International Journal of Enhanced Research in Educational Development (IJERED)
ISSN: 2320-8708, Vol. 6 Issue 6, Nov-Dec, 2018, Impact Factor 3.275

Development, Displacement and the Application of Capability Approach: A Study of Policies and Practices of Participatory Resettlement & Rehabilitation in India

Dr. Kavita Arora[1], Dr. Poonam Sharma[2], Dr. Swati Rajput[3]

[1,2,3]Department of Geography, Shaheed Bhagat Singh College, University of Delhi, New Delhi

ABSTRACT

In the present era of globalization, a series of debates to bridge the gaps in theory and practice almost in all subjects exists. Indeed, the subject of development has since long transforming and influencing all phases of human activities. Development in terms of from malls to metro change is everywhere a thrust in the government policies and changing laws. But this changed life does not come upon us without its share of pain, because it exists simultaneously with the cruel transformation of the places that evicts hundreds of thousands of people, and destroys their carefully built frameworks of existence. According to a recent study Internal displacement in India is highest in the world and large percentage of internal displacement is development induced displacement. Now India has series of guidelines, policies, laws, acts and constitutional provisions for the participatory resettlement of displaced. Yet the displaced are still struggling for their participation, rights, proper compensation and equal inclusion in the benefit sharing. In this context this paper mainly endeavors to examine the disjunction between theoretical and practical approaches of human development. The first part of this paper will map the existing theory of participation as an important dimension of capability approach and its application in the field of resettlement and rehabilitation of development induced displaced. In the second part, this paper would analyze the gap between existing policy directives and the practices of participatory resettlement and rehabilitation in India.

Key Words: Capability Approach, Development, Displacement, Resettlement, Participation

I. INTRODUCTION

The idea that policymakers are not to conceive of their fellow citizens as merely means to the larger end of maximizing social utility, but are instead to treat them as ends in themselves.

Imanuel Kant
Private Property and the Constitution, Bruce A Ackerman, New Haven and London, Yale University Press 1977, Page 72

The discussion on involuntary resettlement and rehabilitation policies and practices would be incomplete without addressing the consequences of the dominant patterns of development that are uprooting millions of people. The Indian development strategy evolved after a few years of the initiation of planned development and was embodied in the Second and Third Plans. (GOI,1956,1961) From 1947 to 1991 Indian policies were mainly influenced by social democratic ideology. The economy was characterized by extensive regulation, protectionism, public ownership and slow growth. The Indian economy was in major crisis in 1991 when foreign currency reserves went down to $1 billion and inflation was as high as 17%. Therefore, in early 1990s the Indian economy had witnessed dramatic policy changes. The idea behind the new economic model known as Liberalization, Privatization and Globalization in India (LPG), was to make the Indian economy one of the fastest growing economies in the world. An array of reforms was initiated with regard to industrial, trade and social sector to make the economy more competitive. The economic changes initiated have had a dramatic effect on the overall growth of the economy. A revival of economic reforms and better economic policy in 2000s accelerated India's economic growth rate. In recent years, Indian cities have continued to liberalize business regulations. By 2008, India

had established itself as the world's second-fastest growing major economy. However, the year 2009 saw a significant slowdown in India's official GDP growth rate to 6.1% but again it's started improving in 2010.

Several changes occurred in economic policy and the major element of development strategy in India as it evolved since independence is always the emphasis on the rapid expansion of the productive power of the economy. This development strategy has many a success to its credit. It has boosted the economies of very many sub-national areas which lagged behind their richer counterparts. Economic incentives of various types to attract new capital and entrepreneurship to the backward regions apart, a new sense of direction, initiative and strategic intervention have helped some chronically backward regions to improve their share in the GNP. But they have failed to solve the problems of those who were unprepared to participate in new ventures and opportunities. Instances where conditions of such people further deteriorating in the wake of development planning are in legion. (R.P.Misra,1978)

Although the pattern is not uniform, a significant percentage of those who face removal, whatever the cause, frequently come from the most disadvantaged sectors of society. The privileged or powerful of a society are rarely obliged to abandon their homes and communities because the land is needed for infra-structural, industrial or public use site development. Generally speaking, the political power of elites precludes the possibility of state claims of eminent domain and the market price of lands owned by the wealthy diminishes its attractiveness for purchase by private developments. Although not invariably the case, the communities that must confront the challenge of dislocation and resettlement are frequently from the marginalized section of their nations. Consequently, when development projects, generated by the state or private interests, displace people and communities, the protests and resistance evoked often comes from those sectors of a population least heard in a nation's political discourse.

