

Resettlement Debate: Continuing the 'Historical Injustice'

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When the process of state formation or nation-building began 58 years ago with India's independence, more than 560 states became one nation in one stroke, losing their own independent identity. This making of one nation out of many through the unification process, however, poses a problem for the Indian democracy today. Some states which existed before Independence still have their own culture, ethos and identity. Any attempt at their political, social, economic and cultural integration with the so-called mainstream meets with strong reactions and even violent resistance.

Tribal movements across the country are indicative of their growing disillusionment with the aggressive, state-sponsored encroachment of their right to live in peace and with dignity in accordance with the Nehruvian *Panchasheela* during the formative years of Indian democracy.¹ The greater the state intrusion, the more powerful the tribal response has been in terms of self-determination and identity assertion. The crux of the conflict seems to be the control of resources. The tribals assert that they have been unjustly deprived and dispossessed of their natural resources – land, water, and forest – adversely affecting their socio-cultural fabric, which they claim to have cherished prior to the unification of India. The Indian Government's promises to safeguard their identity and interests have proven to be hollow. The proponents of capitalism, who were earlier part of the Nehruvian socialist structure, seem to have now come out in the open against those on the periphery of Indian society. In other words:

1 The principles of *Panchasheela* (five pillars) spelt out the tribals' development in terms of their own genius without any outside imposition, respect for tribal right in land and forest, building them up for administration and development, working through their own social and cultural institutions instead of multiplying schemes and, finally, judging results not by the amount of money spent but by the improvement in the quality of life.

Those proponents of liberalization who promote 'austerity measures' (meaning sacrifices by the poor by accepting unemployment) for future prosperity, hark back to the ruthless steps taken by the newly emerging capitalist classes in 18th-19th century Europe. In England for instance, they could oust farmers from their lands by notorious procedure of 'enclosures' reducing them to hired labourers for capitalist development (Banerjee, 1997:24).

The present paper is a critique of the inadequacy of resettlement policies as the fall-out of a faulty model of development. The main argument of the paper is that when capital expands, it takes over everything, including all natural and human resources, and pushes out everything that comes in the way of profiteering – visible in the process of displacement without resettlement. The concept of resettlement seems to be only a paper tiger without serious commitment to implementation. The paper presents a case study of the problems of resettlement in the context of the Pachwara coalmining in Jharkhand, and then analyses the study and makes certain recommendations.

PACHWARA MINING PROJECT AND RESETTLEMENT POLICY

In May 2002, a coalmining project was allotted to the Punjab State Electricity Board (PSEB) in the Scheduled Tribal Area under the Amarapara block of Pakur² district in Jharkhand, eastern India. The Dumka³ unit of the Peoples' Union for Civil Liberties (PUCL) headed by Mr P. A. Chacko, Secretary, PUCL Dumka unit, and three of its members met Mr Dinanath Sharan, the officer representing PSEB, at his office in Amarapara on 25 February 2003. The PUCL Enquiry Report on 'Pachwara Coal-mining Project' was released on 24 March 2003, at Dumka after intensive investigation and research, and it disclosed some disturbing developments.

Mr Sharan was the PSEB representative, posted at Amarapara in the capacity of Executive Officer to execute the project on behalf of PANEM Coal Mines Ltd. The PSEB is a 'public utility service' wholly owned by the Government of Punjab. By a letter of the Ministry of Coal and Mines (Department of Coal),⁴ the Pachwara central block was allotted to the

2 Pakur is one of the six districts of Santhal Pargana Commissionary.

3 Dumka is a district in Santhal Pargana which is also considered as the second capital of Jharkhand.

4 Letter no. 47011/1(4) 2000-CPAM, dated December 26, 2001

PSEB for captive mining for supply of coal exclusively to its own power plants. The PSEB formed a joint venture company, PANEM Coal Mines Ltd, with the Eastern Minerals and Trading Agency (EMTA) to produce, supply, transport and deliver coal from the Pachwara mines, exclusively to the PSEB thermal power stations.

The Government has surveyed and delineated the whole area, covering 41 square kilometres (km), with demarcated divisions labeled as north, south and central blocks. The Pachwara central block given to the PSEB measures approximately 13 square km, covering nine revenue villages (mouzas), such as Singhdehri, Taljhari, Kathaldih, Chilgo, Bisunpur, Dangapara, Amjhari, Liberia and Pachwara. It is estimated that the block holds 562 million tons of coal reserve. It is proposed that in an area of approximately 13 square km, opencast mining will be done in 11 square km. The following descriptions of land will be affected/utilized by the block:

Raiyati ⁵ land	640 hectares (ha)
Forest	360 ha
Homesteads	2 ha
<i>Gochar</i> (grazing) land	22 ha
Waste land	15 ha
<i>Nullah</i> (rivulet), river	34 ha
Road	28 ha

The central block envisages 44 years of opencast mining to extract 289 million tons of coal. The Jharkhand Government is expected to get royalty at the rate of Rs 100 crore per year. It is also estimated that within the next 10-15 years 250 families will be displaced and "afterwards possibly more".

