the state have adopted a strategy of not doing anything till they are forced to do so on account of people's resistance. Companies refer to this strategy as 'trying to fly below the radar'. It is also known as the 'corporate belly-flop' strategy. Companies tend to hide behind excuses and unfounded generalizations such as 'people always get harmed when development takes place', 'cultures disappear anyway' or 'the company is only responsible for direct impacts' (with 'direct' being self-defined to avoid obligations) to shirk their moral and ethical responsibilities. This approach prolongs confrontations, increases risks and leads to cost and time overruns. Keeping these things in view, ***it is crucially important for the companies to prepare a mitigation plan in consultation with the affected people of a mine after assessing the felt needs of the people so that the activities envisaged in the plan address the risks to the impacted people in general and the tribal people in particular.***

1.2.10 Contract a broker:

Mining companies and other non-tribal stakeholders seek external consultants (many of whom are foreigners having international experience) to help them with technical and environmental issues. But they don't feel the need to hire the services of local/regional professionals when it comes to dealing with issues affecting tribals. Only one out of the four mines under the present study has employed local/regional social scientists to deal with such issues even though three of the four mines studied are located in tribal areas.

Companies in India have generally tried to deal with tribals on their own, often with disastrous results. Given the suspicion and mistrust with which most of them are viewed by the tribal people, such attempts by companies tend to harden feelings on the other side – frequently leading to delay and, in some extreme cases, even abandonment of the mining project altogether. Hence, it is wise for companies to avoid the inherent conflict of interest in the negotiation process and get an intermediary to broker a deal with the affected people. For centuries, specialists termed as 'cultural brokers' by anthropologists have been roped in to bridge the cultural gaps between tribal people and outsiders. Alternatively, companies can also turn to NGOs, assuming they have the capacity to communicate with tribal people. A third option under the 'contract a broker'

strategy is to hire a consultancy firm to broker a deal with tribal people. The aforementioned three options of hiring/engaging a broker have yielded rich dividends for companies in many countries, not only in arriving at a mutually agreed strategy for the welfare and livelihood of the impacted people, but also a voiding resistance to mining projects. *It is high time mining companies in India too chose one of the three options for smooth, unhindered progress of mining projects, especially if they are located in tribal areas.*

1.2.11 Benefit-sharing arrangements:

In recent times, it has been observed worldwide that benefit-sharing arrangements (BSAs) have emerged as an increasingly popular approach in dealing with the impact of mining on tribal people. BSAs might include training programs, with or without employment opportunities; support for the development of small business enterprises primarily as subcontractors with the mining company; formation of benevolent or development foundations - some controlled by companies and others by tribal people. BSA might also include indirect transfers to tribal people, in line with benefit sharing arrangements with government agencies in which a negotiated percentage of profit flows back into the impacted tribal communities.

It is difficult to secure the support of the tribal people in the absence of a benefit sharing arrangement with them. In fact, this precisely is the reason for several mining projects getting stalled in Orissa. But companies have not yet woken up to the need for a BSA to ensure hassle-free mining operations. The utmost they are willing to do is to take measures to mitigate the adverse effects of mining on the people and the surroundings. It is about time they realized that mitigation of adverse effects is only compensation for damages inflicted on the tribal people, not a benefit as such. Unless people see tangible benefits for themselves, they are highly unlikely to support a mining project the harmful effects of which are all too well known.

In case of most of the mining companies covered under the present study, it was observed that there is neither any special treatment for the tribals among the affected nor any provision whatsoever for sharing of the benefits of the project with them.

It is thus absolutely vital to put in place a proper benefit sharing arrangement with the impacted tribal people to ensure the smooth running of mining operations and to avoid cost and time overruns.

1.2.12 Localized services to impacted communities:

NGOs can offer the affected communities, including tribals, a wide range of services to ensure that they get a fair deal from companies. Some such services are fund-raising, on-the-ground research, legal representation, monitoring of environmental and social compliance and capacity building. They can, for instance, train the tribal people in negotiating skills or organizational management and advise them on possible risks like threats to health and environment. Companies should engage NGOs with such expertise to play the role indicated above. This will be a positive capacity building measure with a long-term effect on the impacted community.

1.2.13 Global Policy advocacy:

An NGO with expertise and experience may pull together a cluster of strategies into a campaign, which is a coordinated set of actions designed to influence policy or change the course of a particular encounter. This is true of many of the mining projects launched in Orissa.

Global NGOs are attempting to change the due diligent policies used by financiers when they invest in mining. Oxfam, the Centre for International Environmental Law and the Bank Information Centre, for example, are attempting to lay down a global standard in their dialogues with the World Bank and regional development banks. Such standards go beyond issues like displacement and compensation and move into areas like human rights, tribal sensitivities and cultural sustainability. Of particular note are the UN instrumentalities and conventions to protect the Earth's biological, linguistic and cultural diversity. A recurring concern has been the promotion of consultation, self-determination, group rights and protection of indigenous cultural patrimony. In the absence of any action on the part of the industry, Community Aid Abroad in Australia has established its own ombudsman code of conduct for mining companies working with tribal communities (Oxfam 2001). In 2001, it provided a detailed review of the overseas operations of seven mining companies in the Asia-Pacific region. There have also been demands for standards, benchmarks and fixing of accountability on mining companies within their home countries for the overseas treatment of tribal people.

1.2.14 Trends and counter-trends:

The rules of the game change from place to place – even within the same country. There are no industry-wide social standards and little concern for risk assessment, social development or tribal cultures. International, national and regional legal frameworks are routinely ignored. The study also reveals that tribal impacted peoples are not treated as legitimate 'stakeholders' in an encounter, in the true sense of the term.

It has been seen that in most of the mines and other development projects, a strategy for dealing with tribal people ranks low on the priorities of non-tribal stakeholders. They feel they are not obliged to take any proactive steps to help tribal people. The little that they are forced to do is often because of the difficulty in securing finance from certain lenders or the need to protect the company's image and reputation than out of any genuine concern for the affected people. ***It is therefore of paramount importance that tribal people develop strategies to articulate – and finally reduce - the known threats that mining poses to the sustainability of tribal people.***

1.2.15 Precautionary Principle for Mining Near tribal Lands:

Ignoring tribal issues greatly increases the risk of human rights complaints or costly downstream litigation. A few decades ago, it would perhaps have been possible to hoodwink the tribals about the effects of mining operations. But now, even remote tribal groups are fully aware of the risks to sustainability posed by mines near or on their lands thanks to increased literacy, high-speed communication and active NGOs. They are beginning to challenge the attempts of companies to buy their acquiescence with a few unskilled and menial jobs.

The international community has placed empowerment high on the agenda. In the emerging scenario, empowerment has come to mean that the tribal people gain the capacity and the ability to control the impact of a mining project on their culture and livelihood. This empowerment stands over and above compensation for mining related damages. Empowerment is not training people for non-existing employment. It is not something to be given away as a gift. It is neither an agreement for the company to assume the costs of government welfare nor the promotion of alternative lifestyles by outsiders.

Instead, empowerment begins with tolerance and compassion. From the perspective of sustainable development, empowerment means that tribal people do not lose but rather improve their livelihoods and enhance their cultures.

The empirical study conducted in the 4 mining projects reveals that the tribal people have been the victims of mining operations in more ways than one. They have neither been adequately compensated for parting with their land nor are able to depend on the natural and forest resources, around which their life and living once revolved, in the post-mining scenario. A majority of them have been further impoverished. Some of them have migrated out of their home and hearth in search of a livelihood. Those who still continue to stay in and around the area are leading a poverty-stricken life.

In view of the factors discussed above, it is necessary to create conditions for empowering the impacted people, especially those belonging to the tribal community, with a view to increasing their income on a sustainable basis. The following 8 measures must be given top priority in the action plan by every mining company or the government, as the case may be for a successful mining endeavour with a Human Face:

1. Meaningful and informed consultation with the impacted people/community
2. Securing of rights and access to tribal land and natural resources
3. A full and timely disclosure by the stakeholders on the plans, agreements, and financial arrangements of the project for the benefit of the impacted people in their language and in a culturally appropriate manner.
4. Identification and disclosure of all the risks of a proposed mining endeavour by the stakeholders. While assessing risks, the full range of anticipated social, economic and environmental impacts should be taken into consideration rather than just the threat posed by loss of land.
5. Prompt and unambiguous institutional and financial arrangements to mitigate each risk.
6. Graduation from compensation for damages to a benefit sharing arrangement
7. Vesting in local Self Governance Institutions the right to approve, reject, or modify decisions affecting the livelihoods, resources and cultural futures of the tribal people.
8. Protection of basic human and civil rights as specified in the laws of the land and international conventions (like ILO 169, UDHR, MDG etc.) to which our country is a signatory.

To safeguard the interests of the tribals and to save them from further impoverishment, it is necessary not only to identify, avoid and mitigate risks but also to focus on benefits over and above compensation and rehabilitation for damages. A prudent approach, it goes without saying, demands long-term commitments, innovative solutions, financial and institutional guarantees and the use of professionals experienced in dealing with issues of social development and tribal people. It also requires continuous monitoring by technically competent, independent observers of these indicators, providing all stakeholders with opportunities to take corrective actions. In the light of the history of encounters between stakeholders in this field, it would make sense to extend the environmental precautionary principle approved at the Earth Summit in Rio to the impact of mining on tribal people. Thus a Precautionary Principle for Mining in or near tribal People would read: Non-tribal stakeholders in mining shall use the precautionary approach to protect the tribal people and the environment that supports them. Mining cannot take place without their prior informed consent and participation in their self-defined indigenous development. Where there are threats of serious or irreversible damage, scientific and economic uncertainty shall not be used as a reason to postpone cost-effective measures to avoid and mitigate risks to livelihoods and cultures of the affected tribal people

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WOES OF THE UPROOTED

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Modernization of Indian society commenced immediately after the Second World War; i.e. when European colonies tried to attain independence by shaking of colonial rule. Most of the free countries, including India tried to choose the path of rapid socio-economic development of their respective countries. The socio-political situation which the Imperialist rulers had inflicted on them had caused grinding poverty, abysmal ignorance, despicable health condition; high proportion of maternal mortality and infant mortality. Consequently, the Third World Countries, including India, launched planned development programmes. As several Asian, African and Latin American countries freed acute food shortage millions of people suffered from hunger. The prime requirement in such countries was to save such people from death by hunger. Governments in such countries thought it appropriate to go in for industrialization as a quick solution. The process of industrialization and mechanization had enriched several European countries. This phenomenon attracted the attention of poverty-stricken Third World Countries. They thought that they could overcome this paramount problem following the foot-prints of industrialized countries.

As the development strategy India launched Five Year Plans for systematic development for its people, Establishment of core industries was taken up in India without assessing the consequences of industrialization process. Of course, some educational and research institutions were thought to be appropriate to measure the hazards of labour-intensive mega industries... India being primarily an agricultural country, serious attention was not paid to develop this vital economic sector. In course of time, major, medium and minor irrigation and multipurpose dam projects were planned and executed. The planned development course was certainly a progressive step leading towards solution of water problems. Such progressive steps ensured non-dependence upon rainwater for successful agricultural operations.

Under the canopy of national interest growth-oriented projects were executed. The questions raised in some quarters were that whose interests would they really serve? This is a crucial question since by implementing each of these mega projects the proportion of innocent tribals and other weaker sections among the oustees was considerable. There are two important questions, which draw the attention in this context. One relates to the process of rehabilitation and resettlement and the other question relates to abrupt disruption of the socio-cultural process. Most of these tribals and other small farmers have been cultivating the submersible productive lands for a very long time, but without any land holding documents. The State grabs these lands for implementation of projects. There is no denying of the fact that the fruits of these projects, when fully implemented, would increase the national growth rate. During a 50's to 70s government considered the evacuees as encroachers of government land. Government did not take into consideration their long-standing occupancy sights over the land. This is the situation in respect of several mega projects. For instance, in Orissa the State treated the PAPs as 'encroachers' without taking due consideration of their long-standing affinity with their agricultural land. The case of National Test Range (NTR) may be taken as an

example as to how Government of India policy with regard to land acquisition for the project affected the oustees. Out of 21,000 acres required for the NTR Project 11,000 acres were considered as encroached by local farmers and no compensation was paid for that land.

The second question requires an impartial consideration of the fact that rehabilitation plans tried to maintain the status quo ante in terms of economic considerations in the relocation context. Therefore, it may be concluded that the rehabilitation package was more or less an imposition of change. Here one question arises as to why the distribution of land was unequal amongst the oustees. It may be stated here that in those days there was no model R & R policy in place.

Another question, i.e. the restoration of the environment was merely an academic concern that the planners and the executives of the projects did not pay adequate attention to that. In those days, some major steel industries as well as several medium steel industries were established in tribal concentrated areas. The planners of these industries largely depended on cost-benefit assessment. Lot of heat was generated by the stakeholders as regards Narmada Project. In Orissa too several mining operations and construction of hydel projects did not pay adequate attention to environmental question. This factor militates against the concept of sustainable development. The realization in practice of this concept requires whole-hearted support of the government and policy planners. The concept of sustainable development holds the key for linkages between different aspects of social systems in India. The nexus between people and their environments are centuries old. Therefore, any disturbance in this relationship will have severe consequences.

The emergence of independent India itself was attended by colossal displacement of settled people. Since unplanned forced ouster of the people during the partition of the subcontinent was so grave that the founders of our constitution thought it proper to append the Seventh Schedule which made a provision for resettlement and rehabilitation of uprooted as a consequence of partition of the country. Therefore, the Constitution of India made a provision for rehabilitation of the refugees. Thus, it may be distinguished between two sets of causes for large-scale displacement of people. One set of causes are natural catastrophes, such as famine, cyclone, earthquake, etc. and the other set of causes are created by humans, like internecine conflicts, communal conflicts, ethnic conflicts, etc. the magnitude of oustees has risen over the decades as different kinds of irrigation projects, mining projects, thermal projects, chemical projects, etc. have created unforeseen hazards for the PAPs of these concerns.

One fact needs be mentioned here that these development projects have been envisaged by the State and National Governments as boosters of economy, while ignoring the possible sufferance of some people, as a result of process of industrialization. State and National Governments seem to be happy to implement multipurpose river valley dam projects. Let us analyse the Narmada river project. This project created an enormous problem of resettlement of oustees from the vast areas that would be submerged, which was considered lightly by the State Governments of Gujarat, Madhya Pradesh and Maharashtra. As the situation is complex and gigantic in nature there cannot be a successful rehabilitation programme which does not take into consideration the long time effects on the forced eviction of communities from the area of submergence. The resettlement has much deeper connotation. A proper rehabilitation programme has to be prepared. The rehabilitation

process must include proper planned rehabilitation programme. The evacuees as well as government personnel involved in the processes of evacuation and rehabilitation are to be thoroughly acquainted with the procedure of action planning.

The process of rehabilitation starts from the state of acquisition of both immovable and movable properties to that of resettlement and rehabilitation of the PAP in the area of relocation. The planned approach is suggested to minimize the hardships of the PAPs and help them resettling in the new location. This implies that the PAPs are helpless and hapless. They are uprooted from their home and hearth to which they have deep attachments as their socio-economic life grossly gets disrupted. Most of the projects are located in rural and tribal areas. The PAPs in such areas are seen to have put up hostile situations stoically due to their intensive inadequacies, such as limited mental horizon, poor literacy level, ignorance of bureaucratic procedure, gullibility, tame submission to authority, credulous temperament, etc. In recent decades, the rural and tribal population were likely to lose their home and hearth in the larger interest of the nation. Gradually they are organized to raise their opposition to the establishments of large projects. The ongoing movements against such projects are seen all over the country.

In most cases, the PAPs fail to derive adequate compensation from the colossal loss of their home and hearth. The problem is their socio-economic status plunges to an abysmal depth. In the field of displacement and rehabilitation attention is paid to economic criteria and the total socio-cultural impact due to forced displacement and inadequacies of rehabilitation measure is eclipsed. One area in the rehabilitation process remains subjective and hazy. The relative importance of enumeration of total assets of an innocent oustee is not realized. The enumeration means counting and listing of all the articles and material belongings of the oustees. It involves a complete and comprehensive recording of displaced persons in families. Fixation and payment of compensation, allotment of house site, alternate agricultural lands, livelihood package, housing loan, alternate and preferential employment opportunities, subsidy, assessment of socio-economic status and other privileges and entitlements under the rehabilitation measures depend on the data based on enumeration. The enumeration done by government officials with the assistance of community leaders constitutes the basic information as regards loss of assets. Therefore, the future of the oustees depends to some extent on the nature and genuineness of enumeration. The enumeration of the displaced households and their assets will be carried out by the officials of Revenue Department. Of course, the services of engineering and other departments are required to assist and assess the fixed property, such as dwellings, other structures, standing crops, perennial fruit-bearing trees and trees with timber value. The officials put in charge of enumeration have no specialized knowledge and they carry out their enumeration task on the basis of bureaucratic briefs. The PAPs are issued a rehabilitation card, popularly known as 'R-Card'. It is filled with necessary information of the oustees. The R-Card has significance for the concerned oustee as it contains his/ her identity and displaced status. It may be noted here that some clever persons get enumerated as PAPs by resorting to fraudulent means. It has been noticed in the 'Rengali Dam area that some outsiders constructed hutments in government as well as private lands. Such cases of fraudulence are not few and far between. Such cases are also found as a common practice in several such project areas. Recently, as reported by the Times of India, government officials and others have purchased lands of poor and innocent tribals in project areas, so as to make huge profits by selling those lands to the projects. Thus, government and project authorities must be cautious of

not to purchase lands from the intervening land grabbers which cause grievous loss to the poor tribal land owners. Enumeration as an important measure to do justice to the oustees is highly necessary while making payment of compensation.

RENGALI DAM PROJECT: A Case Study

The project is situated in Dhenkanal, Angul and Deogarh districts. The original project report was prepared in July, 1972. The construction work of the project started in 1973 and was completed in 1979. A masonry dam across the river Brahmani with a storage capacity of 4400 m. cu. Metres had been constructed. The project aims at control of floods over an area of 2600 sq. kms in the Brahmani delta.