Evan in the case of uprooting the people these inequities in development-regional as well as interpersonal –have thus to be seen as symptoms of something deeper rooted, more fundamental and basic. Current development policies do not however, take serious cognizance of these basic and fundamental issues. They are more concerned with the symptom and are built on the premise that the task of development planning is to stabilize and re-inforce the social system by way of resolving the problems it gets into because of its archaic character and inner contradictions. This is reflected from the views of even such liberal social scientists like Myrdal. A man is poor because he is poor. The real fact, however, is that a man is poor because he is made to be poor. The answer lies in not only attempting to improve the economic conditions of the poor; it lies in a simultaneous attack on the cause of poverty, which is none other than the prevailing class relations. (R.P.Misra,1978)

When development is conceived and pursued essentially in terms of steady growth of production and income, the social aspects of it are subsumed in the economic policy, and the social class interest and group relations which form the basis of the distribution of the fruits of development are assumed to change as productivity increases. Human beings become factors of production (and not the goal of production) and "the recipients of particular marginal investment" through public expenditure in the form of social programmes (health, education, housing, social security and so on). (Kluittenbrouwer,1973) Consequently, an overwhelming majority of planners invariably see people who happen to live at or around the sitting of a development project, as impediments to progress, as those who "must make sacrifices for the development of the nation". (GIO report of the Committee on Rehabilitation of Displaced tribals due to development Projects, New Delhi, 1985) This is not true not merely of planners and policy makers but even of large sections of the media and the intelligentsia. Unfortunately, the feeling that a degree of high handedness on the part of the state towards some people, including the infliction of much hardship on them, is the inevitable and acceptable price that must be paid for development seems to be widely shared. (Ramaswamy R Iyer,2011)The experience of displacement in the country, its scale and the almost total inability of the government to minimize the extent and the trauma of displacement as well as comprehensively resettle those who do get displaced suggests that the current patterns of economic development which have been constantly invoked to justify the forced eviction of people all over the country are themselves incompatible with the goals of creating wider conditions of equity and social security. (Kothari Smitu,1995)

The principle of development with resettlement is now a widely accepted phenomenon. We all are aware that initially resettlement and rehabilitation of displaced was not at all the part of any development planning. Evan when authorities started considering it an important issue because of delay in the completion of projects, it has been dealt in ad-hoc manner, as a low priority area of major Infrastructural works. When it has seen that the ill effects of displacement have been made worse in many instances by faulty management of resettlement programs and inadequate training of personnel. Therefore, an extremely wide array of participants, movements, forms, strategies tactics, and goals has emerged in resistance to inadequate resettlement over the last three decades. Multidimensional forms of resistance to development projects become not only means to refuse relocation or claim compensation or better conditions, but also help to initiate and become part of a multi-level and multi-sectoral effort to critique and re-conceptualize the development process.

II. DEVELOPMENT, DISPLACEMENT AND APPLICATION OF CAPABILITY APPROACH

At a first sight development induced displacement and capabilities may seem two rather distinct areas of interest. Surprisingly very little work has been done on displacement in relation to capability approach. However, a proper analysis reveals the relevance of capability approach in this area.