When the PUCL team met Mr Kamal Kishore Sone, Deputy Commissioner (DC) of Pakur on 11 March 11, he emphasised that development was the need of the hour. In his view, there was nothing wrong in the state acquiring land, invoking the Land Acquisition Act of 1894 for the specific national purpose. Land could also be given on lease, he felt. As DC he was reported to have given clearance to leaseholds for stone quarrying on

5 Primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners; and includes the successors-in-interest of persons who have acquired such a right, but does not include a *mundari khunt-kattidar*. *Mundari* is one who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family (Sinha, 2003:10-2).

raiya lands in Pakur, which he found perfectly legal. The Samatha judgment (1997)⁶ puts a bar on such transfers to non-tribals in Scheduled Tribal Areas. But for him, the Balco judgement⁷ overruled the Samatha judgment. Mr Sone also seemed to think that those resisting the 'development' process were misled, and that if they had any grievance, they should approach him directly. It should be noted that the project-affected families (PAFs) would have to travel 60 km if they were to meet the DC, foregoing their daily work and wages.

The people of Pachwara were up in arms, as can be seen from the angry reaction of Pargana Bijoi Hembrom, the head of a cluster of villages under Alubera Bungalow:

We have been living here for long. Our forefathers Sido and Kanhu and their followers sacrificed their lives and won for us freedom from oppression and gave us an identity.... And all of a sudden, like a bolt from the blue, we hear that someone is coming to enter our premises and oust us as if we are encroachers and criminals. Can any one do that? We shall live here and shall die here. No power on earth can make us move out. Or they will have to kill us all!

The affected people were getting organised for resistance under the umbrella of the Rajmahal Bachao Andolan⁸. They had also formed *gram sabhas* or village councils under the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. They were aware that their *gram sabhas* were vested with constitutional rights and powers, which the Government was overlooking by not consulting them in the planning and implementation of development projects. Hence, they were not interested in a dialogue with the Government, as Mr Cornelius Hembrom, the headman of the Pachwara village said: "It is the Government's need to get our land and hence the Government should come to us".

6 Supreme Court September 1997 judgment in the Samatha case established that government, tribal and forest lands in Scheduled Areas cannot be leased out to non-tribals or to private companies for mining or industrial operations. Consequently, all mining leases granted by state governments in V Schedule Areas became illegal, null and void and the state government was asked to stop all industries from mining operations

7 On December 10, 2001, the Supreme Court dismissed the public interest litigation against disinvestment of erstwhile public sector BALCO (Bharat Aluminium Company Ltd) to Sterlite, upholding the transfer of 51 per cent BALCO shares and its overall control to Sterlite for Rs 551.5 crore.

8 Or 'Save Rajmahal Movement'. The Rajmahal mountainous region is rich in natural resources, flora and fauna.

The PSEB has worked out a rehabilitation package, of which the main features are:

- Monetary compensation calculated on the basis of prevailing legal norms.
- The company may consider employment against land in exceptional circumstances only to fill vacancies, subject to the land losers meeting the eligibility criteria.
- Employment may be offered to one member of a family who has lost three or more acres of land subject to vacancy and eligibility criteria.
- If not possible to offer employment due to lack of vacancy, one-time cash grant/monetary compensation in lieu of employment for acquisition of land on the following basis shall be applicable:
 - Rs 50,000 only for the first acre of land on pro-rata basis subject to a minimum of Rs 20,000 only.
 - Rs 30,000 only on pro-rata basis for second and third acre of land.
 - Rs 20,000 only on pro-rata basis for land beyond three acres.
- The company plans to propose to the state government allotment of land for a market place and for cultivation/agriculture. It will collaborate with the government to provide water for irrigation of this land. Land will be offered to oustees as per the guidelines of the state government. It also believes the displaced persons can get employment under contractors and have opportunities for self-employment. The displaced person who has a homestead will be given alternative house site measuring 100 sq m per family and assistance in shifting and designing the new house, and a shifting allowance or a one-time lump sum compensation of Rs 50,000.
- Promises are also made regarding roads, street lights, primary schools, play ground, ponds, pucca drains and sanitation, dug well/drill well, community center, market place, place of worship, dispensary, grazing land for cattle.
- In the said package, land for land will be given only for homestead needs. As for agricultural needs, the company argues that it will 'approach' the state government for all allotment of land for cultivation by the tribals.

As for the people, they do not even want to hear of any rehabilitation plans. As Mr. Cornelius put it:

We too believe in development. If at all the minerals have to be extracted from our fields, we will do it ourselves when are we are capable, when our children have grown up and educated and when, as a community, we are able to manage the affairs.