The Rengali Dam Project is, indeed, a multipurpose one, as its objectives are: (I) Flood control, (II) Generation of hydel power, and (III) Irrigation of Dry land through the Samal Barrage constructed down stream. The command area of the irrigation scheme envisaged to be around 12,000 -16,000 acres. At the moment, 10 M.W. of electricity is being generated through two units. There is a proposal to install 3 more units.

The reservoir of the dam has been spread over 414 sq. kms. affecting 265 villages, out of which 71 are in Pallahara Sub-division of Deogarh district and another 94 are in the newly created district of Deogarh. The affected villages have been categorized into the following 6 types:

1. Fully Submerged Villages	- 41
2. Fully Submerged Villages with partly submerged agricultural lands	- 54
3. Both village and productive lands have been partly submerged	- 20
4. Villages in which only agricultural Land have been partly submerged	- 84
5. Uninhabited Villages that are fully submerged	- 31
6. Uninhabited villages that are Partly submerged	- 35

Thus the total number of affected villages is 265.

The total of 9,585 families both in Deogarh and Dhenkanal districts have been affected in a big way.

The construction of Rengali Dam affected village settlements and productive lands, several public Institutions and people's way of life. These have been listed hereunder:

A. Area of Submergence:		
(i) Private Land	-	35,153 acres
(ii) Government Land	-	17,728 acres
(iii) Reserve Forest	-	2,023 acres
Total area of Submergence	-	1,05,905 acres

B. Important Public Institutions Submerged:

(i) High School	-	06 nos.
(ii) M.E. School	-	20 nos.
(iii) Primary School	-	88 nos.
(iv) Public Health Centre	-	02 nos.
(v) Public Shrines & Temples	-	11 nos.
(vi) Police Station	-	01 no.

REHABILITATION POLICY:

The rehabilitation of the oustees, who are numerous and most of whom were below the recognized poverty line and were depending upon rain-fed agriculture, was a gigantic task. Payment of cash compensation to the oustees was considered by the Government to be inadequate and unsatisfactory. Land was considered as a major humanitarian issue in resettlement and efforts were made to provide land to as many oustees as possible in order to enable them to pursue their agrarian-lifestyle.

Therefore, most of the oustees were rehabilitated in groups of households in nearby vacant government land in their home districts, so that they would feel at home, and due weightage was given to their option in selection of sites for resettlement. Land has been made available to the oustees for house sites as well as the practice of agriculture. The pity is that for the practice of agriculture the PAPs were prevented forest land which could not be used for the practice of agriculture immediately.

Government provided essential infrastructure facilities, such as wells, tube wells and tanks for water; approach roads; community houses; schools; shrines in each resettlement villages, with the hope that the oustees would not face problems in re-building their village life.

Rehabilitation facilities were provided to the oustees in a sympathetic perspective, namely a person was considered as a major if he / she is married by December, 1993. Such a person was computed as having a separate unit. Government also paid compensation for encroached government land to the PAPs.

Each family was provided with one house site of 50 decimals and either 3 acres of irrigated land or 6 acres of unirrigated land for agricultural purposes in the resettlement village. This land was given to all the oustees free of cost.

The oustees paid money to the rehabilitation agency of the government for the recognition of forest land which had been allotted to them as a relief @ Rs.300/- per acre. But the landless oustees were exempted from payment of such charges, because they had not received compensation for the loss of their agricultural land. The oustees were provided with free transportation facilities for their movable assets from the submerged village to the new settlement.

Compensation was paid to the oustees for such movable property as agricultural land of various types, house sites, houses, wells, ponds, tanks, trees of various types, etc. as per rules, rates and procedures fixed up by the State Government then. In spite of all these, the oustees were virulently opposed to their displacement. They were not paid for loss of human factors. The oustees had to leave their ancestral home and hearth to which they were sentimentally attached. Therefore, shifting always provided a pathetic sentimental scenario.

The evacuation work started in June, 1980, i.e. after the disbursement of compensation money. The oustees of a village were of course given an option to select a particular resettlement village. Their view points were sympathetically considered by the resettlement agencies. After the selection of the resettlement site, actual displacement activities were undertaken. In the first place, the homestead land was demarcated, so as to enable the oustees to construct their own houses in the new settlement village. Timber, bamboo and other house construction materials were provided to oustees through the forest and revenue departments of government.

RESETTLEMENT:

The residents of the expected submersible villages were supposed to shift soon after they received compensation as stipulated and assessed by the project authorities. But the people were recalcitrant to vacate their home and hearth till the last moment, because of their sentimental attachment. But they hurried to collect their belongings and leave their ancestral home with the announcement of water impounded in the reservoir. During the course of their movement to the resettlement villages, they were provided with cooked food, free transport and medical facilities by the project authorities. However, their plight and tribulation, in deed, started in their relocation site. As the new location site happened to be barren, their cattle got emaciated because of lack of cattle feed and grass for grazing.

REHABILITATION:

At the first instance, 2980 families from the submerged areas have been relocated in 61 new sites. Out of these, 25 sites have been set up in the Gohira Ayacut and 7 sites in Sonakoi Ayacut area; and the rest 21 sites have been set up in the Reserve Forest area on the Brahmani right and 8 sites were on the Brahmani left. Homestead land and agricultural land have been provided to the resettlers in these new villages according to resettlement norms fixed by the State Government. Infrastructural facilities, such as wells, tube wells, tanks, community houses, schools, shrines, approach roads weekly markets, etc. have been provided in each new village. But there remained several other services unavailable in these villages.

A total of 4123 families from the submersible area opted for resettlement in 95 individual resettlement clusters and 652 in other locations in the existing revenue villages according to their individual preference. Accordingly, 95 individual resettlement clusters, 68 on the Brahmani right and 27 in the Brahmani left have been established with necessary basic facilities. Thus, 4125 families have been settled by allotment of land for agriculture and 2460 have been settled by payment of cash compensation. The project authorities had constructed 104 ponds, 205 wells, 151 tube wells, 85 Primary Schools, 30 Upper Primary schools, 6 High Schools, 69 community houses and shrines for 8 relocation villages; and apart from these approach roads, health centers, post offices, shops and weekly markets were constructed.

COMPENSATION:

The land required for the construction of the Dam Project belongs to individual owners and to the State Government. Private lands were valued on the basis of the prevailing market rate of that date on which the notification for acquisition has been issued. The government, however, paid 15 per cent more than the estimated value to the people as their lands and other immovable assets were acquired compulsorily. Nonetheless the oustees were aggrieved over the delayed payment of compensation to them for their submersible immovable properties. The

oustees were also sore over another factor that influenced the valuation of their landed properties. For instances, for determination of land value authorities took into consideration the sale value of land in that area as ascertained from registered sale deeds. The evacuees alleged that valuation of their lands for acquisition on the basis of registered sale deeds was not justified because buyers often enter a lower amount in the registered sale deeds with a view to avoiding payment of full stamp duty.

Agricultural lands in the submersible villages were classified into 7 categories, for payment of compensation, taking into consideration such factors as geographical situation, quality and level of land, productive capacity, moisture retention capacity, etc., Homestead land was kept as a separate category.

Compensation for houses in the submersible villages was paid to individual owners. For the purpose of assessment all the houses were classified into 12 categories on the basis of materials used, the quality of construction and the present condition. For payment of compensation wells were classified into 4 types and the payment varied from Rs.176.78 to Rs.5.42 per square metre. The evacuees were not happy with this rate of compensation. Compensation for perennial fruit-bearing trees, such mango, jackfruit, tamarind, coconut, orange, *basia latifolia* (*mahul*) was paid on the basis of the girth of the trunk of trees. If the girth was less than one foot, compensation was Rs.5/- and if it was 6 feet the rate was Rs.100/- per tree. The compensation for water tanks and ponds were paid @ Rs.322.80 per square metre and evacuees were very unhappy about it. Compensation for other semi-permanent fruit-bearing trees, namely custard apple, guava, cherry, lemon, wood apple, elephant apple, papaya, berry, plum, etc. was paid on the basis of annual fruit value of a tree which varied from Re.1/- to Rs.6/- per tree. Compensation for non-fruit bearing trees, with timber value, such as *sal* (*shorea robusta*), *kusum* (*carthamus tino quorius*), teak (*tectona grandis*), rose-wood (*dalbergia latifolia*), *asan*, *bandhan*, *peasal*, etc. was also paid on the basis of the girth of a tree. The rate for a tree of timber value having more than 6 feet girth was Rs.180/- and one having less than 1 foot girth was Rs.9/-. The compensation for a bamboo plant varied from Re.1/- to Rs.10/- which the evacuees considered as unjustifiable.

KHEMLA: The Uprooted Village

The project authority named the new resettlement site as Khemia with deference to the sentiment of the oustees. The Project authority intended to recreate the uprooted village at the new rehabilitation site with a view to reducing the trauma of oustees. All the denizens did not prefer to settle down in the new resettlement site and they found some other alternative resettlement location more lucrative. This relocation site was part of reserve forest. The forestlands needed a lot of effort so as to make them agriculture-friendly. Each oustee family was allotted 6 acres of land for practice of agriculture. The relocates, particularly the members of the *Chasa* (farming) caste converted the forestland to agriculture-friendly. They put up lots of efforts and labour in the first year, but could not raise any crop and the land was replete with stumps of countless trees. They did not shrink from their effort to raise some crops. In the very first year they raised scanty paddy crop by loosening the soil with hoes, spikes and spades. The lands of non-farming castes remained unutilized and they were unable to convert the forestland to agricultural type. Their lands, in course of time, passed into the hands of upper caste land grabbers stealthily. Here one can say government modality of resettlement failed and the former landless oustees remained landless in the new relocation site because they lacked the skill of land development.

PROBLEM OF EMPLOYMENT:

In the old submerged village, Khemla all the residents had either a direct or indirect stake in agriculture. There were large landholders who engaged the landless in their agricultural operation through payment of wages. There were casual as well as contractual labourers. The landholders in the old village could absorb the unemployed people of the village in the resettlement village as 3.25 acres of land on an average remained fallow. The total agricultural labour force remained idle and they mainly belonged to SC, ST and Vocational Castes.

FISHING AND FISH TRADE:

Due to poverty and lack of better income generating avenues 20 resettled families of farming caste have taken to fishing and fish trade. Among them there is only 1 family whose traditional occupation was fishing. Those who depended upon fish trade were somehow or the other were able to make their both ends meet. They could not carry out fishing extensively as the Project Authority had imposed restriction on fishing in the reservoir.

SOCIAL CHANGE:

In the submerged village relation between brothers was intimate and cogent. Brothers always constituted a strong corporate group since their relationship revolved round ancestral land and other common property resources. Occasional discords and dissensions among them were being absorbed within the system of Co-residence and joint living. Each brother individually used to pay a high premium in terms of hard labour and unclenching loyalty to the family. Normally uterine brothers did not wish to separate from each other. Corporate living has been beneficial for all. Occasionally spouses of brothers raised some dissensions, but it was never allowed to engulf and worsen by their husbands.

NATURE OF COOPERATION

Cooperation is a joint or collaborative effort directed towards some specific goal in which common interest is involved. It may be voluntary or involuntary, direct or indirect, formal or informal, but the effort is always towards a specific end in which all the participants have a stake, real or imaginary. In human societies cooperation is an ethical norm and as a social process it is proposed up by appropriate institutional mechanism.

CAUSES OF CONFLICT

In the submerged village most of the people lived in joint families. All immovable properties were in the names of household heads who received the compensation money for their lands and other submerged property. Conflict mainly arose in the settlement village between father and elderly married sons and between brothers with regard to the distribution of compensation money. On receipt of this money several oustee families quickly performed marriage of their unmarried sons and daughters, which had been postponed for lack of funds. And, therefore, many oustee families spent bulk of their compensation money in meeting their pressing expenses. The balance amount has been kept in the custody of the household head. After displacement, sons who were married by December 1993, and as such have received homestead and agricultural land from the government and have started living with independent establishments. They demanded their due

share of the compensation money from the household head. In some cases, former household heads have apportioned less amount to the claimants and not the full amount that is due to them.

In the submerged village, *Chasa* was the dominant caste and its members virtually dominated in village affairs, because of their inter-caste solidarity and better economic position. But in the new village their solidarity has been impaired because of inter-caste schisms and conflicts. There are several factors, which gave rise to conflicts among the members of the rehabilitated communities. There are two important factors, namely (1) pursuit of socially degraded occupations, and (2) establishment of marriage relationship with persons of inferior social status. In the new resettled village some *Chasa* families, under severe economic strain, have taken to fish trade, which is incompatible with their caste position in the traditional social order. For them it is a demeaning avocation from the point of view of caste norms.

Likewise, conflict within two important lineages of *Chasa* caste in the resettlement village has weakened their caste solidarity. The oustee *Chasa* family was termed as *budi-lok* (submerged). Unaffected *Chasa* families did not prefer marriage alliance. Those *Chasa* families who have been displaced are considered as submerged destitutes. Their social status slumped down. In fact, the outstees became impoverished and lost their economic status in the area.

CHANGING FRONTIERS OF KINSHIP

Kinship relationship threshed new challenges among the relocates. Kinship relationships in any society are central to its social structure. It provides social solidarity and regulated society as per accepted norms. Socio-cultural norms had developed since long years and the new strange situation imposed certain constraints for deviation. In simple societies, every individual is related by kinship, consanguineal or affinal. All societies distinguish and interact with various categories of consanguineal and affinal kins. People interact with each other on the basis of associated patterns of rights and obligations. Kinship systems operate on responses to various recognizable pressures within a framework of ecological, biological, psychological and social limitations. Therefore, no society can do away with kinship relations; they may only vary the degree of intensity.

An illustration of the changing frontiers of kinship of the *Chasa* caste among the oustees provides some facts. Marriage institutions among the oustees, who are referred to as *budi-lok* or submerged destitutes, has swiftly undergone several changes. In the original village, members of *Chasa* caste were very particular about forging connubial relationship with people of similar status within their caste. The marriage field was very wide and diffused and one could select a family for establishing fresh marital relationship out of a wide range of choice. After displacement the marriage field of the oustees remained confined among the relocates as well as to those *Chasa* families who were earlier inferior to them socially. Non-oustees are not prepared to give their girls in marriage to the relocatee families because they apprehend that their girls would not get enough food and clothing and in all probability would be pushed to a life of misery. On the other hand, non-oustees are not prepared to take brides from the oustee families as they think that oustee families would not be able to pay ostentatious presentation of gifts as a mark of respect for their social status. Among the relocates lineage solidarity has become weak and it no longer functioned as a solid social block. After displacement spatial gap, poverty

and lack of social control have together contributed to the weakening of the structure of lineages. No longer members of a lineage are in a position to observe ritual pollution arising out of birth and death. Thus, Kinship ties which provide a measure of stability to social relations are in a flux among the relocatees.

LESSONS FROM RENGALI RESETTLEMENT

The resettlement project has failed to restore, and recreate let alone improve, the lifestyle of the displaced population. The PAPs though have been consulted to give their opinion with regard to the selection of relocation site; their aspiration had not been ensured and followed in the entire resettlement project. The project officials admitted this could not be possible due to certain constraints. However, dissemination of information about their impending relocation, rates and procedure of payment of compensation and exercise of their choice as regards the relocation site have been completed officially. As there were some lacunae in the relocation and resettlement processes, the PAPs put up unsuccessful in resistance against their displacement in an organized way. Therefore, the project Authorities did not comply with the reaction and responses of the oustees. Similar callousness was shown to opinions of those PAPs who desired to be relocated in settled villages of their kins. Some oustees put their stiff resistance against their requests in an organized manner. Such resistances, in course of time, dwindled away. Some influential oustees acquired lands for their settlement and practice of agriculture in some host villages. Such a situation aggravated the process of planned resettlement. Wherever the relocatees managed to buy homestead and agricultural land in some settled villages, were confronted with murky and spiteful situations. Conflict between resettler and their host population had arisen in several individual clusters, because the latter considered the former as encroachers in their limited resources and in cluster villages population density has suddenly increased levels above the carrying capacity of land and other natural resources available to the hosts and new-comers.

Here the resettlement operations though have not been left out of the main project design, which seems that adequate attentions have not been paid to socio-cultural dimensions of the problem of displacement. No social survey has been conducted among the oustees and their host populations so as facilitate re-settlement.

Some implicit implications of pure bureaucratic approach, which is a feature of Rengali Resettlement Project, may be highlighted here. For instance, the leaders of old Khemla village were shown several sites for resettlement within the Malyagiri reserve forest in the catchment area of the dam. During the time of inspection the forest was Verdant green, dense and cool; and the soil appeared to be swampy and fertile. The leaders of the PAPs identified a patch, which was reclaimed for the purpose of relocation. But after reclamation the soil looked completely transformed. During the last 15 years or so the sub-soil has been washed away to a large major and the soil has lost its moisture retaining capacity. The soil, in fact, is sandy-loam replete with gravels and boulders. The soil is not suitable for practice of agriculture because it dries immediately after the showers.

In the resettlement village, the non-farming castes have been allotted equal extent of land as the farming caste family-wise. Farming castes have made strenuous efforts to make their respective lands cultivable, whereas S.C families have not made strenuous efforts to make their lands cultivable. Some S.C families

have mortgaged the land allotted to them to overcome their economic distress. It is reported that in view of their liability they would not be able to retrieve their mortgaged land.

The backbone of the resettlement plan anywhere should consist of a development package, i.e. a set of provision aimed at reconstructing production base of the relocates. In case of Rengali shoddy approach was made to retain their socio-cultural life. But, in deed, their socio-cultural life was disrupted so badly that it could not rescue the PAPs from near annihilation. The hallmark of Indian society is the socio-cultural unity, through several diversities. In Indian society one's occupation in life is determined by his/her birth. Therefore, in Indian context a uniform economic package for rehabilitation could not serve the purpose. Different castes have different avocations, therefore, in Indian context both land-based and non-land based strategies need be pursued as there are farming and non-farming categories among the oustees. In the submerged village of Khemla, the oustees practised their traditional occupations. The hallmark of village life was socio-economic plurality. Keeping in view this fact the rehabilitation should have been designed. The non-farming castes who are allotted land for farming purposes could not pursue agriculture as their source of livelihood. The line departments of State Government did not try to provide extension service to properly carry out agricultural operations. There were no facilities for irrigation, no agricultural extension service, no training to raise horticulture, no training to promote animal resources and no training to undertake off-farm employment schemes. There, only land-based resettlement cannot prevent major disruption in the life of the relocates. No doubt, land is a crucial factor in the resettlement strategy of the rural mass. In case of non-land based resettlement strategy schemes should have been developed to restore the productive system of the relocatee by providing suitable substitutions for the loss of income generating assets. But this effort has not been made.