The Idea of capability approach is directly related to the right based approach. The beginning of the 21st century, the convergence between human rights and development cooperation is finally become a real possibility. During the last two decades, in fact, we have assisted to a double process of acknowledgment, fundamental to reach a new perspective in development theory: on the one hand, the traditional distinction between civil and political rights, form one side, and economic, social and cultural rights, on the other, has finally been overcome, and nowadays the majority of scholars and development practitioners acknowledge the indivisibility and interdependence of all human rights; on the other hand, the concept of development evolved from the original equation with the economic growth, integrating new, relevant dimension and becoming more adherent to real people needs: the result of this process is that concept of human development that is nowadays, at least in theory, overwhelming accepted. (Sitta A., Internet) In the 1980 the capability approach was also conceived as an approach to welfare economics The capability approach (also referred to as the capabilities approach) was initially conceived in the 1980s as an approach to welfare economics. In this approach, Amartya Sen brings together a range of ideas that were hitherto excluded from (or inadequately formulated in) traditional approaches to the economics of welfare. The core focus of the capability approach is on what individuals are able to do (i.e., capable of).

Initially Sen argued for five components in assessing capability:

1. The importance of real freedoms in the assessment of a person's advantage
2. Individual differences in the ability to transform resources into valuable activities
3. The multi-variate nature of activities giving rise to happiness
4. A balance of materialistic and nonmaterialistic factors in evaluating human welfare
5. Concern for the distribution of opportunities within society

Subsequently, and in collaboration particularly with political philosopher Martha Nussbaum, development economist Sudhir Anand and economic theorist James Foster, Sen has helped to make the capabilities approach predominant as a paradigm for policy debate in human development where it inspired the creation of the UN's Human Development Index (a popular measure of human development, capturing capabilities in health, education, and income).

Now Amartya Sen's Capability Approach is increasingly influential in the literature of human development. It has contributed to development discourse by strengthening the multidimensional approach to poverty analysis and stressing the importance of focusing on agency and empowerment. The Capability Approach also has the potential to become a normative framework to radicalize resettlement and the practices of development induced displacement. Therefore, taking the participation as an important dimension of CA the present paper is endeavoring to examine the role of CA in development induced displacement and resettlement planning.

"Participation" in the CA

- "The ability of people to participate in social decisions has been seen … as a valuable characteristic of a good society."
  (Drèze/Sen 2002: 9)
- "To have ... a fixed list, emanating entirely from pure theory, is to deny the possibility of fruitful public participation on what should be included and why" (Sen 2004: 77).

Participation is an important "pillar" of human development concept. That people could have the control over the fundamental choices of their lives, taking part in all those mechanisms and processes that can affect them, is a goal of most of the development strategies. The capability approach is concerned with 'the extent to which people have the opportunity to achieve outcomes that they value and have reason to value'(Sen, 1999, p. 291) and that are constitutive of the truly human life (Nussbaum, 2000, 2006).

Nussbaum explains that the:
'core idea seems to be that of the human being as a dignified free being who shapes his or her own life, rather than being passively shaped or pushed around by the world in the manner of a flock or herd animal… The idea thus contains a notion of human worth or dignity' (2002, p. 130). "Participation also has intrinsic value for the quality of life. Indeed, being able to do something not only for oneself but also for other members of the society is one of the elementary freedoms which

people have reason to value. The popular appeal of many social movements in India confirms that this basic capability is highly valued even among people who lead very deprived lives in material terms." (Dreze and Sen 1995:106)

III. POLICIES, LEGAL MEASURES AND PEOPLE PARTICIPATION IN INDIA

This paper will analyze the history of laws and also existing laws on land acquisition in India in the background of capability approach which requires the ability of people to participation in all development process.

The land acquisition processes have a historical linage in India. Our present land acquisition and compensation processes are fully inspired from the practices of pre-colonial to colonial phases. Colonial imperatives continue to influence post colonial land laws and policy formation and underlying ideology. However, this is now belatedly being realized to have been inappropriate and alien to the society onto which these processes have been grafted. Being 'profoundly political process' land acquisition is a highly contentious subject for the people, communities, 'policy-entrepreneurs', and scholars. The policy and practice of land acquisition reflects the priorities and constituents of the state. Contending politics and competing claims are as much alive here as anywhere