There is tremendous unity among the PAFs. However, some middlemen are reported to have sneaked in to divide people in order to weaken the movement. There are reports of people being wooed with country liquor. These miscreants were brought before the traditional village council, but let off with a stern warning not to indulge in such activities again. In retaliation, the middlemen are said to have filed cases them of abduction, kidnapping and attempted murder. Consequently, alleged police harassment in tribal households at odd hours has compelled the villagers to resort to self-defence tactics by not allowing strangers in the area without prior information.

BASICS OF RESETTLEMENT IGNORED

The problem of displacement has never received the attention it deserves. As a result, there is no government policy for the rehabilitation of project affected families (PAFs) before they are relocated. It is only since 1988 that the Government considered a national Policy on Resettlement and Rehabilitation for PAFs. In the initial stage, during 1988-92, the then Ministry of Welfare had prepared a draft National Policy for Resettlement and Rehabilitation of Displaced Tribals (DTs) and submitted it to the Committee of Secretaries. The Cabinet Secretariat thereafter directed the Ministry of Rural Development to prepare a general policy for R&R, which would also take cognisance of the plight of the tribals. The Ministry of Rural Development finalised and circulated the National Policy on Resettlement and Rehabilitation for PAFs, 2003 (NPRR-2003) vide Notification no. ACQ. 13011/4/2004. The policy inter alia claims to provide some special benefits for displaced tribals (DTs)

FLAWS IN RESETTLEMENT POLICY

The PSEB rehabilitation package has many loopholes, as the analysis below reveals:

The package has a provision for monetary compensation calculated on the basis of prevailing legal norms. The problem, however, is that these

are not people-friendly. They do not take into account the social, cultural, religious, psychological, economic and political consequences of displacement. The first prerequisite of any policy should be consultation with and consent of the PAFs. The monetary compensations are inadequate and the displaced persons (DPs) have to run from pillar to post to obtain compensation. Mr Tom Kavala, Director of the *Sona Santhal Samaj Samiti*, Kodma village, Sahibganj district, Santhal Pargana, observes, "People are simply pushed aside with a pittance", adding, "the company is likely to make enormous profit. Even the Jharkhand Government is to get Rs 100 crore as royalty. There is such wealth in the land of *adivasis*. But they are deprived of even 0.1 per cent of this profit".

The company "may" consider employment against land in "exceptional" cases only and even then to those "meeting the eligibility criteria". It does not seem to be aware of the fact that most PAFs are illiterate. The sense of ownership of the illiterate persons is not given recognition in the resettlement proposal. The eligibility criteria formulated by the "displacing" party are over-emphasised, while those of the "displaced" are completely neglected. If the DPs do not meet the eligibility criteria, does it mean they have no right to a dignified resettlement despite their own land and property being appropriated by some alien agency?

Another serious problem is that employment is to be provided only if there are vacancies. Howsoever reasonable it may sound, it is a fact that only limited vacancies are going to be available, and most DPs will be left in the lurch.

In the resettlement package, there is provision of employment only for one member of the family, and that too if the PAF loses "three or more acres" of land and fulfills the "eligibility criteria". It is very unfair that the loss of those holding less than three acres of land is not acknowledged. With the diversification of the tribal economy and unitisation of its families, many may not have three or more acres of land. Does it mean that the state should turn a blind eye to their resettlement?

It seems that it is not binding on the company to offer employment, while for the land losers it is a question of life and death. The provision that a job can be offered only "if possible", provided there is a "vacancy", shows lack of commitment. In such circumstances, only one-time monetary compensation, instead of employment for acquisition of land, is highly objectionable. Thus, a person receiving a job has to forgo all claims to the above compensation and a person receiving the compensation needs to forgo all claims to employment.

The plan expects the state to allot land for a market place and for agricultural purposes, and the company and the state government to work together to develop irrigation facilities. But this implies the acquisition of more tribal lands. Moreover, if irrigation facilities could not be developed in the last 58 years, it cannot be done overnight unless there is a strong political will and commitment.

Land is to be offered to oustees as per guidelines of the state government, and DPs can get employment with the contractors. The plan also provides for opportunities for self-employment. This model of employment generation is another form of exploitation. The tribals in such a situation will be accommodated only as labourers. All high positions will be occupied by outsiders, as only they are likely to meet the "eligibility criteria".

The company makes a provision of land for land, but only for homestead needs. But for DPs to get as homestead an alternative house site measuring 100 sq m per family is humiliating. The monetary assistance in shifting and designing the new house and a shifting allowance or a one-time lump sum compensation of Rs 50,000 is a pittance. Can there be any compensation for the psychologically, socially, economic and culturally dislocated families?