ENVIRONMENT PRESERVATION

The resettlement plan should be drawn with specific orientation towards preserving and improving the existing environment. In Rengali resettlement most of the oustees have been allotted land in the upper catchment belt of reservoir, which was reclaimed, and consequently vast stretches of dense virgin forest were destroyed. Destruction of the forest tract has caused and will continue to cause immense harm to their life and economy of the inhabitants of the area. The denuded environment has been aggravating the post-displacement miseries of the oustees. The social harmony among the oustees after displacement was lost. The biodiversity of the area has, in fact, been obliterated to a large extent. The peace and happiness has been disrupted due to lack of intimate and selfless cooptation among the oustees. The socio-cultural life in the submerged village, which bolstered up the day-to-day life, is conspicuous in its absence in the resettlement Khemla village. The oustees themselves confessed that their previous life in submerged village was one of intimacy and cooperation. But in the new Khemla village life is fraught with internecine competition.

INTERPRETIVE CONCLUSION

It is worthwhile to analyse the significance of Julian Steward's concept of cultural ecology. His method of analysis is functional or necessary relationships between ecology and technology. Of course, he did not approach the statement of ecological causality in terms of statistical probabilities. As a result, his method of

analysis somewhat undermined an important substantive nomothetic achievement by putting back into the ecological formula the indeterminacy which it was designed to overcome. The significance of Steward's analysis of bands in that it showed how the interaction between technology and environment could explain most of the important and ideological features of low energy hunters and gatherers in most of the known examples without utilizing historical or other idiographic modes of explanation. If we do not clearly state that the issue is a matter of probability, then before long we find ourselves retreating to the cupboard of eclecticism in order to achieve an explanation of all of important structural and ideational features in all of the known cases. But such explanation ceases to be nomothetically stable. 'We already know beforehand that if we could be given an account of all of the events in the history of each of the peoples who have band organization, we should be able to offer an explanation which would be more complete than can be obtained through the nomothetic option. But such a programme is the antithesis of science, and we do not improve our nomothetic formulation by taking on the additional bit of advice that the exceptions to our rules can be understood by drabbing in other factors, unless the additional considerations are couched in nomothetic terms'.

The village community in the old Khemla village exhibited some uniqueness and some commonalities in the day-to-day living panorama. It had developed and nourished by its own methods of interaction over a long period of time. We know that culture is dynamic and flows forward the manner in which the carriers of that culture intended. Modes of behaviour manifest in their day-to-day life are significant elements to decipher their cultural ethos. Post-eviction disrupts such serene cultures. From this it is evident that culture has survival value and thus, people all over live by their own culture. They gradually tame in their physical environment for delightful living by their cultural dictates. If physical ecology is the raw material, culture provides necessary technology to shape and reshape those ecological raw materials to serve them better. The manner in which ecological raw materials, i.e. the physical environment, is transformed to serve mankind better. This is what is known as cultural ecology. People living in different ecosystems have developed different ecologies. In other words, living ecosystems are culture-specific. In cultural variation the known feature of the mankind when the physical ecology tries to overwhelm the cultural mechanism of people, then it may be assumed, there is maladaptation. Perfect adaptation to the physical environment is possible if people have designed and created appropriate technology to adapt through their physical environment. It may not be construed that ecology completely dominates its human carriers. There is perfect adaptability, which some people have demonstrated. As ecosystem is not completely stable, because of unforeseen natural factors, like severe earthquake, severe cyclone, Tsunami, etc. the manner of adaptation of people to the environment not only disturbs their pristine environment and culture, but also such events creates untold misery and catastrophic conditions. Thus, forced eviction of people from their settled habitats creates cataclysm for the people. Therefore, forced eviction of people, in view of establishment of major development projects need be abandoned or very careful decision may be taken after considering major losses and gains, which such a project is going to create for the humankind.

Ecology is the study of living systems as integrated complexes. Ecological studies of countless animal species behold the necessity of studying the interrelations of morphology, physiology and behavior in any given ecological adaptation against a broad background of contingent environmental relationships. Since man is at the center-stage of all activities, culture assumes paramount

importance. In the study of environmental relationship, study of culture highlights the importance of man as the Kingpin. Such a strategy will help in ameliorating contingent environmental problems. The nature of human adaptation assumes more importance than study of man in isolation. Anthropology is an integrated holistic discipline and it emphasizes the study of man's basic biocultural adaptations emerged in reciprocal relationships with technology and social organization. The manifold biocultural adaptations of human populations today continue to interrelate complexity with man as a biological entity as well as a cultural entity.

Thus, in view of the above theoretical premise it is incumbent to study the social structure and culture of the uprooted or in other words, the involuntarily displaced groups, so as to prepare an appropriate resettlement plan and implement the same meticulously so that the woes of the oustees could be minimized and they are socio-culturally rehabilitated to carry on their life style.

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HEALTH IMPACTS OF FORCED DISPLACEMENT: A CASE STUDY OF TEHRI DAM IN INDIA

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1. Health Impacts: A Missing Link in the Resettlement Puzzle

Hydroelectric dam projects have the enormous potential to provide electricity, to increase agricultural productivity through irrigation, and to control flooding, all with the goal of improving people's well-being (Goldsmith and Hildyard 1984). From displacing people due to water impoundment to creating new habitation around dam, water reservoir, and irrigation canals, the construction of dams affects people in many ways. The existing project policies and practices have primarily focused on the issues of land and housing compensation and, to some extent, provision of basic amenities for project-affected people (Hanser and Oliver-Smith 1982, Cernea and Guggenheim 1993, Downing 1996). But a critical issue of health consequences for both resettlers and people around the dam, reservoir, and canal has largely been ignored (Hughes and Hunter 1970; Partridge, Brown and Nugent 1982; Waldram 1985).

A recent report by the World Commission on Dams reported anywhere between 40 and 80 million people being displaced worldwide since 1950 (2000). Also millions of others may be impacted by the dam construction, water impoundment, and canals. Gardener and Perry (1995) reported that the number of dams planned in the 1990s for future construction increased from the previous decade. The larger dams portended by research and those dams currently in the building or planning stages result in escalated yet unmitigated health risks among all project-affected people, particularly among the resettlers who often do not have access to healthcare or food production systems in the new location. Various resettlement policy documents, including one by the World Bank, make cursory and indirect references to assess and mitigate health impacts of dam construction on affected people (OP 4.12, The World Bank 2001). There are a few guidelines available for health impact assessment but none has been incorporated in the policy documentation or has been implemented in resettlement practices (Asian Development Bank 1992, World Health Organization 2000, Overseas Development Institute 1989, Health Canada 1999, WHO and CEMP 1992, Public Health Commission 1995).

In addition to deficient policy provisions to address health consequences of dam projects, our knowledge of such consequences is also limited. The literature on the health consequences of dam projects is scanty and focuses primarily on the spread of parasitic infections due to water impoundments in and around the dam and canals and its consequences on people in those areas (e.g., Jobin 1999; Hughes and Hunter 1970; Desowitz 1976; Scudder 1973; Heyneman 1979; Kloos, DeSole and Lemma 1981; Partridge, Brown and Nugent 1982; Goodland 1985; Kedia 1992). This research fills this void by situating the health experiences of the project-affected people, especially of resettlers, of the Tehri dam in North India in the overall scheme of economic development. The lessons learned from this study will have value, not only for hydroelectric dam projects but for all development projects globally. In this paper, I argue to incorporate a Health Assessment and Care (HAC) component in resettlement policies and practice. In the HAC, I include assessment and monitoring of physical and mental health risks, food and nutritional risks, and provision for mitigation and care for a healthy lifestyle for all those impacted by a development project.

2. **Literature on Health Impacts of Dams and Resettlement:**

Two populations experience health impacts due to hydroelectric dam construction: people who remain by the water bodies and people who are displaced and resettled to accommodate the dam, the catchment area, and the dam-related infrastructure. The displacement of persons to far away places creates health problems because of increased in population density, exposure to new diseases, changes in dietary patterns, and mental health issues associated with adapting to a new environment.

3. **Health Impacts on Those Who Stayed around Water Impoundments and Canals**

One of the major health impacts of dam related activities result from proliferation of insects and snail vectors (Jobin 1999). The most frequently mentioned diseases in association with dams, reservoirs, and irrigation canals are malaria, onchocerciasis (river blindness), schistosomiasis (bilharzia), trypanosomiasis (African sleeping sickness), filaria, bulinus, biomphalaria, and gastroenteritis (Scudder 1973; Waddy 1973; Brown and Deom 1973; Meakins 1981; Rew and Driver 1986; Bradley 1993; Jobin 1999; Cernea 2000; Hughes and Hunter 1970; Desowitz 1976; Heyneman 1979; Kloos, DeSole, and Lemma 1981; Partridge, Brown, and Nugent 1982; Goodland 1985; Kedia 1992). Most of these diseases are debilitating and have serious health implications for the affected communities.

Dams and areas of water impoundment also can affect people's health indirectly, usually on the level of nutrition. Dam construction usually involves the loss of productive fields (Weil et al. 1990), as riverbeds tend to be more fertile due to sedimentation. Over a period of time, reservoirs have increasing salinity, which in turn can decrease agricultural productivity (Jobin 1999). All these factors suggest decreased agricultural production that has sometimes led to malnutrition for those around the dam and catchment area. Fisheries also have been affected in two opposing ways from dam construction. On the one hand, the migratory fish population decreased because of the physical barrier of the dam, and the ecology for the native fish changed (Jobin 1999). On the other hand, developing fisheries in the reservoirs has been a priority of dam construction and frequently expands the fish population (Scudder 1973).

4. **Health Impact on Resettlers**

Infectious diseases can be introduced at resettlement sites in multiple ways: the resettlers bring the diseases with them; exposure to the unfamiliar diseases from the host population; the development activities in the new site may create favorable conditions for the spread of vectors and agents; an increase in population density facilitates the transmission of communicable diseases like malaria, schistosomiasis, onchocerciasis, hookworm, and ascaris; the intrusion of humans into sparsely populated areas with zoonotic disease complexes such as trypanosomiasis, leishmaniasis, and yellow fever may expose them to new disease hazards; and the physical and psychological stress of resettlement and adapting to a new environment predisposes resettlers to ill-health (Kloos 1990, 643).

Cernea (2000) has noted that diseases of poor hygiene (e.g., diarrhoea and dysentery) and of unsafe and insufficient water supplies (e.g., parasitic and vector-borne diseases) could be alleviated with better project planning. Beiser noted that the challenges associated with rapid adaptation to new environments, together with new economic and/or cultural systems, can be stressful for resettlers and frequently result in physical and mental illnesses (Beiser 1982, 119). In general, resettlers experience more stress than those not resettled (Werner 1985) from adjusting to new environments and economies, which can increase morbidity and mortality patterns (Corruccini and Kaul 1983). There are more physical illnesses caused by stressed mental states (Cernea

2000), such as diabetes and cardiovascular problems including high blood pressure (Ward and Prior 1980). Psychosocial problems accompany resettlement, such as substance abuse and suicide (Kirby 1989; Hanna and Fitzgerald 1993:1169). Werner measured stress among the resettlers of the Upper Itajai Dam in Brazil (1985: 163). Using Scudder's idea of "social stress" (fighting with neighbors, lack of confidence in local leadership, crime, etc.) and Scudder and Colson's concept of "socio-cultural stress" (economic hardship and the loss of a group's cultural inventory), he inferred that the resettlers exhibited significantly higher stress levels compared to Barra Dollman (the non-settler) farmers on his 13 question scale for "social stress." This paper through the use of a case study will illustrate the critical importance of including mental health when assessing health status of resettled persons due to dam construction of persons resettled due to dam construction.

5. Data Collection

The health impact fieldwork was conducted over a period of 18 months during 1993 and 1995 in two locations: one in a village close to the town of Tehri in the Garhwal Himalayas, and the second, among resettlers of the Tehri dam project in the plains close to the Himalayan foothills, both in the state of Uttaranchal in North India. This site was selected because the inhabitants were relocated to this village in the early 1980s, providing a period sufficient to study long-term health impacts of forced displacement. Because no baseline data were available for the study group before the resettlement, I used the "Two-Group Posttest Only Design" (Bernard, 1995, p. 68). This design is considered appropriate if, out of two villages in the same cultural region, one village has experienced a major intervention, but the other has not. According to Bernard (1995, p. 68), "this design is quite convincing, though, when the difference between O1 and O2 [the two villages] are large and where you have lots of participant observation data to back up the claim that the intervention is responsible for those differences" (Bernard, 1995, p. 68). I compared the patterns of health experiences in the two Garhwali communities. One community was a resettled Garhwali village in a plains region at the foothills of the Himalayas. The other, the control group, was a Garhwali village in the Himalayas, situated near the location of the resettlers' original mountain village. This control mountain village was chosen because of its similarity to the resettlers' original mountain village in terms of its altitude, ecology, farming systems, culture, socioeconomic levels, and caste composition.

While interviews were conducted to examine the health experiences of resettlers during and immediately after the resettlement, the emphasis was on whether these concerns persisted over time. A triangulated methodology incorporating participant observation, in-depth interviews, case studies, and a structured questionnaire were used to collect the data on physical and mental health status as well as to study local health systems. I also collected information on the physical environment and health resources available around the project-affected areas and the resettlement site. Actual availability, accessibility, and utilization of various healing practices were also documented in the study villages. A number of folk healers and biomedical practitioners were interviewed to develop an understanding of their perspective on the health issues in the area as well as the healing practices. In-depth interviews were conducted with several key respondents, who provided a comprehensive understanding of local constructs of health, illness, and healing practices.

6. Profile of the Project and area under study:

6.1 The Tehri Hydroelectric Dam Project (Tehri Dam and Garhwalis)

The construction work on the Tehri dam began in 1978 and after multiple delays

is now to be completed in 2003 (International Rivers Network 2002). At 260 meters high, this dam will be the highest in India and the fifth tallest in the world. It is being built in the central Garhwal Himalayas in the state of Uttaranchal of North India on the river Bhagirathi, the main tributary of the Ganges. The dam is projected to generate 2400 megawatts of electricity with the capacity to irrigate quarter million hectares of land. However, the water impoundment will cover more than 125 villages, as well as a major town, requiring the resettlement of approximately 100,000 Garhwalis, predominantly peasants. About 15,000 persons had been resettled by the time data was collected in 1995. An additional 50,000 persons living around the water impoundments and canal systems are being impacted directly or indirectly.

6.2 The Nonsettlers' Village in the Mountains

One of the two study sites, the mountain village, is situated near the town of Tehri, at about 700 meters elevation along the river valley. This village consisted of approximately 1,250 persons. The majority of the households were joint family structure. There were 8 castes of Brahmins, 12 castes of Rajputs, and 4 castes of Harijans, consisting mostly of *luhars* (blacksmiths), *badais* (carpenters), *sunars* (goldsmiths), and *bajgi* (Harijans who perform various functions, such as drum playing, basket weaving, and tailoring). The 108 study subjects consisted of 74 men and 34 women with a mean age of 42.7 and 48.1 years, respectively. Of these 108 adult respondents, approximately 20% were Brahmins, 70% were Rajputs, and 10% were Harijans. The village borders the narrow strips of alluvial soil along the Ganges River; the community utilizes forests rich in resources, and grazing grounds for animals. Villagers practice subsistence agriculture, which is mostly self-contained and confined to family members involving all those who share the same hearth. Economic inequalities exist within this village, as evident in the unequal ownership of land, with almost half of the community owning less than one acre, which is scarcely enough to feed one family. Yet, there are also several families who own large tracts of land between 4 and 17 acres, with one household having 52 acres. This village is close enough to the dam project to experience effects of the construction and will be covered by water in the future once the dam is filled.

6.3 The Resettled Village in the Plains

The resettled village is in the plains next to the foothills of the Himalayan Mountains where Garhwali peasants had been resettled in 1981, approximately 13 years prior to the data collection. The population of the resettlers' village was approximately 1,350 persons. The study population (N = 108) for this study comprised 76 men and 32 women with a mean age of 44.4 and 43.8 years, respectively. Of these 108 adult respondents, approximately 10% were Brahmins, 88% were Rajputs, and 2% were Harijans. Unlike the mountain village, the economic disparity in the resettled village was less obvious. This was primarily due to the size of the resettlers' land holdings, which was around two acres, the amount provided by the dam authorities. The resettlement site is forest-cleared ground that is relatively flat, hot and humid, and removed from major natural resources like water bodies, forests, and grazing grounds. Agriculture here is primarily focused on the crops that have some market value such as wheat, rice, maize, and mustard, contrary to the mountains, where a variety of lentils and vegetables are grown along with cereals. Resettlers have more outside exposure, as reflected in the younger generation, particularly females, obtaining more formal education than their counterparts in the mountains.

7. HEALTH IMPACTS OF THE TEHRI DAM PROJECT

7.1 Health Implications of Project Activities for the Last Three Decades

It is difficult to fully capture the potential health impacts of Tehri Dam as the dam

is still in the final stage of its completion. Even so, the environment has been drastically altered over the past 30 years, particularly with regard to deforestation, pollution, and increased population. All three of these increases the health risks among persons who continue to live near the construction site. Major paths in forests have been cut to accommodate construction equipment, triggering an increase in soil erosion, resulting in the depletion of soil on formerly cultivatable hillsides. In addition, there is a spread of grassy vegetation, -- facilitating the proliferation of hosts and vectors of parasitic and other infectious diseases.

The effects of the dam construction are widespread. The blasting of rock for building the dam creates noise and air pollution, the latter leading to numerous respiratory infections like broncho-pneumonia. Issues associated with the 8,000 temporary construction workers being introduced to the area include inadequate housing and sanitation, an increased rate of land degradation, and the spread of infectious diseases. A number of people living near dam sites experience malnutrition soon after the dam construction. The soil degrades from a combination of erosion, silt, and higher population densities. Waterways frequently have silt deposits and salination (Jobin 1999). A resulting decline in agricultural productivity leads to malnutrition, which in turn causes deficient development in children and prenatal mortality, as well as general weakness and increased susceptibility to pathogens within the entire population.