Land Acquisition and R&R process in India, as elsewhere, needs an interrogation at three levels of analysis. They are local, national and global. State policies, be they in relation to land acquisition and R&R or any other issue, are consequent upon a dialectic process. In an increasingly interconnected world, players from all three levels intermesh to bring forth certain policy measures. Whereas global and national forces and ideologies are backed by financial, communicational and coercive arms, local, lacking either of those is vulnerable even to the electoral vicissitudes. Policies are implemented at the local level (even when most often they could be excluded at the framing stage). How much of the local participates in policy formation dictates upon the nature of the state, degree and depth of democratization and political sensitization. Local therefore could be doubly threatened. It bears the brunt of inhospitable policies; while at the same time suffers due to the tardy implementation of hospitable ones. Answer to why such a course comes into being is embedded in nature of the state.

A. History of Land Acquisition and Compensation Legislation in India: Eminent Domain and Absence of Capability Approach

The first legislature in India in reverence of acquisition of property was the Bengal Regulation I of 1824. It was functional "all over the provinces immediately subject to the Presidency of Fort William. It provided guidelines for empowering the officers of Government to acquire, at a reasonable valuation, land or other immovable property vital for the construction of roads, canals or other public purposes. In the middle of the nineteenth century, when the railways were being developed, it was felt that legislation was needed for acquiring lands for them. Act XLII of 1850 declared that Railways were public works within the meaning of the Regulation and thus enabled the provisions of Regulation I of 1824 to be used for acquiring lands for the construction of Railways. (Tenth Report on the Law of Acquisition and Requisitioning of Land: 1958:1)

For acquiring the land within the island of Bombay and Colaba to construct and widen any building, road and street the Building Act XXVIII of 1839 was introduced. For acquiring the land to construct railway within the Presidency this Act was extended by Act XVII of 1850. To acquire the land for public purpose in the Presidency of Fort St. George in Madras Act XX of 1852 was conceded.

(Tenth Report on the Law of Acquisition and Requisitioning of Land, 1958: 2)
To acquire the land for public purposes and for the determination of the amount of compensation in the entire British India territories which was in the possession and under the governance of the East India Company an Act VI of 1857 was passed.

In this act the power was given to collector to fix the sum of compensation by agreement, but in the absence of an agreement, the arbitrators were denoted to handle the dispute and their decision was final and could not be impeached, except in the case of sleaze or delinquency of the arbitrators. This Act was amended by Acts II of 1861 and XXII of 1863.

After sometimes it has been realized that the system of defrayal of compensation by arbitration was not satisfactory as the many times arbitrators were incompetent and dishonest. Under this act there was no provision to challenge the award of the arbitrators so that their decision can be revised.

The legislature had to intervene and Act X of 1870 was passed.
For the first time this Act included a provision that in the case when the amount of settlement could not determine by the collector it could be referred to a civil court. A comprehensive procedure for the land acquisition and definite rules for the

determination of compensation was provided by this Act. A different Act (XVIII of 1885) was passed to decide the grant of compensation to the title holders of mine situated on the land which government wanted to acquire, in these land mines were not required by the government but after acquiring the land by the government mine owners were not able to work on them. In this way the Land Acquisition (Mines) Act had in fact was not related to the land acquisition but it was purely a law of compensation (Tenth Report on the Law of Acquisition and Requisitioning of Land, 1958:3)

It was found that The Act of 1870 was imperfect in several aspects and in due course **the Land Acquistion Act 1894 (Act I of 1894) was passed. This Act was later amended by Acts IV and X of 1914, XVII of 1919, XXXVIII of 1920. XIX of 1921, XXXVIII of 1923 XVI of 1933 and I of 1938.** It can be observed here that the amending Act of 1923 first time included a significant change in that it provided a chance to the person interested in the land wish to be acquired to state their objections to the acquisition and it provisioned that objection can be heard by the authority concerned.

This Act was enacted at a time when the role of the state in promoting public welfare and economic development was negligible and also very limited land was needed for the construction of projects. For which the government used eminent domain but because of its limited use it was never questioned.