The company also promises to provide civic amenities, such as roads, street lights, primary schools, play ground, ponds, pucca drains and sanitation, wells, community centre, market place, place of worship, dispensary, and grazing land for the cattle. But this is easier said than done. The big question is: where will land come from? There is disillusionment with the promises made by the company as well as the state, going by the past record.

INNER POLICY CONTRADICTIONS

Besides these lacunae in the resettlement policy, it suffers from many other contradictions. On the one hand, it makes generous promises to safeguard interests of the displaced persons; on the other, it continues endorsing the displacement of people without rehabilitating them. Unless there is a provision, which assures that those affected will be fully resettled, the intent of the resettlement policy will always remain suspect. The policy does not take into account the former displaced persons (DPs). What is the guarantee that it will now rehabilitate them as well as the new evacuees? Where is land? Rehabilitation on land-to-land basis implies that more people need to be evacuated in order to resettle earlier PAFs. Hence, resettlement

always means rehabilitation of the “displaced” at the cost of the “newly” displaced persons. The problem here is the deliberate neglect of the right of the tribals to make choices and decisions, and to the ownership of land, individual or communitarian. The resettlement policies appear to be a camouflage – projecting all the positive guiding principles required for a good rehabilitation programme – but never to be implemented seriously. The reaction of many civil society groups to these policies is that of cynicism and scepticism due to their past experience of political unwillingness in implementing such “profound” policies and programmes (Kujur 140-41).

DISPLACEMENT AS A NORM

The R&R policy is in relation to the “development paradigm” (Fernandes 1997:22). Displacement is considered inevitable for development, and is not taken as the last resort. Even in cases where displacement is the last resort, rehabilitation is only secondary. This is basically a denial of people’s ownership to land and their right to live in dignity. Land is the only possession of the tribals. If that is taken away, they are left with nothing. Even private property of the individual can be acquired any time by the state. The principle of “eminent domain”⁹ is the guiding principle of land transactions. The policy does not seem to recognise the historical, customary and cultural rights of the tribal community in practice, though it does mention them in theory. Fernandes (1997) is of the opinion that a policy should recognise the historically established rights of the people over their livelihood, including land, natural resources and knowledge. This entails recognition of their rights to land, livelihood and survival. Further, he asserts that the lands should be treated as a community resource. It implies therefore, that if the government acquires such lands it must pay full compensation to the traditional residents, and rehabilitate them totally (Fernandes: 1997:23).

The policy is also insensitive to multiple displacements. There is no assurance that the PAFs from earlier projects will not be displaced again.

9 It is the taking of private property for public use without the owner’s consent. The power of eminent domain is considered an inherent right of sovereignty and is not dependent upon express constitutional or statutory provisions. The word used to describe this process in England and Canada is “expropriation”. Prior to the 19th century, the power of eminent domain was of little importance in the United States, being exercised chiefly on the constructions of roads and grist mills and with respect to land which had little value (*Encyclopedia Americana*)

It is insensitive to traditional culture and ecology. There is no assurance that DPs from other projects in the region will be resettled and rehabilitated first before the newly displaced are rehabilitated. It is not gender-sensitive either. It does not take into account the trouble the women go through in such situations.

The 1984 amendment of the Land Acquisition Act has made much easier for land to be acquired by the state. The amendment has made it possible for the public sector to directly acquire land, and for the private sector to do so through the Government. Land can even be acquired for residential colonies (Dhagamwar 1989:177).

NO PARTICIPATION OF LOCAL POPULATION

In the process of displacement and their resettlement, there is always one-sided decision-making and the "dialogue" seems to be a means to convince people that their displacement is, in fact, serving the "common purpose" of the nation's development. The policy talks about holding consultation with PAFs and their representatives, knowing fully well that resettlement will be a pittance. The only aim seems to be to convince the victims to make "sacrifice" for the common cause. Even if PAFs object, the opposite lobby is strong. There is a clash of interests and the voice of poor goes unheard. The resettlement policy, in fact, becomes a policy of negotiation for more land. There is no correlation between the land lost and resettlement with new land, if at all there is any.

The resettlement policy benefits in terms of cash and land are unjust and inadequate. The hard fact is that land is not available today, unless snatched from its owners. That is precisely what the government has been doing. The policy does not say anything about past land alienation. It seeks to make benefits available only to the original land owner. Who are the real land owners? The PAFs are not even involved in policy-making. Fernandes (1997) notes, "Displacement is taken for granted. The assumption is that the people, most of them poor and powerless, should adjust themselves to the situation once a decision to displace them is taken" (1997:24). The displaced, potential victims and those who might accommodate them subsequently have a right to information in the regional and local languages regarding the project.

The policy is silent about a proportionate, pre-determined share in its ownership as well as benefits for DPs. The policy for rehabilitation does not provide for long-term participation in benefits. No benefit comes either