Heightened anxiety is also connected to the anticipated change in the soil conditions. People fear they will lose their entire land when the reservoir fills with water; people are afraid that the additional water in the reservoir will exacerbate the tendency of the local soil to absorb water and then, once heavy with the moisture, fall down the hillside, depleting the soil available for cultivation. In addition, anxiety develops from displeasing the supernatural deities by disrupting the holy River Ganges.

7.2 Impact on Physical Health of Resettlers

These resettlers were forced to relocate from their village in the mountain to an uninhabited site in the foothills of the Himalayas. Since the neighboring areas in the plains are already densely populated, authorities decided to clear a segment of Rajaji National Forest to accommodate these resettlers. Warm and humid, the region is a fertile ground for various parasitic vectors. With the new human habitation in the area, the vector population grew dramatically and so did the incidence of new infections for the inhabitants. Moreover, the resettlers also got exposed to parasites among the neighboring host community for which they did not have immunity. This new situation had perceptible impact on the health experience of the resettlers who found themselves highly susceptible to many of these diseases. Many resettlers reported experiencing serious illnesses at the time of initially moving to the resettlement site and remaining in poor health since then. They reported more incidences of specific illnesses or symptoms, like fever, malaria, typhoid, measles, gastrointestinal ailments, asthma, and tuberculosis problems than the nonsettlers.

7.3 Implications for Mental Health of Resettlers

My early observations of resettlers' vulnerable mental health status led me to compare the level of depression among the resettlers with those who have not been resettled using a psychometric scale. Although a multitude of psychometric scales to measure depression are available, none was culturally appropriate; therefore, based on these existing scales and DSM-IV criteria, I developed 15 culturally appropriate items to measure depression in these two groups. Ten of the items used in this scale resemble the DSM-IV. Respondents were asked to rate each of the items on a three-point scale.

I employed the Mann-Whitney U-Wilcoxon Rank Sum W Test to test each of the 15 items used to measure depression to assess whether the samples from the two populations differ from each other significantly. For thirteen of the fifteen items used, the resettlers had lower mean rank scores, indicating more depression for the resettlers on individual items. The differences in the mean ranks between the nonsettlers and resettlers were statistically significant for nine of the items: have trouble sleeping ($p = 0.0057$), tired all the time ($p = 0.0075$), feel regret for past events ($p = 0.0000$), feel guilt impending disaster ($p = 0.0448$), avoid confiding in others ($p = 0.0015$), fear committed a sin ($p = 0.0071$), and feel insecure ($p = 0.0002$). For another four items the resettlers had lower mean rank scores than the nonsettlers, although the differences were not statistically significant: feel problems will not end ($p = 0.0683$), worry even during leisure time ($p = 0.3726$), get into arguments easily ($p = 0.1021$), fear going anywhere at night ($p = 0.0981$). For only two items did the resettlers score higher than the non-settlers -- feeling sad most of the time ($p = 0.0329$) and nostalgia for pre-resettlement days ($p = 0.4755$).

The comparison between the two populations clearly demonstrates that the resettlers had a higher level of depressive mood. In addition, the characterizations of their experiences validate these quantitative findings from the quantitative data. These resettlers narrated their live experiences, which supported the quantitative data and provided an emic perspective on resettlers' perceptions of their realities. Many of them also expressed a mood of having given up, "*Ye to aise hi chalega*" ("This is how it's going to be").

7.4 Changing Food Production Strategies among Resettlers

While the literature on the impacts of forced displacement is diverse and wide-ranging, here I focus primarily on the limited literature available on the impact of forced resettlement on food production. According to King (1986), development-induced displacement almost always forces people to resettle to new ecological areas with different altitudes, land use patterns, and farming methods. Displacement to a new environment influences a people's traditional means of procuring food, especially among agrarian communities (Green, 2000). One consequence of this change in farming systems is that the resettled group experiences a decrease in adequate protein in their diet because, invariably, they shift from a diverse crop agriculture that is subsistence-based to the cultivation of only a few cash crops (Hakim, 2000; Hong, 1987; Sapkota, 2001). The shift from self-sufficiency to dependence on the market economy for food leaves resettlers heavily reliant on their earnings from cash crop production because they must buy rather than produce their food (Hong, 1987, p. 209; Waldram, 1985). This change in procurement creates a problem because the foods purchased by the resettlers typically consist of processed carbohydrates rather than the protein found in foods they usually produced prior to resettlement (Waldram, 1985). Another reason for low protein intake among resettlers stems from a new topology at the resettlement site. Usually, people who live along bodies of water supplement their diets with fish, a common and important source of protein. However, because of the unavailability and high cost of land located near bodies of water, resettlement sites are often situated far from water, where fish are no longer a viable supplement, as in the case of the resettlers in both the Volta Dam and Aswan Dam projects in Africa (Hong, 1987).

In addition to altering the type of food produced, forced displacement may also decrease the quantity of available food. Because of the altered ecology and topography of most resettlement sites, oftentimes, in addition to adjusting to new farming practices, agrarian resettlers must cope with new and fewer farming resources. Moreover, in many

resettlement sites, the land is simply not conducive to farming; thus, the agricultural yields at these locations are diminished and inadequate to meet the resettlers' nutritional needs. In many documented instances of displacement, the resettlers experienced a decrease in food production because of the loss of land (Singh, 1992), soil that was ill suited for growing traditional crops (Kloos, 1990), or shortened fallow periods (Hong, 1987). This decrease in crop production can be quite severe. In addition to decreasing crop cultivation, resettlement can affect livestock production.

This combination of a decrease in food production and a change in dietary patterns can lead to malnutrition among a resettled community. As Kloos (1990) states, "Malnutrition in resettlement projects is commonly associated with food production and consumption problems. While starvation is rare because of government and international support structures, the common replacement of traditional production systems by mechanized monoculture and cash-cropping often results in imbalanced diets and nutritional disorders" (p. 644).

Resources for Food Production

Land and Forest Resources

A community's food production strategies are dependent upon the ecology of the region, as well as the availability of land and other resources. The geographical conditions of the resettled village and the mountain village are drastically different in altitude, topography, climate, and water availability. The mountain village is located in the Tehri district, 8 kilometers from the district's headquarters, Tehri town. At an altitude of about 700 meters, this village sits in a river valley on a strip of land that is flat in comparison to other villages in the region. Because of perceptible rainfall, rain-fed canals, and the deposition of alluvial soil, this land is fertile enough to produce enough crops to feed these villagers. The remaining cultivatable land consists mostly of narrow strips on hilly slopes and is used for terrace cultivation. The region surrounding this village is also rich in forest cover with hundreds of rare medical and other plant species (Uniyal, 1989). On the other hand, the resettled village is located in a flat and dry plain that was once part of Rajaji Forest and has an insufficient supply of irrigation water.

The land quality in the resettlement site is further compromised by the lack of well-maintained equipment for providing adequate irrigation water. In the mountains, water is available year-round to irrigate crops through the humidity of the soil and air and also through rain-fed canals. However, in the resettlement site, the only way people can obtain irrigation water, other than by the unpredictable and limited monsoon rains, is through expensive, government-operated tube wells. These tube wells operate on electricity, making the resettlers even more vulnerable to losing their water supply than they already are because the supply of electricity in this rural part of North India is erratic and unreliable. Every time a tube well fails or the electricity supply is interrupted, the resettlers are faced with the possibility of losing their crops to drought.

Another difference between the groups is that most mountain villagers have access to forest resources and grazing grounds and have limited rights to use these resources whereas the resettlers do not. Garhwalis in the mountains have elaborate knowledge about the forest vegetation, which they depend on heavily for food, fodder, fuel, construction materials, medicine, and ritual purposes. However, the limited availability and poor quality of land at the resettlement site is felt more strongly because of the accompanying lack of forest resources and of irrigation facilities. Rajaji, the forest adjacent to the resettlement site, is part of the national reserve; thus, the use of its resources is strictly regulated by the government. Without access to these traditional sources of food,

fodder, fuel, medicine, and construction materials, the resettlers are forced to find alternative resources, which they frequently must purchase from the market.

Availability of Labor

The mountain villagers have a traditional support network in place for procuring agricultural implements, and labor is available through the traditional *jajmani* (patron-client) system. Simple agricultural tools that are used in the cultivation process are produced and maintained by local occupational castes, such as *luhars* (blacksmiths) and *badais* (carpenters), both of which are part of the Harijan Varna. Thus, access to these resources seldom requires cash. This support network is not present in the resettlement site. Resettlement provided a vehicle for many lower caste families to escape their traditional dependency on higher castes. In the resettlement site, members of the higher castes have to pay for services previously obtained through their caste and family network.

Labor is scarce in the resettled village, and relatives, friends, and neighbors who once helped one another in the mountains neither have time nor are willing to provide this help. This shortage of labor is exacerbated by families fragmenting in the resettlement process. Many families were fragmented during displacement because some younger family members remained in the mountains in order to maintain jobs with wages. In addition, among the resettlers in the plains, many young male adults are trying to obtain jobs in offices and factories in the nearby towns to earn cash, leaving the women, children, and older men with the primary responsibility of farming.

Patterns of Crop Production

The 1993-94 crop production data from the two study villages reveals a dramatic shift in the pattern of crop production of the resettlers. In the mountain village, wheat, rice, and maize were grown by 39.6 percent of all respondents during the year, whereas almost double (77.3 percent) the percentage of respondents in the resettled village produced these three crops. In addition to the difference in production of these three cereal crops, there was a substantial difference in mustard cultivation, from 2.7 percent of respondents in the mountain village growing mustard to 17.3 percent of the resettlers who were interviewed. All four of these crops can be easily sold in the market to generate cash for other necessities. Although wheat and rice are main crops in both villages, maize and mustard, which were rarely grown in the mountains, have been rapidly adopted by the resettlers in the plains specifically because of their cash potential. In other Garhwali communities resettled because of Tehri Dam, villagers grew sugarcane as an additional cash crop (Singh, 1992). Other important shifts in crop production among the resettlers can be seen in millet and barley yields. Millet is a staple in the mountains because it is well suited to soil with low fertility and limited moisture and because its stalk, once dried, can be used as fodder. However, millet and barley do not have much cash value in the resettlement site's local markets. Thus, while millet and barley were grown by 27.3 percent and 7.1 percent, respectively, of the respondents in the mountain village, millet was grown by only 1.0 percent of respondents in the resettled village, and none of resettlers produced barley.

While the shift in crop production from non-settlement to resettlement increased cash flow, it also had some negative effects on resettlers. Where 19.3 percent of the respondents in the mountain village grew legumes, only 1.6 percent of the respondents in the resettled village did so. This decrease in legume production has also led to a lower consumption of protein by the resettlers, decreased soil fertility, and, thus, increased need for artificial fertilizers. Furthermore, while crops are rotated in the mountain village to maintain soil fertility and prevent erosion, this practice is difficult in the resettled village

because of each household's limited, two-acre land allotment. Additionally, a host of new expenses were incurred in the new location: agricultural tools (tractors, thrashers, etc.), fertilizers, high-yield variety seeds, pesticides, herbicides, water for irrigation, and taxes on farmland.

Animal Husbandry

In the mountains, animal husbandry is the most important economic activity next to crop production. While goats and sheep are the main herding animals, most people also own cows and buffaloes for milk, oxen for plowing, and chickens for eggs and meat. The availability of and access to grazing grounds and fodder from the forest augment the number of livestock that people can afford. However, the scarcity of grazing grounds in the resettled village, as well as the difficulty in accessing fodder combined with the restrictions on using forest products, limit the number of farm animals the resettlers can own. This situation also forces the resettlers to buy fodder of inferior quality from the market. The mountain villagers in this study collectively own almost three times as many oxen as do the resettlers and, accordingly, reported using oxen three times more for plowing purposes compared to their counterparts in the plains.

In the mountain village, people keep more than three fourths (4 liters) of the milk from their cattle to supplement their protein consumption. In contrast, in the plains, there is a demand for milk and milk products in the nearby market and host community, and there is a huge demand for milk in the nearby cities of Rishikesh and Haridwar, as milk is the main ingredient for the preparation of edible dairy products, such as milk, curd, *ghee* (purified butter), ricotta cheese, and sweets. Motivated by these high milk demands of nearby communities, the resettlers in this study sell approximately 45 percent (3.5 liters) of the milk they produce. Therefore, they have less milk for their personal consumption, creating a problem for a community already deficient in protein sources. A similar situation occurs with poultry. The resettlers sell 80 percent of their eggs, whereas the mountain villagers reported not selling any of the eggs at all. For those who consume meat in the mountain, fish and small game are available in nearby areas, and fishing and small-game hunting are permissible to a large extent by law. However, water sources for fishing are not readily available in the area around the resettled village, nor is hunting allowed in the bordering Rajaji Forest. However, because of the limited fish and game resources and the penalties for breaking the law, the resettlers can rely on neither hunting nor fishing as a means for procuring the proteins they so desperately need.

Discussion

In addition to the daily necessities that resettlers must purchase, many of them have adopted lifestyles that require more cash expenditure. No doubt, the increase in consumerism has increased the cost of living and furthered the dependence on wage labor. Two factors, exposure to urbanized communities and nonagricultural-based employment, have necessitated formal schooling and have led to a new investment in children's college education. Now the resettlers have to travel by bus to nearby towns to meet with the resettlement officials and to obtain needed health services and other amenities. These new and frequent travel expenses cost them much-needed money. In addition, many adult male resettlers spend considerably more money than their counterparts in the mountain village on their newly acquired addictions of alcohol, tobacco, and betel leaves. Especially during the 18-year period resettlers did not have ownership rights to their land, many resettlers assumed high interest loans from private lenders in order to acquire the aforementioned needs and amenities.

Applied Significance of Health Impact Research

This research provides new insights in the relationship between economic development and health, including food production systems. It clarifies the actual human costs of development projects and resettlement. It informs policy makers and implementing authorities about the need to provide not only familiar therapeutic resources, but also modern health care facilities to resettlers. The task of health monitoring is complex and muddled with the local conceptualization of health. In traditional communities, health is embedded in their ethno medical systems. In order to deal with health issues, a comprehensive understanding of the local health and illness systems is crucial. Health, like food, is a cultural construct. Along with providing therapeutic resources, there should be a component of health education and preventive health measures for people to be able to cope with the new environment and circumstances. One of the crucial measures of people's well-being besides socio-economic factors is their health. No plan of economic development or subsequent resettlement scheme would be effective until the health domain becomes an integral part of resettlement policy.

Additionally, to lessen the negative impacts on resettlers' diets and health, these policies should focus on training the resettlers in new methods of farming and in other income-earning opportunities. There should be provisions for providing food for resettlers during their transition, and for making irrigation water, seeds, and fertilizers available to them until they reach self-sufficiency. By improving the infrastructure, developing basic services, and broadening the economic activities of resettlement sites, resettlers will have a greater chance of maintaining balanced diets and adjusting to their new environments. When resettling a community, development planners should employ the services of appropriate agriculturalists, horticulturalists, and animal husbandry experts during the transition and post-displacement period until the livelihood security of a community is restored. Among other things, a long-term strategic response to ensure adequate food production and consumption must accompany forced displacement. Development planners should recognize the relationship between ecological factors; systems of food production, and the potential for an adverse nutritional impact on the affected people and should gear resettlement policies toward making traditional food production practices ecologically viable and economically feasible in new locations.

A Health Awareness Campaign (HAC) component is advocated in all economic development policy and programs especially resettlement policies and before, during, and after implementation. This requires health and nutrition assessment of project-affected people on a continual basis as well as providing culturally appropriate health and nutrition care on a sustained basis. Mental health services should be an integral part of the health care plan. Investing in overall health care for the resettlers is an investment in human capital as it affects other aspects of their life. There is rhetoric about rehabilitating the displaced populations and helping them to recreate normal lifestyles to the extent possible. Appropriate policy measures and financial allocations should be made to the health and food production components in the policy and implementation of resettlement plans. An active campaign for preventive community health measures and health education should be instituted among resettlers.

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INDUSTRIALIZATION AND DISPLACEMENT IN ORISSA: *Need for Resettlement and Rehabilitation with Empathy*

*Trilochan Sahoo**

Need of survey and suitable resettlement and rehabilitation policy:

The tribal habitat, in India and in the State of Orissa as well, is gifted with forests, fountains, flora, fauna and mineral deposits. These lands of tribes and tigers are hospitable hosts to mining and industrial operations, dam projects, national park, sanctuaries and biosphere reserves. They are prone to be acquired for setting up of industries, mines and other development projects. Thus the said projects are mostly located in the tribal concentrated areas and the tribals are dislocated. The Government has power to acquire any land anywhere in the Country at considerable rate it chooses to pay. This is for the public interests, economic development and national progress. On the contrary, our tribal people have borne the risks and burden of displacement from their lands, for the greater cause of national development.

Unfortunately, without a definite rehabilitation and resettlement policy the projects of the above types set up since independence failed to account for the needs of the displaced tribals. In Orissa except the NALCO project, which has a well-defined resettlement and rehabilitation policy and assessment survey of oustees, there has been no uniform resettlement and rehabilitation policy in all the industrial projects. The big giant industry, like Rourkela Steel Plant, HAL, Ordnance Factory at Saintala and other industrial organizations including the Kalinga Nagar Industrial Complex have dealt with the oustees as per their own individual resettlement and rehabilitation policies. Astonishingly, the NALCO for its Damanjodi, Koraput Project and Angul Project has adopted two rehabilitation principles. While the former project adopted the rehabilitation policy of 'lands for lands' and the latter adopted no 'land based rehabilitation policy'. Similarly, all the groups of industries in Kalinga Nagar Industrial complex have yet to follow uniformity in their rehabilitation and resettlement principles.

For now, we await the Central Cabinet Subcommittee's wisdom on a suitable Rehabilitation and Resettlement Policy for the risks reversal of the displaced populations. Ministerial Committee on Rehabilitation and Resettlement under the Chairmanship of Industries Minister, Orissa was set up to suggest a suitable Rehabilitation and Resettlement Policy. On the basis of the recommendation of the Committee, Government of Orissa has approved a rare Rehabilitation and Resettlement policy, which is expected to be acceptable to all.