In the original Act public purpose was neither defined nor it gave the indication of any test for determining whether a purpose is a public purpose or not. When in 1956 Law Commission decided to review the act, they received large number of suggestions that they should clearly and exhaustively define the term 'Public Purpose' But the Law commission remain stick to its opinion that in an always changing word the meaning and undertone of the countenance 'public purpose' can not be fixed. If a precise definition of this expression is enacted it will leave no room for modification in the view of changing situations. I would leave no option for the courts to adjust the meaning of the expressions according to the requirements of times. As Alfred D. Jahr on Eminent Domain dealing with 'public use' an expression used by the American Constitution):
"Public use has not been defined by the courts for the reason that to formulate anything ultimate. Even though it were possible, would, in a changing world be unwise, if not futile. The Law of each age is ultimately what that age thinks should be the law."

Later he says:
What may become a 'public use' in the future cannot be foretold by mortal man. All we can do is to venture a prediction, as certain as day follows night, that there will be many public uses in the future that we never dreamed of at the present time"

The Land Acquisition Act, 1894, applied originally only to British India. The Native States passed their own Acts.[1]

Principles for determining compensation
In the Land acquisition Act section 23 and 24 set the principles for determining the sum of recompense. Section 23 is related to the aspects which van be considered, while section 24 deals with those aspects which can be left out while determining the compensation. In this way the Act set the rules for directing in determining compensation in both positive and negative way. First clause in section 23 is most significant provision which instruct that for determine the amount of compensation the court should considered the market value of the land at the date of publication of the notification under section 4. Though the determine the 'Market Value remain ambiguous and it was not possible to lay down the uniform set of rules as it depends upon the nature of property, its situation and other relevant consideration.

However, the Bill of 1893, which was afterward enacted into Act I of 1894, have a definition of market value, it was dropped by the Select Committee which favored to leave the tem undefined. The Committee observed: "No material difficulty has arisen in the interpretation of it; the decisions of several High Courts are at one in giving it the reasonable meaning of the price a willing buyer would give to a willing seller; but the introduction of a specific definition would sow the field for a fresh harvest of decisions; and no definition could lay down for universal guidance in the widely divergent conditions of India any further rule by which that price should be ascertained". The principles for determining the market value have been fully expounded by the Privy Council in Sri Raja Vyricherla Narayana Gajapatraju Badadur Garu v. The Revenue Divisional Officer, Vizagapaiam' (known as the Chemudu case).

The first principle established by the Chemudu case is that, in the case of compulsory acquisition, "the land is not to be valued merely by reference to the use to which it is being put at the time at which its value ha to be determined, ***** but also by reference to the uses to which it is reasonably capable of being put in the future". This proposition was treated by

[1] For example, the Hyderabad Land Acquisition Act, 1309 Fasli (Act IX of 1309F (1899)), the Mysore Land Acquisition Act 1894, the Travancore Land Acquisition Act, 1089(XI of 1089(1914)

the Judicial Committee as axiomatic. The second principle laid down by this decision is that when the land has unusual or unique features or potentialities, the valuing officer must ascertain, as best as he can from the materials before him, the price a willing purchaser would pay for the land with those features or potentialities. It is further laid down that the value of the potentialities is to be taken into account even where the only possible purchaser for the potentialities is the acquiring authority. The 'market value' is defined by the Judicial Committee, as the price which a willing vender might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded and both must be treated as persons dealing in the matter at arm's length and without compulsion. The principle of awarding compensation is based on the right of the owner to be indemnified by the community for whose benefit he is deprived of the property against his will.

Box 1: In August 2010 a bench of justices Mukundakam Sharma and Anil R Dave said "The market value of the acquired land can not only be its value with reference to the actual use to which it was put on the relevant date envisaged under the Land Acquistion Act, but ought to be its value with reference to the better use to which it is reasonably capable of being put in the immediate or near future." (Venkatesan J.,The Hindu,2010)

It is the fact that under Article 31(2) of the Constitutions, if once It is no doubt true that, under Article 31 (2) of the Constitution, if once either the amount of compensation or the principles for determining compensation are enacted by law, the justness of the amount of the compensation or the principles cannot be appealed in a court of law. The article does not use the expression 'just terms' (Australian Constitution) or 'Just compensation (American Constitution). But it follows that a responsible legislature should consider the basic principles of equity and natural justice underlying the award of compensation and enactment of a law

As far as possible, every one who is deprived of his property by compulsory acquisition should be enabled by the compensation awarded to him to place himself in substantially the same position in which he was before the acquisition. The community which benefits from the acquisition must also bear the burden of justly compensating the owner. In this way the principal law in India which dealt exclusively, with the subject of acquisition of private land by the state is Land Acquisition Act, 1894.