By the way, no exact numbers of tribals displaced due to the development projects in the country, in general and industrial projects in particular, could be surveyed and estimated ever. Since 1950, as many as 50 million people have been displaced due to various development projects, of them 40% are tribals. This indicates about 20 million tribals accounting 25% of the total ST population have been dislocated from their own base (Govt of India, Planning Commission, 2001). According to National Policy on Tribal, MOTA, GOI, India nearly 85.39 lakh tribals had been displaced until 1990 on account of some mega projects or the other, reservation of forest as national park etc. tribal constitute at least 55.16% of the total displaced people of the country. Balaji & Associate (1998) estimated that in Orissa there are as many as 79,621 families including 13,772 (17.30%) STs, who have been displaced and affected by development

projects, the number of ST families may be more, as complete information is not available. It shows that no systematic surveys have been made for the oustees' risks and genuine needs assessment. Therefore, a systematic survey, suitable rehabilitation and resettlement policy and need based-plans with due emphasis on economic cost, human cost and social cost are a prerequisite prior to setting up of any industrial project.

Industrialization, displacement and land acquisition cases in Orissa

Tribal Orissa has rich mineral resources. Industrializations take place rapidly in the habitation of its indigenous populations for state's prosperity and economic development and employment generation. The Government of Orissa has been taking up mining operations and setting up of different industrial projects since independence. As a result of this displacements and land acquisitions have become inevitable. The magnitude of displacement due to various development projects in Orissa during the period from 1950 to 1994 has been estimated as follows:

I. Displacement and land acquisition by different development projects in Orissa

Sl. No	Type of project	No. of villages displaced /affected	No. of families displaced/affected	Total land acquired (in ha)
1	Mines	79	3143	2427.03
2	Industries	133	11519	33963.00
3	Thermal Power	73	2426	3155.31
4	Irrigation and Hydel Power (Dams)	1181	64903	595918.60
	Total	1466	81991	634463.94

(Source: see Ref. at 7.)

II. Displacement and land acquisition by different industrial projects in Orissa

Sl. No	Type /Name of Project	No. of villages displaced /affected	No. of Families Displaced/ affected				Total land acquired (in ha.)
			GEN	SC	ST	Total	
INDUSTRIAL PROJECTS							
1.	Rourkela Steel Plant	30	592	118	1657	2367	7917.8
2.	NALCO, Angul	40	3376	510	111	3997	1570
3.	NALCO, Damanjodi	19	315	75	398	788	3444
4.	Ordnance Factory, Sainitala	14	NA	NA	NA	1200	NA
5.	HAL, Sunabeda	10	NA	NA	NA	468	3764
6	Kaling Nagar Industrial Complex	20 / 30 (Revised)	-	-	-	815 / 1500 (Revised)	12000 / 13,000 (Revised)

(Source: see Ref. at 7.)

Kalinga Nagar Industrialization Aftermath:

The Orissa Govt. prepared plans to develop the Kalinga Nagar Industrial Complex as one of the biggest steel hubs in Asia. It aims at accelerating the pace of economic development and generating employment and widening self-employment

opportunities through industrialization. Between 1992 and 1994 it acquired 12,000 acres of land to house 8 Steel Plants. Currently Neelanchal Ispat, Mid-East Integrated Steel, Jindal Stainless and Visal Steel operate Plants in the Complex. However, tribals have continued to stay on much of the land since the other plants have yet to come up. Two years ago TATA Steel was allotted 2,000 acres of land to set up a plant. The Minorities at Siaribasi not evicting land even after receiving compensation money 10 years back. ST & SC got compensation and thus need to be evicted. The 13000-acre industrial complex has hundreds of other families spread over 20 revenue villages. People of nearby 30 villages may lose their lands once the Govt. takes possession of the entire area. An estimate shows that 815 (1500 as per the revised estimate) families lost their lands. The table given below shows the current status of the on-going displacement and rehabilitation scenario of industrialization in Kalinga Nagar, Sukinda, Jajpur District of Orissa.

Statement of Industrialization, displacement and rehabilitation in Kalinga Nagar

Sl No	Industry	Year of Estt.	Displaced families	Rehabilitation Measures
1	MESCO	1994	53	53 families provided 10 dc. of homestead land each. No other information available.
2	Neelachal Steel	1996	639	Service is given to one member of 182 out of 200 applications /families received. Besides one member of 134 families engaged as Contact labour. Rest 323 will be given either jobs or financial assistances for self-employment as per choice. Provided 10 dc homestead land to 131 families and Rs 50,000/- financial assistance in lieu of land.
3	Jindal Stainless Company	-	59	Provided service to 12 families. Planning to provide service to all 47 families and one-time financial assistance to 10 families. Provided 10 dc homestead land to 51 families and Rs 50,000/- financial assistance to each of 8 families in lieu of land. House building assistance of Rs. 50,000/- each and Rs 5,000/- each to all families as shifting assistance.
4	Rohit Ferro Alloys Steel	-	12	No service. Further information not available.
5	Visal Steel	-	23	Pledged to provide employment/ self employment to all the displaced families by 31 st March, 2006

Source: Information compiled from different daily Newspapers like, 'The Times of India', 'The New Indian Express' and 'The Samaj' (Oriya).

It is said that the tribals were paid Rs.22, 000/- to Rs.37, 000/- per acre by the Industrial Development Corporation of Orissa, which in turn sold the land to the TATA at Rs.3 lakh to Rs.3.5 lakhs per acre. The displaced tribals feel that the said compensations paid to them were below the current market rate. Protests began some months ago when tribals of eight villages demanded more compensation, on the grounds that the government had profited from the sale of the land to the Corporations. Some rehabilitation studies and observations of Committees predicted and cautioned the industrialization aftermath as follows:

Failure in formulating a national policy on the resettlement and rehabilitation, improper and unjust implementation of the existing policies as well as the indifferent attitude of the officials involved- all these have too often resulted in violent reactions on the part of those affected by such projects (B. Pandey, 1998). 'All projects in tribal areas were considered 'public purpose' even for private mining industries. This is the biggest fallacy of our development paradigms in tribal areas' (Govt. of India, Planning Commission, New Delhi, 2001).

In the test of times and contexts the above observations sharply turn factual. As for examples: the sad and serious event at Kalinga Nagar took place on January 2, 2006 for the tribals protest against inadequate compensation for the land, which cost loss of 13 human lives including one police officer and 12 tribals. Kalinga Nagar industrial issue succeeds Kashipur and Mikanj issues that claims loss of human lives and precedes the protest in Rourkela, where the tribals displaced by the Public Sector Rourkela Steel Plant years ago demanding compensation, jobs and return of lands and those in Angul – Jharsuguda, where there has been displacement by mining activities of Mahnadi Coalfield Ltd. Latter in February 2006 about 500 tribals from Koraput staged rally under the banner of organizations like, Hindustan Aeronautics Ltd. Displaced Association, Koraput, Maliparbat Surakhya Samiti, Kolab Displaced Association, Koraput Zilla Adivsi Harijan Unnayan Parishad and Nalco Displaced Association. By this the tribals have been putting relentless pressure on Government for justice against their loss of lands and livelihood.

The fourth column of democracy reported that the Maoists are active and spreading their activities in Kalinga Nagar. The Political Leaders, Govt. Officers, NGO and social activists rush and make a beeline to the area to empathise with the displaced tribals and to fish in the trouble waters. Compensation amount Rs 5 lakh was offered to each victim-family by the State Govt as well as by the Central Govt. The financial assistances continued to flow to the victims' families from all quarters like, Central Govt. and State Govt., political parties, philanthropic associations and so on. The House Panel: Assembly Committee on SCs and STs visited the spot and accused the NGO activists persuading tribals not to cooperate with Govt. and lift the economic blockade since 2nd February on Daitary- Paradeep Express High Way. Among the important Officials who visited Kalinga Nagar are Union Minister, Tribal Affairs, Chairman, National Commission for STs and Former Chairman of National Commission for SCs and STs and Union Home Secretary. All of them are of the opinion that the incident was a serious one, and suggested that the R & R package should be handed with soft hands. Meanwhile, the followings have taken place in Kalinga Nagar.

- Public Interest Litigation filed in the High Court against bandhs by political parties and by CLAP Organization to stop construction of all Industries in Kalinga Nagar till resolution of all disputes.
- Tata Steel claims, "We have worked towards the betterment of communities around plants and mines in Orissa. .. We have reached out to the surrounding areas with hospitals, schools, electricity, construction of roads and bridges, check dams for irrigation, income generation programmes for women and relief and -rehabilitation in natural calamities. And with new investment being made in Kalinganagar Steel Project and Dhamara Port Project along with expansion of existing industries, these initiatives will only grow in number and reach".

These are all our seriousness for damage control. Still we have a great role to play so that, time to come; no damages or loss of life and livelihood is repeated due to displacement.

Govt. initiatives for the crisis control:

The Govt. of India is trying to bring a new policy regarding payment of compensation for displacement. As per the proposed policy the villagers (displacees) will have voting rights against the fixation of compensating money. The views of the majority (above 50%) will be final with the right to accept the amount. Land for land but for agriculture land; extra compensation in shape of money and money will not replace the promise of service in industries/ projects. Unmarried adult member in a family will be defined as an extra family. Central Govt will establish a R&R Council and also State Govt will have one each. Inordinate delay in payment of compensations should be abandoned and instant payment be a practice and such tradition be continued in all future R&R cases. This will build confidence among people on Govt decisions on Industrialization and Rehabilitation measures.

In the mean time the Ministerial Committee on Resettlement and Rehabilitation set up by Govt of Orissa had given the following recommendations.

- Rs. 5 lakh compensation for families losing entire agricultural, homestead land
- Rs. 3 lakh for those losing two-third and more plus homestead land
- Rs. 2 lakh for loss of one-third agriculture land and homestead land
- Rs. 1 lakh for other displaced families
- Three times more than the existing house building assistance (Rs. 50,000/-) to displaced
- One standard acre of cultivable land and one time solatium as admissible and 10dc of homestead land to landless families
- Providing job to at least one of the displaced families is mandatory
- Besides the cash compensation, displaced families may opt for self employment in the company will be given training facilities, shops and other necessary supports for capacity building
- Adoption of Karnataka model – Govt. has no business to acquire land for new industries. The investor should acquire land through direct negotiation with the people and the Govt should play the role of an umpire
- The rehabilitation policy should be so designed that the displaced families should feel that they are going to be rehabilitated better than where they are living earlier.
- The project affected and displaced families should be made partners of the industry for a sense of belongingness to the industry.

Later, on the basis of the above recommendations the Govt of Orissa has approved Resettlement and Rehabilitation Policy, 2006 (Provisions) by the Cabinet on April 22, 2006. The followings are the contour of the policy.

- The policy will be applicable to Industrial, mining, Irrigation, National Park/ Wildlife Sanctuary, Town, Road, Railways, National Highway, Electricity and Pipeline projects.

- Land requirements for the project will be estimated by a Committee under the Chairmanship of RDC
- 1.5 time compensation for repeated rehabilitation
- Rehabilitation Advisory Committee (RAC) and Periphery Development Committee (PDC) will be emerged to form Rehabilitation and Periphery Development Advisory Committee (RPDAC). Without the advice of RPDAC no body will be displaced or rehabilitated. Companies are bound to accept the advice of RPDAC.
- Married sons, daughters and sisters of 30 + age, physically handicapped and mentally retard persons, destitute sons and daughters, widow and deserted women would be considered as separate family for resettlement
- Age relaxation for 5 years for service
- Project affected families given option to become stakeholders in company through equity participation. (Option to be a partner of the industries by converting 50% of cash compensation to share).
- In case of industrial projects, one time cash compensation of Rs. 5 lakh for families who will lose their entire agricultural and homestead land and for 2/3rd or more agricultural and homestead land will be given Rs. 3lakh and Rs. 3lakh for loss of 1/3rd agricultural and homestead land and others will be given Rs. 1 lakh.
- Company will establish Resettlement colony after consultation with the Gramsabha
- Those who will not do service or there will be difficulty to provide them service will be given compensation of Rs.5 /- to Rs1 lakh, 50% of which will be invested as share in the company and the Company will supply bonds. After production the displaced will get profit share from the company.
- The displacees by Irrigation Projects will be given land in addition to compensation. Those who will not take land will get Rs 1 lakh for 1 acre of irrigated land and Rs 50,000/- for un-irrigated land. For purchase of land by displacees the registration fees will be given by the company. The land is to be purchased within 5 years.
- Special assistance for displacees of Kalingnagar and POSCO
 - In POSCO Area: Each of 1900 beetle cultivators will get compensation of Rs. 6,000/- per 1dc. and the minimum amount be Rs 10,000/- each.
 - At Kalingnagar Rs. 1lakh compensation will be given per acre of land

It is said that the above R & R policy of Govt of Orissa is the best in the country that would cater the requirements of resettlement and rehabilitation of displaced people with empathy. The said policy is expected to help reduce the plights of the displacees at Kalinga Nagar and also in other industrial areas of Orissa and facilitative the promotion of industries and mining activities with a view to generate employment opportunities and additional incomes and bring the prosperity of the individuals as well as the State.

Prior to implementation of the above policy Govt of Orissa has taken the following people friendly positive steps. According to the state government's principle of

Rehabilitation and Resettlement one of the members of displaced families would be provided with service in the Industry or its ancillary organization. Besides, the State govt. has decided that the resettled colonies would be facilitated with roads, schools, community houses, drinking water and electricity (Budget speech of Hon'ble Governor, Orissa in the Sate Assembly: February, 2006). Meanwhile, the IDCO has already developed two rehabilitation colonies at Tirjanga and Gobarghati with necessary infrastructure. It has allotted 361 plots and 131 plots to the displaced families in both the colonies and paid self-relocation assistance of Rs 50,000/- to 656 families.

The Govt of Orissa has issued directives to Jindal Stainless, VISA, Rohit and MESCO to employ at least one person from each of the displaced families by Feb 15, 2006. Preference should be given to the locals in base level posts. All the industries were asked to conduct socio-economic surveys. The Govt of Orissa announce sops like public schools, modern hospitals and a hike in ex-gratia for victims' families and initiated steps to release some of the tribal leaders arrested earlier on criminal charges.

Govt of Orissa has come out with fresh guideline for R&R in November 2005. Employment or self-employment is choice of Oustees. Companies are bound to provide employment to those families who have lost 1/3rd or more land including homestead land. According to the new policy /compensation package for Kaling Nagar oustees the affected people get compensated for encroached land. Those residing 1996 will get compensation without producing land records. As per the new definition of family an unmarried woman would be considered as an extra family and get a house, job and Rs 50,000/- for house building assistance.

However, under the direction of Govt. of Orissa, Jajpur District Administration has been taking steps expeditiously to bring back normalcy through interacting with the displaced people and Industrial Authorities and reviewing the relief and rehabilitation measures of all the Groups of Industries and bridging the gaps by coordinating the revision of resettlements and rehabilitation at Kalinga Nagar.

New options of resettlement:

Agricultural land, even it does not have great market value, is a permanent asset. It sustains a family over generations. An acre of good land may feed a family for years. On the contrary how long does compensation amount last? Besides, land is the heart of agrarian civilization; it is a source of identity, security and independence. These are great losses for any community to bear. Therefore, the option for resettlement may be offered to the land losers as follows:

According to N. Vittal, Former Project Manager, GNFC one member of each family of land losers may be provided employment after imparting him the requisite skills in ITI to become operator in the plant. This idea was implemented by Gujarat Narmada Valley Fertilizer Company in 1980s. To him the second idea is that the land losers may have shares in the project so that they also prosper with the company. This idea perhaps not been tried anywhere.

Prof. P.V. Indiresan, Former Director, IIT, Madras suggests that for providing continuous income to land losers the land may be taken on a 100-year lease instead of land acquisition. The loss of income from the land may be compensated annually with due consideration of inflation and changes. This would ensure the income and future of the land losers. After 100 year the lands will revert back to the owners. The time taken for acquisition of land, causing delay in the project, can be overcome and leasing may take less time".

that the The Draft National Policy on Tribals (2006), MOTA, GOI, New Delhi mandates the following guidelines be followed when tribals are resettled.

- When displacement becomes inevitable, each ST family having land in the earlier settlement shall be given land against land. A minimum of two acres of cultivable land is considered necessary and viable for family (comprising man, his wife and unmarried children).
- ST family having fishing rights in their original habitat shall be granted fishing rights in the new reservoir or at any other alternative place.
- Reservation benefits enjoyed at the original settlement shall be continued at the resettlement area.
- Additional financial assistance equivalent to nearly one and a half year's minimum agricultural wages for loss of customary rights and usufructory rights of forest produce shall be given.
- Tribals are to be settled close to their natural habitat by treating all the people so displaced as one group to let them retain their ethnic, linguistic and socio-cultural identity and the network of kinship and mutual obligations.
- Freeland is to be provided for their for social and religious congregations.
- If resettlement is possible only away from the district/taluk, then substantively higher benefits in monetary terms shall be given.
- When tribal families are settled en masse, all basic minimum amenities shall be provided at the new sites. They include roads, passages, electricity, drainage and sanitation, safe drinking water, educational and health care facilities, fair price shops, a community hall and a Panchayat office.

All the above three ideas including the mandates of the National Policy on Tribals (MOTA, GOI: 2006) are worth giving a trial in the Kalinga Nagar Industrial Complex, Sukinda in Jajpur district of Orissa.

Risks reversal suggestions:

Industrial and urban system is a complex one. Tribal social system is simple one. So both the systems are different and are likely to pose conflict with each other. Considering the risks of simmering discontent and distress involved in the process of tribal displacement and rehabilitation, the twin activities need to be thought of carefully, planned cautiously and implemented completely and correctly. If the process is fully integrated, smoothly accepted and participated by all, it would leave no room in tribal minds to reflect. We must act so that the dual objectives will be achieved; the tribal oustees feel happy with return of a better pre-displacement scenario and Orissa state build its economic progress and prosperity.

Hon'ble Supreme Court of India in the case of Lalchand Mahto & Ors vs Coal India Ltd., Civil Original Jurisdiction, MP No. 16331 of 1982 observed, "Before any development project is taken up, the social cost involved must be evaluated with a view to balancing the advantages ... every development programme must provide for the simultaneous rehabilitation of the persons who are thrown out of their land and houses on account of acquisition of land for such development projects. No developmental project, however laudable, can possibly justify impoverishment of large sections of

people and their utter destitution." James D. Wolfensohn suggests, "We must act so that poverty will be alleviated, our environment will be protected, social justice extended, human rights strengthened. Social injustice can destroy economic and political advances."

Cernea's (2000: 14) rehabilitation suggestion includes the risks reversal directions like, from landlessness to land based resettlement, from joblessness to reemployment, from homelessness to house reconstruction, from marginalisation to social inclusion, from food insecurity to adequate nutrition, from increased morbidity to improved health care, from loss of access to restoration of community assets and services and from social disarticulation to networks and community rebuilding.

The Working Group for Empowering the Scheduled Tribes during the 10th Five Year Plan (2002-2007) recommends, "No displacement of tribal villages for declaring any areas as National Parks or Sanctuaries should be allowed. The laws and policies should be adopted to strengthen this co-existence and maintaining the ecological balance. There should not be any displacement of tribals for any project whether mining, energy or any other, in the Scheduled Area, especially in the light of the new economic policy. The Land Acquisition Act should be amended in consonance with the PESA Act so that rights of the people are protected in Fifth Schedule Areas. Government should not lease out forestlands to industries even through local institutions like Vana Samrakshana Samithis, particularly, in the Schedule Areas. Law should be passed prohibiting use of force in case of disputes over resources in the tribal areas."

As per the recommendations of the National Seminar at Bhubaneswar (January 1994) the resettlement and rehabilitation provisions should be provided for in the Concurrent List of the Indian constitution because both Central and State Governments acquire lands for the interest of the general public. Any disruption of major means of livelihood of village artisans and rights and privileges of forest villagers and government lands, where the people have possession over 30 years caused by displacement of people due to development projects, may be assessed by capitalizing the income and compensation paid at pr with the property. The land acquisition act should explain that the expression rights should includes legal rights, usufructory or customary rights over land, forest trees, water bodies, and their contents enjoyed by the residence of a revenue village or forest village or part thereof and rights to gainful employment in any manner.

Besides, the following may help formulate any rehabilitation and resettlement policy/plan for the displaced populations.

1. Prior to displacement and acquisition of land for development projects the displaced tribals should be informed and be appraised with positive aspect of the rehabilitation provisions proposed for them and steps should be taken at Government level to rectify the Records of Rights of Tribals in the project area.
2. The rehabilitation package should include land for the land and socio-cultural cost of the people. Participatory interaction between ouster and oustees should precede involuntary displacement for an amiable agreement.
3. Formulation of a National Tribal Policy and the R & R Policy and framing of the related rules at State level may be expedited at Govt. levels and they be implemented forthwith.

4. Taking the gravity of rehabilitation risks and their redressal in to consideration there is a need to appoint a full-fledge Rehabilitation Commissioner for the State of Orissa.
5. Respecting and accepting the decisions of the concerned Communities, Gramsabha and Panchayat in the matter of rehabilitation issues would help make the eviction and displacement process smooth and easy.
6. Government, NGOs, people activists', scholars, Social/ political scientists and media to form a compatible forum to redress the efficacy of this burning problem should adopt an integrated approach.
7. Hon'ble Governor, Oriisa, Sj. Rameswar Thakur opined, "The tribals have to be provided with alternative housing, water, health care and educational facilities before being displaced form their lands"

Conclusion:

Development projects benefit the society and economy of the nation and the state. Whenever development projects are undertaken, the people living in the project area or whose lands are acquired for the project have to pay an extra price, in terms of loss of their lands or livelihood. By sharing in the ensuing prosperity through an inclusive approach in which loss of land is compensated with productive employment to members of family is a better option.

Keeping the above ideas of new options of resettlement and risks reversal suggestions in view, a comprehensive and suitable 'Rehabilitation and Resettlement Policy' for all the development projects in Orissa State has already come up and in force. The principles and rules of 'Rehabilitation and Resettlement Policy' the State Government of Orissa seems to be suitable, agreeable and acceptable by all.

Participating at a recent workshop Sri G.C. Pati, the then Secretary, Dept of Industries, Govt. of Orissa addressed that the misinformation campaign about the fate of displaced has posed a major challenge before the Government. While Government is committed to building an industry-friendly climate in the state, bridging communication gap can only expedite the process of resettlement and help government realize its objectives. We all should be cautioned against interference of vested interests in implementation of the policy in its latter and spirit. Awareness should be created among the displaced people about the contour of the policy and the copies of the policy (in local language) should be circulated for wide publicity.

Let the R&R Policy reflects the means of sustainable development of displaced community and its surroundings, not only as a mission statement but as a tangible living tradition also. The tribal oustees in industrial areas need to be treated as the partners of the development projects. Their decisions at all stages in the forth-coming rehabilitation and resettlement issues should be considered and respected. This may help provide the basis for the displaced populations' development with empathy.

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INVOLUNTARY DISPLACEMENT & REHABILITATION OF PROJECT AFFECTED PERSONS IN UPPER KOLAB PROJECT, KORAPUT

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Development of infrastructures for mining, industrialization, urbanization, hydroelectric projects etc are required for enriching the economy of the state. On the other hand these have brought baneful consequences, the primary being the displacement of a large number of tribal and rural people. Such displacements have subjected the Project Affected Persons (PAPs) to untold miseries, frustrations, marginalisation, dehumanization and trauma. This has become a matter of concern at the national and international spheres.

So far as the establishment of these development projects does not lead to a corresponding development of human resources then the entire effort is bound to boomerang and the backlash will affect the socio-economic and cultural fabrics of the society and in turn will generate social tension. Therefore the rehabilitation of the Project Affected Persons (PAPs) is a national task of paramount importance. Both pragmatic considerations and tenets of social justice demand that the oustees be provided a better standard of living in their new habitat at par with the Project Benefited Persons (PBPs).

In spite of being a relatively backward state in economic development, Orissa possesses a vast quantity of mineral, water and forest resources. Though, Orissa occupies 2% of the land area of the country yet, it has 10% of the surface run-off. Thus, it has a vast utilizable potential to irrigate about 75% of its cultivable land. The bulk of this utilizable potential of surface irrigation is possible through major and medium irrigation projects. After independence, a process of socio-economic development was initiated in the state in the successive Plans and in the process, some major multipurpose irrigation and power projects like Hirakud, Balimela, Rengali, Upper Kolab, Upper Indravati, Subarnarekha, etc. and a number of medium irrigation projects have been constructed. A large number of giant projects have come up in the past decades in the remote tribal pockets displacing lakhs of tribal people. These projects were established in resource rich regions, which have been the traditional homes of tribal and rural folks. The unintended consequences of this action have been not only loss of habitat for the rural and tribal poor but also of their means of livelihood.

The matter of rehabilitation of the displaced persons in the State of Orissa has been pursued in an adhoc manner till a new uniform rehabilitation policy was framed in 1973 in the context of Rengali Irrigation-cum-Power Project that was further revised with effect from April 20, 1977. The major defect of the policy was that it did not provide any special measures for the tribal PAPs. Again in 1990 Irrigation Department declared a uniform resettlement and rehabilitation policy for all the irrigation projects, which was effective from 1.6.1990. Finally this policy of 1990 was revised and given a new name, i.e. The Orissa Resettlement and Rehabilitation of Project Affected Persons Policy, 1994. This policy provided broader concepts of 'affected persons', 'affected zone' and 'affected villages' than those given in the previous policies.

The Upper Kolab Multipurpose Project

The Upper Kolab Multipurpose Project is one of the major Hydel Power Projects of Orissa located in Koraput district. Commissioned since 1976 this project is designed to utilize the water potential of the river Kolab, a tributary of river Godavari for generation of hydel power, irrigation, drinking water supply to adjacent towns and promotion of pisciculture, besides other ancillary benefits. The project has an installed generation capacity of 320 M.W of power and it will irrigate the ayacut of 44,515 hectares by flow irrigation and 22,267 hectares by lift irrigation.

Rehabilitation of Displaced Families

The project has affected a total number of 8,514 families, directly and indirectly, in 147 villages, more or less, rendering them homeless, landless and deprived of means of livelihood. Of them 3,067 families belonging to 50 submerged villages were displaced and the rest 5,447 families belonging to 97 villages spread over Koraput, Machkund, Nandapur and Semiliguda blocks were partly affected due to land acquisition.

Rehabilitation Policy

A displaced family is the major liability of the project. In order to discharge the liability, it is provided with certain benefits for the purpose of rehabilitation in addition to proper compensation towards loss of its land, house and other assets affected and acquired by the project. While the amount of compensation for the loss of personal property may vary from place to place and family-to-family depending upon the kind and extent of acquired property, the quantum of rehabilitation assistance remains one and the same for all the displaced families.

A displaced person in case of Upper Kolab Project is defined as the person, who on account of acquisition of his lands for project purpose, has been displaced from such lands. It includes any landless and homeless person, who is dependant for his livelihood by means of manual labour or agricultural labour, on such acquired lands. The foundation stone of the project was laid on 11 June 1975. Therefore, any family residing in the submersible villages of upper Kolab project area on this reference date was treated as a displaced family.

Thus as per the prevailing provisions, a displaced family was entitled to be allotted with half acre of house site and three acres of reclaimed irrigated land or six acres of reclaimed unirrigated land or both in the ratio of 1:2 depending upon the availability of such land. Though such lands were allotted free of *salami*, the reclamation cost at the rate of Rs.300 per acre was recovered from the allottee which is limited to the extent of his submersible land holdings for which he has received compensation. For example, when a person receives compensation for 2 acres of his submerged land he shall pay reclamation cost for 2 acres of land for resettlement though he may be allotted with more than 2 acres of land as rehabilitation assistance. Therefore the displaced landless families are exempted from this payment. This was based upon "land for land" approach.

If sufficient land was not available for allotment or if the allottee so desired that he was allotted less than six acres of land, he should be paid cash at the rate Rs.2, 160/- per acre in lieu of the extent of land not allotted to him which he might require for fulfillment of his immediate needs like fooding, house construction, purchase of bullocks, agricultural implements and the like. This was the "part land and part cash" provision.

Alternatively if land was not available for allotment or the displaced family wanted to make its own rehabilitation arrangements, it was paid a full "rehabilitation cash grant" in lieu of the land and house site amounting to Rs.14, 040, @ Rs.2, 160 per acre. In order to check misutilisation of cash grant the beneficiary families were persuaded to keep at least 80 per cent of the amount in savings deposits in banks and post offices and to withdraw the required amount only at the time of acquisition of assets like construction of house, purchase of farm lands, bullocks etc. for the purpose of their well-being as well as rehabilitation.

In addition to the above assistance, certain other rehabilitation benefits were also provided by the project to the PAPs such as (1) Free transportation of household effects at the time of evacuation to the new place of resettlement, (2) Transit sheds for immediate shelter and house building materials at a concessional price for the families who moved to the resettlement colony set up by the project, and (3) Provision of common facilities and infrastructures, like roads, schools, tanks, wells, tube-wells etc. electricity, community houses, grazing grounds, cremation ground etc in the resettlement colonies.

Displacement and Resettlement Operation

Prior to commencement of displacement of families from the submerged villages, large patches of forestland in Kotpad and Borigumma Tahsil areas have been reclaimed for the purpose of setting up seven resettlement colonies for the displaced families. Essential amenities, like Roads, Schools, Wells, Ponds, etc. have also been provided there in pursuance of the rehabilitation policy.

The Project displaced 3067 families belonging to 50 villages i.e., 48 villages and 2 hamlets whose habitation sites were submersed under the main and subsidiary reservoirs respectively. Of them only 419 families (13.7%), belonging to 18 villages, finally moved to the new resettlement colonies. However, the remaining 2648 families (86%) opted for rehabilitation cash grant because they did not want to resettle in the new colonies. They mostly migrated to the places of their relatives in other villages, while some others, mostly the tribals, moved to hilltops surrounding the reservoir as they did not want to settle in unfamiliar surroundings. By and large, the displaced people swelled the ranks of the unorganized labour. The details of number of families displaced, resettled, and opted for cash grants are given in Table-1.

Table-1- Number of Families Displaced, Rehabilitated, and received Cash Grant in Upper Kolab Project

Category	Number of displaced families	Number of families Rehabilitated in Resettlement Colonies	Number of families preferred to receive Cash Grants
Scheduled Tribes	1,431 (46.66)	195 (13.6)	1,236 (86.4)
Scheduled Castes	435 (14.18)	30 (6.9)	405 (92.1)
Others	1,201 (39.16)	194 (16.2)	1,007 (83.8)
Total	3,067 (100)	419 (13.7)	2,648 (86.3)

Remedial measures to save Cash Grant from misutilisation

As per the rehabilitation policy, Government recommended for keeping 80% of the rehabilitation cash grant in savings deposits in order to check misutilisation by the vulnerable tribals. The Rehabilitation Advisory Committee of the project in pursuance of this policy also recommended for cash payment and savings deposits in respect of cash grant as follows: -

(a) For the 80 families displaced from Badiliguda and Dhemsaguda in 1982 to whom *ex-gratia* grant was paid @ Rs. 5,760/- per family: -

(i)Cash payment	Rs. 760
(ii)Term Deposit (5 years)	<u>Rs.5,000</u>
Total	Rs.5,760

(b) Families displaced after 1983 (@ Rs.14,040/- per family) -

(i)Cash payment	Rs. 540
(ii)Saving Account Pass Book	Rs.5,000
(iii)Term Deposit (5 years)	Rs.2,500
(iv)N.S.C	<u>Rs.6,000</u>
Total	Rs.14,040

The project authorities took some remedial steps to control this situation in response to the Government policy and the recommendation of the Rehabilitation Advisory Committee. Concerned Banks and Post Offices were requested to release money to the displaced persons and compensation holders only after receiving recommendation from the Resettlement Authorities of the project. The beneficiaries were persuaded to utilize the money properly for creation of assets required for restoration of livelihood. It achieved limited success.

It is seen from the above Table that out of total displaced 3,067 families the majority i.e. (2,648) representing 86% have claimed cash grant for self-rehabilitation and only the rest 419 (13.7%) families have moved to the resettlement camps. While there is no doubt that the families resettled in camps with land, house sites and other amenities may eke out a better and happier livelihood, what will be fate of the thousands of landless and homeless displaced families who have received cash grant? However, the project discharged its rehabilitation liabilities towards these families by payment of cash grant and the concerned authorities recommended certain procedures and provisions to check the misutilisation of money as far as possible. But the experience shows that further problems might arise when the money would be misutilised by some families, especially those belonging to scheduled castes and scheduled tribes and they would become paupers.

The Project authorities were of the opinion that it was a hard task to motivate the backward and illiterate people to resettle in the camps against the irresistible attraction of receiving the benefit in hard cash and spending it lavishly for sometime once they knew this alternative was there. The task became harder still when one has to deal with the Sch. Castes and tribals who hardly care for their future and well being other than receipt of money in shape of cash grant.

Observations

The project is located within the Tribal Sub-Plan area, like Koraput where the tribals account for more than 50% of the total population. Majority of the displaced families belong to scheduled castes and scheduled tribes. Gadaba (Bada Gadaba) and Parja (Jodia Parja) represent the bulk of tribals. Dom and Ghasi dominate among the Scheduled Castes while Mali Rana and Paiko castes represent the general castes.

The families belonging to Mali, Rana and Paiko castes are skilled agriculturists and conscious of the value of money. The manner of utilization of money in their case is satisfactory. Some of these families prior to their displacement had the foresight to search far and wide for places where fertile lands and gainful employment opportunities are available for their resettlement. But the STs and SCs, mostly misutilized a large part of money for food and liquor, as they entertained their kith and kin with gifts and presents and purchased gold and other useless items.

Centuries of neglect socio-economic exploitation by prosperous neighbours, vested interests, and unscrupulous Sahukars; coupled with illiteracy and ignorance, have made the tribals backward. The tribals who are not fully conscious of their future as well as the value of money, got large sums as land compensation and rehabilitation assistance. Being mostly non-literate and non-materialistic in values, they could not make proper utilization of the compensation money. The presence of petty businessmen selling commodities like watches, cycles, transistors, jewellery etc. and the emergence of liquor and gambling outlets only made matters worse. At last, they were left with perhaps a transistor radio or a watch, but nothing to sustain them in the future.

Vested interests took full advantage of this opportunity. Since the affected people had to produce some certificates, some of them had to pay very high fees to the lawyers. The middlemen became active to take advantage of the ignorance of gullible tribals about the attending to the official formalities and siphoned off a part of the money. The cunning moneylenders exploited the situation to reckon up past debts and demanded repayment of their dues charging interest at higher rates. Liquor vendors and petty traders had a bumper trade and some amount of the cash grant and compensation found way into their purses. Some unscrupulous elements working in Banks and Post Offices where the compensation money of the displaced families were deposited even realized a share from these people at the time of withdrawals. Further, it was reported that when a large amount was required by the depositors, the bank could not make it available in time, making the hapless PAPs visit the banks several times for withdrawal. It has also been reported that there were instances of mis-recordings in the pass books.

Trauma of Displacement

Displacement should not be seen in spatial context alone as it brings untold misery to the displaced person and his family and it brings in the most serious consequences, invariably involved in the uprooting and dismemberment of social, moral and economic webs of life built over generations. It leads to family disorganization, personality disorders and associated traumatic experiences. Displacement hits the poorest sections most severely. The landless, the artisans rendering manual and personal services, widows and orphan children who could pursue their livelihood as a result of socio-economic interdependence in their natural habitat, are thrown into a situation of insecurity and uncertainty. The worst sufferers are the tribals, who constitute the numerical majority amongst the PAPs. For them, displacement comes as a

deathblow. They live in their natural habitat in intimate symbiotic relationship with their kith and kin drawing nourishment together from land and forest around them. In their natural habitat live their ancestral spirits, who are part and parcel of their existence. Their gods and goddesses are present there who save them from evil spirits and adverse natural and supernatural forces. All components of their life are destroyed and crushed under the bulldozer and earth levelers.

The habitations and kinship circles of these tribal groups displaced by this Project were confined within a small area in and around the project area. Thus any departure from traditional natural habitation dealt a shattering blow to the tribals. Secondly, on account of low educational level and a tradition of a life of comparative exclusiveness and isolation, they found adjustment to any new environment quite difficult. The third important reason was that they depended for their living mostly on agriculture and minor forest produce more than the general population. The rehabilitation programme did not take into account these factors. Finally the Scheduled Tribes being economically the weakest of all communities found it harder than others to settle on new avocations in different sites and settlements.

The displaced tribal families belonged to Gadaba and Paroja tribes, whereas, the tribes living in villages adjacent to the resettlement camps in Boriguma and Kotpad areas of Jeypore subdivision are 'Bhottadas' and 'Omanatyas' with whom they cannot forge social and marital alliances. So for ethnic and other reasons, they did not want to be away from their counterparts living in other unaffected villages in Koraput subdivision. As such they preferred to stay at higher elevation of the hillocks situated in the vicinity of their native villages and even some of them resettled with their kith and kin in unaffected villages. More over, absence of forest environment and lack of immediate employment opportunity in the resettlement colony area are also among other factors responsible for their reluctance to go to these colonies. Moreover, the vested interests played their role well to motivate them against going to camps and to claim the cash grant from which they would siphon a 'lion's share'.

The rehabilitation of those evicted tribals is the most serious aspect of displacement. Forest and natural surroundings were not provided for the oustees in the new resettlement colonies. This lapse would have shattered their economic, social, cultural, and physical moorings. Familiar with a 'Nature-Man-Spirit' complex, they would have been suddenly exposed to 'Building Machine-Material' culture. This upheaval as well as disintegration of a stable society gives rise to problems of adjustment. Hence, the rehabilitation of displaced tribal people requires much advance planning and a peaceful approach. However, the actual process shows that a large number are left without any benefits.

Land provided to the oustees for agricultural purposes in the resettlement colonies is not quite suitable for agriculture and it has also not been reclaimed properly. The promise of irrigation facilities to the resettlers has remained elusive.

The civic amenities provided do not meet the requirement nor are they created, taking the resettlers into confidence. There is also poor maintenance of the civic amenities provided.

Adequate employment opportunities were not given to the oustees in the project construction activities. No serious efforts have been made to provide vocational training and 'after care' treatment to the resettlers was seriously wanting.

No family-oriented development programme for the resettled families has been initiated. Efforts were lacking in meeting the special demand of women and tribal communities.

Multiple displacements have taken place in this area for over decades due to establishment of giant projects like Machhakund, HAL, NALCO and nothing has been done to consider the suffering of the tribals.

There were no NGOs actively trying to help the oustees to overcome the trauma of displacement

Conclusion

The displaced tribals in the Upper Kolab Project found it very difficult to make an adjustment outside their own habitat and ecosystem. The most crucial problem for them is that they did not have their kinsfolk beyond the area and its immediate hinterland from which they had been evicted. Moreover, they are accustomed to an isolated life in a settlement of their own with a great deal of autonomy and independence particularly in respect of their socio-economic and cultural life. The most painful aspect of displacement was that the people who lost their heritage, past cultural moorings and social network with community cohesion were seldom the people who enjoyed the benefit of development. Instead of becoming the beneficiaries of the development for which they had sacrificed so much, they became only and merely hapless victims. Whatever little they received by way of compensation was a poor substitute to the self-sustaining life-support system from which they were uprooted.

Therefore, the entire issue of displacement and rehabilitation must be seen as a human rights problem from the angle of resource losers and not as a relative deprivation, which can be ameliorated by providing a material rehabilitation package. It must be seen as a complex human problem having economic, social, psychological, cultural and spiritual dimensions and must not be seen as a merely administrative issue. Under the above circumstances, the very approach towards rehabilitation needs re-evaluation since at present, human rights are not considered at any stage in the task of rehabilitation.

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ORISSA RESETTLEMENT AND REHABILITATION POLICY 2006

No. 18040-R & REH.-1/2006R.
GOVERNMENT OF ORISSA
REVENUE DEPARTMENT

RESOLUTION

The 14th May 2006

In order to ensure sustained development through a participatory and transparent process, Government have framed a comprehensive resettlement and rehabilitation policy. Basic Objectives of the policy are:-

1. to avoid displacement wherever possible and minimize it exercising available options otherwise,
2. to recognize voices of displaced communities emphasizing the needs of the indigenous communities and vulnerable sections.
3. to ensure environmental sustainability through participatory and transparent process; and
4. to help guiding the process of developing institutional mechanism for implementation, monitoring, conflict resolution and grievance redressal.

With the above objectives in view, Government has been pleased to lay down the following policy guidelines.

Preamble

Government of Orissa has been pursuing various development initiatives to improve the quality of lives. Ensuring social justice being one of the major cornerstones of development, the Government always proactively tries to make sure people's participation in development process. In spite of Government's intention to bring development to the people, development interventions do at times create undesirable consequences. Displacement due to large development projects is one such phenomenon. Government of Orissa has been responding to this problem through various projects specific Resettlement & Rehabilitation Policies and plans. The current intervention of Policy formulation has actually taken note of the lessons learnt through these past policies, which essentially reflects government's genuine spirit of learning and retrospection. The present Policy draws its strength from experiences from the implementation of past policies, best practices in other states and Orissa Government's Industrial Policy Resolution, 2001. Consultation with various direct and indirect stakeholders including civil society of the state has been conducted, and the views of the academicians and specialists in the field of resettlement and rehabilitation have been considered as a part of democratic response of the government in Policy formulation. Limitations of the past policies have been acknowledged and analyzed and a flexible framework has been attempted, which nonetheless demonstrates the dynamism of the government. Unlike many other

policies, there is a strong focus on the modalities of implementation of this Policy that makes it a vibrant instrument to promote sustainable development in the state.

1 Short Title, application and Commencement

- (i) This Policy may be called as "The Orissa Resettlement and Rehabilitation Policy, 2006" and shall come into effect from the date of its publication In the Orissa Gazette.
- (ii) It shall apply to all those projects, for which acquisition of private land under Land Acquisition Act, 1894 or under any other law's for the time being in force or proclamation inviting objections in case of Government land is notified.
- (iii) This shall also be applicable to all projects for which land is acquired through negotiation under the provisions of this Policy.

2 Definitions - In this Policy unless the context requires otherwise:

- (a) "**Agricultural Land**" means land used or capable of being used for raising of crops, grass or garden produce, horticulture, dairy farming, fish farming, breeding and keeping of live stock and used as pasture or for any other purpose where such use is ancillary to agriculture.
- (b) "**Compensation**" has the same meaning as assigned to it under the Land Acquisition Act, 1894.
- (c) "**Cut-off Date**" for the purpose of compensation shall be the date on which the notification declaring the intention to acquire land under the relevant Act or under the provisions of this Policy is published.

Note: For the purpose of declaring eligibility for R&R benefits, the list of displaced families, will be updated on the 1st of January of the year in which physical displacement is scheduled to take place provided that those families who move into the project area after determination of the "cut-off- date", will not be eligible for any benefit.

- (d) "**Displaced Family,**" means a family ordinarily residing in the project area prior to the date of publication of notification under the provisions of the relevant Act and on account of acquisition of his/her homestead land is displaced from such area or required to be displaced.
- (e) "**District Compensation Advisory Committee (DCAC)**" means the Committee constituted by Government under relevant provisions of this Policy.
- (f) "**Family**" means the person and his or her spouse, minor sons, unmarried daughters, minor brothers or unmarried sisters, father, mother and other members residing with him or her and dependent on him or her for his / her livelihoods.

Note: Each of the following categories will be treated as a separate family for the purpose of extending rehabilitation benefits under this Policy.

- (i) A major son irrespective of his marital status.
- (ii) Unmarried daughter / sister more than 30 years of age.
- (iii) Physically and mentally challenged person irrespective of age and sex; (duly certified by the authorized Medical Board). For this purpose, the blind/ the deaf/ the orthopedically handicapped/ mentally challenged

person suffering from more than 40% permanent disability will only be considered as separate family.

- (iv) Minor orphan, who has lost both his/her parents.
 - (v) A widow or a woman divorcee.
 - (g) **“Government”** means the Government of Orissa in Revenue Department.
 - (h) **“Land Acquisition Officer (LAO)”** means an Officer appointed by the Government by an order to perform duties as such under Land Acquisition Act 1894, for the project and shall also include a Special Land Acquisition Officer.
 - (i) **“Non-Government Organization (NGO)”** means any organization duly registered under the Society Registration Act 1860 and functioning for public cause outside the Government.
 - (j) **“Original Family”** means the family, which at the time of Notification under provisions of relevant Act(s) is living together in a single household with a common kitchen.
 - (k) **“Periphery”** means the district(s) in which the project is geographically situated.
 - (l) **“Project”** means the construction, extension or improvement of any work such as reservoir, dam, canal, highway, industrial plant, factory, mining, national park, sanctuary, etc. as notified by the Government from time to time and includes its offices and establishment within the State.
 - (m) **“Project area”** for the purpose of extending R&R benefits, means the land, which is acquired / alienated / purchased for establishment any project.
 - (n) **“Project Director Resettlement & Rehabilitation (PD-RR)”** means an Officer appointed by the Government by an order to perform such duties under R&R Policy of the State, for the project.
 - (o) **“Rehabilitation & Periphery Development Advisory Committee (RPDAC)”** means the committee constituted by the Government under relevant provisions of this Policy by Government to look after rehabilitation and periphery development matters.
 - (p) **“State Level Compensation Advisory Committee”** means a committee constituted by Government under the relevant provisions of this Policy.
 - (q) **“State Level Council on Resettlement & Rehabilitation (SLCRR)”** means the council headed by the Chief Minister constituted by a notification of Government to that effect.
- 3 **Policy Objectives** - Objective of the Policy of the Government in general shall be:
- (a) To avoid displacement where possible and minimize it, exercising available options otherwise.
 - (b) To facilitate resettlement/ rehabilitation process:
 - (i) Recognizing voices of the displaced communities (emphasizing the needs of the indigenous communities and vulnerable sections); and
 - (ii) Ensuring environmental sustainability through participatory and transparent process; and
 - (c) To help guiding the process of developing institutional mechanisms for implementation, monitoring, conflict resolution and grievance redressal.

4 Survey and Identification of Displaced Families -

- (a) Ordinarily within two months of publication of notice for acquisition of land for the development project, a socio-economic survey would be undertaken in the manner to be decided by the Government for identification of displaced families and for preparing their socio- economic baseline. .
- (b) The list of displaced families shall be placed before and approved by the respective RPDAC.
- (c) The list of displaced families so approved will be displayed at Collectorate / Block/ Tehsil / Panchayat and other conspicuous locations for wider dissemination.
- (d) RDC shall realistically assess the requirement of land for acquisition before issue of notification under the relevant law(s) or under the provisions of this Policy.
- (e) A socio-cultural, resource mapping and infrastructural survey shall be conducted by an independent agency to be identified by the Government to ensure proper benchmarking. It will be the responsibility of the concerned Project Authority to conduct the survey within two months of notifying the intention to acquire land under the provisions of the relevant law(s) or under the provisions of this Policy.
- (f) A comprehensive communication plan for awareness creation shall be formulated and executed in the affected area. The detailed modalities of this exercise that include involvement of civil society will be notified by the Government. The cost of implementation of this communication plan shall be borne by the project(s).
- (g) Gram Sabha or Panchayats at the appropriate level shall be consulted in scheduled areas before initiating Land Acquisition Proposal.
- (h) Normal development programmes implemented by different agencies should be dovetailed with resettlement and rehabilitation package in resettlement habitats and made available to the displaced community on a priority basis.
- (i) An identity card shall be issued to each displaced family in a manner prescribed by Government.

5 Project Types

For the purpose of R&R benefits under this Policy, Development Projects are classified into the following types:

- A. Industrial Projects;
- B. Mining Projects;
- C. Irrigation Projects, National Parks and Sanctuaries;
- D. Urban Projects and Linear Projects like roads and railways, power lines; and
- E. Any other Projects

6 Land Acquisition and Payment of Compensation/ Award

Procedure prescribed by Government shall be followed in acquiring land and other property and for payment of compensation / award. All compensation money due to the "displaced families" shall be paid through account payee cheques.

As regards "public property" like School Building, Club House, Hospital, Panchayat Ghar, electrical installation, place(s) of worship, value of such property affected shall be deposited with the concerned District Collector. Either Project or District Administration shall take up construction at the place as would be determined in consultation with representatives of displaced persons.

The Project proponent may opt for direct purchase of land on the basis of negotiated price after issue of notification requiring acquisition of land under-relevant Act(s). If acquisition of land through direct purchase fails, other provisions of the relevant Act may be invoked.

Land not utilized by the Project within the prescribed time limit and for the required purposes shall be resumed.

7 Resettlement and Rehabilitation Plan

Based on the list approved by Government and option of displaced families, Resettlement and Rehabilitation Plan shall be prepared by the Collector for resettlement and rehabilitation after due consultation with displaced communities in the manner determined by the Government. Such plan should address the specific needs of the women, vulnerable groups and indigenous communities. The same will be placed before the RPDAC for approval.

While preparing the plan, the following aspects should be taken into consideration:

- (i) Site for the resettlement habitat shall be selected by the RPDAC in consultation with the displaced families.
- (ii) No physical displacement shall be made before the completion of resettlement work as approved by the RPDAC. The certificate of completion of resettlement work will be issued by the Collector.
- (iii) Gram Sabha shall be consulted.
- (iv) Where there is multiple displacement additional compensation amounting to 50% of the normal compensation payable, shall be paid to each displaced family over and above the normal compensation in form of *ex-gratia*.
- (v) Provisions relating to rehabilitation will be given effect from the date of actual vacation of the land.
- (vi) Project Authority shall abide by the provisions laid down in this Policy and the decisions taken by RPDAC from time to time provided they are within the ambits of the approved Policy of the Government.
- (vii) District Administration and Project Authorities shall be jointly responsible for ensuring that the benefits of R&R reach the target beneficiaries in a time bound manner.
- (viii) Record of Rights of the land and houses allotted to the displaced persons should be handed over to them by the District Administration while resettling them in the Resettlement habitat. The District Administration shall take steps for immediate declaration of the new Resettlement habitat as a Revenue Village if it is not a part of an already existing Revenue Village.
- (ix) Steps will be taken by the Project Authorities for acclimatization of the

resettled people in new habitat including development of cordial social relationship between the host and resettled communities and to ensure as far as practicable overall improvement of standard of living of the displaced families.

- (x) Subject to the details regarding provision of employment as enunciated elsewhere in the Policy the project authorities shall give preference in the matter of employment, both direct and indirect as well as through contractors employed by them, for execution, operation and maintenance of the project, to local persons as per the detailed guidelines issued by the State Government from time to time.

8 Rehabilitation Assistance

Rehabilitation Assistance will be specific to the 'type' of project as mentioned at para 5 above, because of difference in nature of projects, their source(s) of funding and magnitude of displacement / impact.

1. Type A: Industrial Projects

(a) **Employment:** Displaced families shall be eligible for employment, by the project causing displacement. For the purpose of employment, each original family will nominate one member of such family. However, the families as mentioned at para 2 (f), (i), (ii), (iii), (iv), or (v) will not be considered separately for employment. Any one from among these categories may, subject to eligibility, be nominated by the family as defined in Para 2 (f) for the purpose of employment. The project proponent will give preference to the nominated members of the displaced / other families in the matter of employment. The order of preference will be as follows:

- (i) Displaced families losing all land including homestead land,
- (ii) Displaced families losing more than 2/3rd of agricultural land and homestead land,
- (iii) Displaced families losing more than 1/3rd of agricultural land and homestead land,
- (iv) Displaced families losing only homestead land but not agricultural land,
- (v) Families losing agricultural land but not homestead land,

The Project authority will make special efforts to facilitate skill up-gradation of the nominated member of the displaced family to make him/her 'employable' in their project.

1. In case of nominees of displaced families eligible for employment otherwise, the upper age limit shall be relaxed by five years.
2. Project authorities should notify their employment capacity sufficiently in advance.
3. As far as practicable, the objective shall be to provide one member from each displaced family as mentioned above with employment in the project. However, where the same cannot be provided because of reason to be explained in writing, cash compensation as mentioned below shall be provided to the displaced families. Displaced families, who do not opt for employment/ self-employment as mentioned in sub

para (a) and (b), shall be provided by the Project authority with one time cash assistance in lieu of employment at the scale indicated below:

Categories of families referred to in clauses (i) to (v) of para 2 (f) shall not be considered separately for employment in the project. However, they will be paid one time cash compensation in lieu of employment.

Provided that if any industry is willing to offer employment to more than one member of a family, it may do so in lieu of one-time cash assistance.

Displaced/ other families who are eligible to be considered for employment and families defined under clause (i) to (v) shall be provided with one time cash assistance in lieu of employment/ self-employment in the scale indicated below:

Sl. No.	Families under category as per sub-para (a) above	Amount of one time cash assistance (Rs. in lakhs)
(i)	Displaced Families coming under category (i)	5.00
(ii)	Displaced Families coming under category (ii)	3.00
(iii)	Displaced Families coming under category (iii)	2.00
(iv)	Families coming under category (iv) and (v)	1.00

(b) Training for Self-employment: Project authority under the guidance of the Collector concerned will make adequate arrangement to provide vocational training to at least one member of each displaced family so as to equip him/her to start his/her own small enterprise and refine his/her skills to take advantage of new job opportunities. For those engaged in traditional occupations/ handicrafts/ handlooms, suitable training shall be organized at the cost of project authority to upgrade their existing skills.

(c) Convertible Preference Share: At the option of the displaced family and, subject to the provisions of relevant law(s) in force for the time being, the project authority may issue Convertible Preference Share(s) or Secured Bond(s) up to a maximum of 50% out of one time cash assistance as mentioned in sub-para (a) above.

(d) Provision for homestead land: Subject to availability, each displaced family will be given at least 1/10th of an acre of land free of cost in a resettlement habitat for homestead purpose.

(e) Assistance for Self-relocation: Each of the displaced family who opts for self-relocation elsewhere other than the Resettlement habitat shall be given a one time cash grant of Rs. 50, 000/- in lieu of homestead land.

(f) House Building Assistance: Besides, Project authority shall construct house for each of the displaced families in the resettlement habitat or provide house building assistance of Rs. 150,000/- to each of the displaced families settling in the Resettlement habitat or opting for self relocation elsewhere.

(g) Shops and Service Units: Project authorities will also construct shops and service units at feasible locations at their own cost, which will be allotted

in consultation with Collector to project displaced families opting for self-employment. While allotting such units, preference will be given to physically challenged persons and members of displaced SC & ST families.

II. Type B: Mining Projects

(a) **Employment:** Displaced and other affected families shall be eligible for employment, by the project causing displacement. For the purpose of employment, each family will nominate one member of the family. The project proponent will give preference to the nominated members of the displaced and other affected families in the matter of employment. The order of preference will be as follows:

- (i) Displaced families losing all land including homestead land,
- (ii) Displaced families losing more than 2/3rd of agricultural land and homestead land,
- (iii) Families losing all agricultural land but not homestead land,
- (iv) Displaced families losing more than 1/3rd of agricultural land and homestead land,
- (v) Displaced families losing only homestead land but not agricultural land,
- (vi) Families losing agricultural land in part but not homestead land.

The Project authority will make special efforts to facilitate skill up-gradation of the nominated member of the displaced family to make him/her 'employable' in their project.

1. In case of nominees of displaced families eligible for employment otherwise, the upper age limit shall be relaxed by five years.
2. Project authorities should notify their employment capacity sufficiently in advance.
3. As far as practicable, the objective shall be to provide one member from each displaced family as mentioned above with employment in the project. However, where the same cannot be provided because of reason to be explained in writing, cash compensation as mentioned below shall be provided to the displaced families. Displaced families, who do not opt for employment/self-employment as mentioned in sub para (a) and (b), shall be provided by the Project authority with one time cash assistance in lieu of employment at the scale indicated below:

Sl. No.	Families under category as per sub-para (a) above	Amount of one time cash assistance (Rs. In lakhs)
(i)	Displaced Families coming under category (i)	5.00
(ii)	Displaced Families coming under category (ii)	3.00
(iii)	Displaced Families coming under category (iii)	2.00
(iv)	Families coming under category (iv), (v), and (vi)	1.00

- (b) **Training for Self-employment:** Project authority under the guidance of the Collector concerned will make adequate arrangement to provide vocational training to at least one member of each displaced family so as to equip him/her to start his/her own small enterprise and refine his/her skills to take advantage of new job opportunities. For those engaged in traditional occupations/ handicrafts/ handlooms, suitable training shall be organized at the cost of project authority to upgrade their existing skills.
- (c) **Convertible Preference Share:** At the option of the displaced family the project authority may issue convertible preference share upto a maximum of 50% out of the one-time cash assistance as mentioned in sub para (a) above.
- (d) **Provision for homestead land:** Subject to availability, each displaced family will be given at least 1/10th of an acre of land free of cost in a resettlement habitat for homestead purpose.
- (e) **Assistance for Self-relocation:** Each of the displaced family who opts for self-relocation elsewhere other than the Resettlement habitat shall be given a one-time cash grant of Rs.50,000/- in lieu of homestead land.
- (f) **House Building Assistance:** Besides, Project authority shall construct house for each displaced families in the resettlement habitat or provide house building assistance of Rs. 1,50,000/- to each of the displaced family settling in the Resettlement habitat or opting for self relocation elsewhere.
- (g) **Shops and Service Units:** Project authorities will also construct shops and service units at feasible locations at their own cost, which will be allotted in consultation with Collector to project displaced families opting for self-employment. While allotting such units, preference will be given to physically challenged persons and members of displaced SC & ST families.

III. *Type C: Water Resources / National Parks and Sanctuary*

Rehabilitation Package for Displaced family (DF)

- (a) **Homestead land @ 0.10 acre** in Rehabilitation habitat or cash equivalent @ Rs. 50,000/- to each displaced family opting for self-relocation elsewhere.
- (b) **House Building Assistance:** Rs. 1,50,000/- to each displaced family, which includes cattle shed. This will be admissible to all displaced families whether settling in a Resettlement Habitat or elsewhere.
- (c) **Assistance for Agricultural Land:** Each Displaced Family belonging to ST category shall be provided two-and-a-half acres of irrigated agricultural land, or five acres of non-irrigated agricultural land.

Each Displaced Family belonging to all other categories shall be provided two acres of irrigated agricultural land, or four acres of non-irrigated agricultural land.

In case of non-availability of land, cash equivalent will be provided @ of Rs. 1,00,000/- per acre of irrigated land and Rs.50,000/- per acre of non-irrigated land, including the cost of reclamation or at the rate decided by the Government from time to time.

- (d) **Registration cost** of land up to 5 acres of un- irrigated land or two and half acres of irrigated land in case of indigenous households or 4 acres of un- irrigated land or 2 acres of irrigated land for other displaced households who opt for cash based rehabilitation in lieu of land shall be paid by the project authority within a period not exceeding five years from the date of displacement.

IV. Type D: Urban Projects and Linear Projects

Each displaced Family will get:

- (a) **Homestead land** @ 1/10th of an acre in rural area and @ 1/25th of an acre in urban area or cash equivalent of Rs.50,000/- preferably near growth centers like land by the side of roads and important junctions, land by the side of railway stations etc., subject to availability. If required, project authority may acquire such suitable land under the relevant Act for the purpose.
- (b) **House Building Assistance:** Rs. 1,50,000/- to each displaced family will be admissible whether settling in a Resettlement Habitat or elsewhere.
- (c) If house/homestead land of any landholder is acquired for linear project or if there is total displacement due to acquisition for such project, the project authority shall provide employment to one of the members of such displaced family in the project. Wherever RPDAC decides that provision of such employment is not possible, one time cash assistance as decided by the Government will be paid by the project authority.

V. Type E: Any other Projects

Government may issue separate Policy guidelines for any other projects not covered above specifying R & R packages to be extended to displaced families.

9 Benefit to landless & homestead-less encroachers common to all categories

- (a) An encroacher family, who is landless as defined in the Orissa Prevention of Land Encroachment Act, 1972, and is in possession of the encroached land at least for a period of ten years continuously prior to the date of notification under relevant law(s) declaring intention of land acquisition will get *ex-gratia* equal to compensation admissible under the Land Acquisition Act, 1894 for a similar category of land to the extent of land under his/her physical possession up to a maximum of one standard acre, if the encroachment is unobjectionable.

While determining the extent of land for such compensation the *rayati* land held by him/her is to be taken into account.

- (b) An encroacher family, who is homestead less as defined in the Orissa Prevention of Land Encroachment Act, 1972 and is in possession of the encroached land at least for a period of ten years continuously prior to the date of notification under relevant law(s) declaring intention of land acquisition will get *ex gratia*, equal to compensation for the similar category of homestead land, against the encroached homestead land up to a maximum of 1/10th of an acre in rural areas or 1/25th of an acre in urban areas, if the encroachment is unobjectionable. While determining the extent of land for such compensation the homestead land held by him/her is to be taken into account. The *ex-gratia* will be in addition to the actual cost of structures thereon. If the encroachment is found to be objectionable, (s)he will be entitled to the cost of structure only.

10 Other Assistance Common to all categories of projects

- (a) **Maintenance Allowance:** In order to ensure timely vacation, an allowance of Rs.2,000/- per month per displaced family shall be provided on vacation of land/house for a period of one year from the date of vacation as determined by the Collector concerned.
- (b) **Assistance for Temporary Shed:** An assistance of Rs.10,000/- shall be provided to each displaced family.
- (c) **Transportation Allowance:** Transportation allowance of Rs.2,000/- or free transportation to the resettlement habitat or their new place of inhabitation, shall be provided to each displaced family by the Project Authority.

Provided that State Government in Revenue Department shall review and may revise the rate if necessary, once every two years basing on the index point.

11 Additional provisions for assistance

Notwithstanding anything contained elsewhere in the Policy, the Government or the Project Authority may extend any additional benefits and provisions to the displaced families keeping in view the specific nature of displacement.

12 Special benefits to displaced indigenous families and primitive tribal groups

- (a) While developing the resettlement plans, the socio-cultural norms of indigenous and primitive tribal groups will be respected.
- (b) Each displaced family of indigenous category shall be given preferential allotment of land.
- (c) As far as practicable, indigenous communities should be resettled in a compact area close to their natural habitat.
- (d) Indigenous displaced families resettled outside the district shall be given 25 percent higher R&R benefits in monetary terms.

13. Indexation of Rehabilitation Grant

Rehabilitation grant will be indexed to the Wholesale Price Index (WPI) with 01.04.2006 as the reference date and will be revised by the Government once in every two years thereafter on the basis of WPI.

14. Periphery Development

The Project authorities shall be responsible for periphery development as decided by the RPDAC within the guidelines issued from time to time by the State Government.

15. Compensation Advisory Committee

Government in Revenue Department may constitute a District Compensation Advisory Committee (DCAC) under the chairmanship of the Collector to determine negotiated price. Adequate representation will be given to women and indigenous communities (wherever applicable) in the committee.

If any dispute arises on recommendation of the DCAC, the matter will be referred to the State level Compensation Advisory Committee (SCAC) chaired by the Member-Board of Revenue whose decisions shall be final and binding on all concerned. The

composition of this state level Compensation Advisory Committee will be notified by the Government.

16. Rehabilitation and Periphery Development Advisory Committee (RPDAC)

In order to encourage participation of displaced people and their elected representatives in implementation and monitoring of R&R package, to oversee and monitor periphery development, the Govt. may constitute a Rehabilitation-cum-Periphery Development Advisory Committee (RPDAC) for each or a group of projects falling in one district. The detailed composition of the Committee shall be notified by the Government and it may include people's representatives, one or two leading NGOs of the affected area and select Government officers, and any other persons to be notified by the Government. Adequate representation will be given to women and indigenous communities (wherever applicable) in the committee. Chairman of the committee will be at liberty to co-opt members for efficient discharge of its functions.

17. State Level Council on Resettlement and Rehabilitation (SLCRR)

At the State level, there will be a Council headed by the Chief Minister to advise, review and monitor implementation of Resettlement and Rehabilitation Policy. The Council may comprise of Ministers, select representatives of the people, leading social activists, academicians and experts of national and international repute and senior officials of the Government.

18. LA and R&R Structure

(a) State level

A Directorate of R&R will be constituted to discharge and oversee the implementation of the R&R Policy. Detailed structure and functions of this Directorate will be notified by the Government

(b) District / Project Level

- i. Depending on magnitude of the RR works at the project level, there may be a Project Director, Resettlement and Rehabilitation (PD-RR), who shall be assisted by such other officers as Government may decide. The PD-RR shall be the Chief Coordinating Officer between all the line departments in the matter of resettlement and rehabilitation. He will be responsible for implementation of the Policy and timely execution of R&R works under the over all supervision and guidance of the Collector and the Directorate of R&R.
- ii. Where R&R work is of lesser magnitude, the same can be undertaken by the LAO of the Collectorate.

19. Budgetary Provision and Allotment

Wherever required, adequate budget provision will be kept towards land acquisition and R&R establishments to ensure effective implementation of R&R Policy. The Directorate of R&R should submit such budgetary estimate/ works by 1st January of every year. Government will ensure timely release of allotment to the concerned authorities.

20. Grievance Redressal Mechanism

An effective Grievance Redressal Mechanism will be set up at District and Directorate level to deal with grievance of the project displaced people relating to land acquisition, resettlement and rehabilitation. Besides, all the project authorities shall be asked to set up an effective Grievance Redressal Mechanism relating to their project. Effective participation of the displaced communities will be ensured in the process.

21. Assessment of Policy Implementation

Government may from time to time undertake assessment of the implementation of this Policy through appropriate agencies.

22. Interpretation and Amendment

- (a) Any issues or doubts regarding this Policy shall be referred to Government in Revenue Department whose decision shall be final and binding on all concerned.
- (b) Government in Revenue Department may from time to time amend the provisions as contained in this Policy as considered necessary.
- (c) Government in Revenue Department shall have the powers to issue guidelines and instructions from time to time to operationalise this Policy.

**GOVERNMENT OF ORISSA
REVENUE DEPARTMENT**

ORDER No. -R & REH.- 89/06 / 6522 /R.

Dated Bhubaneswar the 3rd May 2006

KALINAGANAGAR R&R PACKAGE:

As a measure of benevolent, Government had been pleased to allow ex-gratia amounting to Rs.25,000/- (Rupees twenty five thousand) per family who lost land due to coming up of new development projects in Kalinganagar integrated Industrial Complex at Duburi Jajpur vide this Department Order no. 45425/F dated 18.11.2005. While declaring such ex-gratia, the landowners who lost their land due to acquisition of land for Neelacha Ispat Nigam Limited (NINL) and Mid Eastern Steels Company (MESCO) were not given this benefit.

Now after careful consideration, Government have been pleased to decide to revise the quantum of ex-gratia. Further it has also been decided that such ex-gratia benefits shall be extended to all hand lesor families relating to Kalinganagar Integrated Industrial Complex including the hand owners who lost their land due to acquisition of land for NINL and MESCO.

It is hereby ordered that:-

1. Each such family who has lost land due to acquisition of land for development projects in Kalinganagar Integrated Industrial Complex at Duburi in the district of Jajpur shall get overall ex-gratia amounting to Rs.50,000/- (Rupees fifty thousand) per acre only including ex-gratia amount already received, if any. It is clarified that at the time of payment the above ex-gratia, the amount shall be reduced by the amount of ex-gratia already received by a family under the earlier orders issued by Government from time to time.
2. The amount of ex-gratia as calculated and intimated by the Collector, Jajpur, shall be deposited by the Project Authorities concerned with the Collector, Jajpur within 15 days of receipt of such intimation.
3. The ex-gratia amount shall be disbursed in such manner that the total amount of money received by a family including the amount of compensation received by them under Land Acquisition Act, 1894 and ex-gratia paid to them together shall not be less than Rs.1,00,000/- (Rupees one lakh) per acre. In other words, the minimum compensation per acre of land including the ex-gratia amounts earlier announced and the additional ex-gratia of Rs.25,000/- currently sanctioned, shall be at least Rs.1,00,000/- (Rupees one lakh) per acre.
4. The ex-gratia amount paid shall be over and above the compensation and all other resettlement and rehabilitation benefits as admissible and extended to the families concerned.
5. This order will take immediate effect.

BY ORDER OF GOVERNOR

PRINCIPAL SECRETARY TO GOVERNMENT

GOVERNMENT OF ORISSA
REVENUE DEPARTMENT

ORDER No. -R & REH.- 89/06 / 17122 /R.

Dated Bhubaneswar the 6th May 2006

Sub: Enhancement of House Building Assistance benefits in respect of eligible displaced families relating to Kalinganagar Integrated Industrial Complex at Duburi in the district of Jajpur.

In Para 11 of this Department order No.45425 dated 18.11.2005 it was laid down that all the companies setting up their industrial projects after NINL and MISL in Kalinganagar shall provide House Building assistance of Rs.50,000/- (Rupees fifty thousand) only to each of the displaced families. However, in the Orissa Resettlement and Rehabilitation Policy, 2006, the quantum of house building assistance provided for displaced families is Rs.1,50,000/- (Rupees one lakh fifty thousand) only.

Taking into consideration the above provisions in the Orissa Resettlement and Rehabilitation Policy, 2006 and as a measure of benevolence, Government have now been pleased to enhance the amount of house building assistance paid to each displaced family to Rs.1,50,000/- (Rupees one lakh fifty thousand) only it is further ordered that this benefit shall now be available for displaced families relating to all projects which have been set up or will be set up in Kalinganagar Integrated Industrial Complex in Duburi including NINL and MESCO.

Para 11 of this Department Order No.45425/R dated 18.11.2005 stands modified accordingly.

BY ORDER OF GOVERNOR

Sd/-

PRINCIPAL SECRETARY TO GOVERNMENT

Government of Orissa
Revenue and Disaster Management Department

No. R & REH-89/06 (Pt) 22931/R Dated 19th June 2006

From

Shri T.S Chakraborty,
Deputy Secretary to Government

To

The Collector, Jajpur

Sub: Payment of enhanced ex-gratia and House Building assistance to the eligible displaced families relating to Kalinga Nagar Integrated Industrial Complex at Duburi in the district of Jajpur.

Ref: 1.Rev. Deptt. order No. 16522/R dated. 3.5.06
2.Rev. Deptt. order No. 17122/R dated 6.5.06

Sir,

In inviting reference to this Department order Nos. On the subject cited above, I am directed to say that after careful consideration, Government have been pleased to issue following clarifications for smooth implementation of the R & R Package sanctioned from time to time.

1. The expenses to be incurred on account of paying ex-gratia as enhanced vide this Deptt. order No. 16522/R dated 3.5.06 shall be borne by IDCO.
2. Expenses to be incurred for payment of house building assistance as enhanced vide this Deptt. order No. 17122/R dated 6.5.06 shall be borne by the concerned industry.
3. In this connection it is further clarified that the benefits extended in Paragraph-10 of the Orissa Resettlement and Rehabilitation policy, 2006 will also be applicable in respect of persons where land acquisition proceeding have already been initiated under section-4 (I) of LA Act, but they have not yet physically shifted from the village. The concerned industries will bear the disbursements towards such assistance to be provided to the displaced families.

You are therefore, requested to kindly bring it to the notice of all concerned and take appropriate follow up action accordingly in the matter under intimation to Government.

Yours faithfully
Sd/-

Deputy Secretary to Government

**GOVERNMENT OF ORISSA
REVENUE DEPARTMENT**

ORDER No. -R & REH.- 123/05 / 16516 /R.

Dated Bhubaneswar the 3rd May 2006

POSCO R&R PACKAGE:

Sub: Special Resettlement and Rehabilitation benefits for families to be displaced by the proposed integrated steel plant project of POSCO (India) Ltd near Paradeep.

Government, after careful consideration, have decided that in addition to the benefits available in Orissa Resettlement and Rehabilitation Policy, 2006, the following special rehabilitation and resettlement facilities for displaced persons affected by the proposed integrated steel plant project of POSCO (India) Ltd, near Paradeep.

Persons who are engaged in betel vine cultivation in the Government land proposed to be allotted for the project would be compensated @ Rs.6,000/- (Rupees six thousand) only per decimal of such betel vine areas, subject to a minimum compensation of Rs.10,000/0 per unit of betel vine cultivation.

BY ORDER OF GOVERNOR
Sd/-

PRINCIPAL SECRETARY TO GOVERNMENT

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6. THE KONDH OF ORISSA (Revised and enlarge edition) Dy.-8, p.p. -440, hard cover, 2006.

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