Box 2: Compensation and Constitutional Provisions

Soon after launching the constitution the government had to take up Article 368 to implement agrarian reforms. From the very beginning many social legislations and executive actions were held invalid by the courts. All this was done by the Supreme Court when the big landlords, Jagirdars and industrialists or affluent section of the people knocked at its door on the plea that they have been deprived of their fundamental right to property. The court insisted to protect the Fundamental Right to property and insisted that compensation for the deprivation of property must be the full value of the property.[2]

It is in this background that the Constitution had to be amended to nullify the judicial decision. Every amendment has been brought about with some specific purposes of which twelve amendments are concerned with socio-economic changes. The first major challenge to the constitution came when the Supreme Court held that the abolition of Zamindari as void on the ground that it discriminated between the rich and the poor in determining the compensation for acquired property. The court held that the compensation provided in the Act was unjust, inequitable and in some cases illusory. The government was committed to protect such legislation and therefore, came forward with the First Amendment, the main object of which was to secure fully the constitutional validity of Zamindari and Jagirdari laws. It was for this purpose that the amendment added Articles 31-A and 31-B. The famous **ninth schedule**[3] came into being to preclude the judicial review of the Acts in the Schedule. (M.G. Chitkara, P.L.Mehta,1991)

Like the First Amendment, the Fourth Amendment, 1955, was also intended to bring the Constitutional provisions in line with the sprit of social revolution. The difficulties arose because of court had given a very wide meaning to clauses (i) and (ii) of Article 31 regarding the limitations against compulsory acquisition of property, State's power needed re-definition in this context so as to distinguish from a case in which the operation of regulatory or prohibitory laws of the state result in deprivation of the property. Further, judicial decision interpreting fundamental rights had raised serious difficulties in the

[2] The beginning was made by the Supreme Court in Kameshwar pd. V State of Bihar, 1951, S.C. 192. Then came the crucial decision of West Bengal v. Bela Banerjee, AIR 1954, SC 119, Dwarkadas v. Sholapur Mills, 1954, S.C. 119; State of West Bengal v Subodh Gopal, 1965, SC 92; Saghir Ahmad v State of U.P. 1954, SC 728; Vajravellu v. Dy. Collector, 1965, SC, 1017; Union of India v. Metal Corpn of India, 1969, SC; State of Gujrat v Shantilal, 1969 SC 634; R.C. Cooper v Union of India, 1970 SC 564

[3] Ninth Schedule was added by the constitution (First Amendment) Act, 1951, S. 14

implementation of social revolution programme such as fixing the limits on agricultural holdings, conferment of rights on tenants, property planning of urban and rural areas, and clearance of slum etc. The state also required to take over commercial or industrial undertaking or the property in public interest. Furthermore, the Government wanted certain acts to be protected and therefore, wanted to include them in Ninth Schedule. Therefore, the Fourth Amendment was carried out to nullify the effect of Bela Banerjee case.[4] (A.I.R. 1954,S.C. 119) It declared that adequacy of compensation for acquiring private property could not be justifiable. The Government was committed to see that right to property did not come in the way of social revolution. (M.G. Chitkara, P. L. Mehta,1991: 19) An unfortunate situation arose when Kerala Agrarian Relations Act, the Madras Land Reforms (Fixation of Ceiling on Land) act, 1961, The Rajasthan Tenancy Act, 1955 and Maharashtra Agricultural Lands Act, 1961, were struck down by the judiciary.[5] The definition of the term 'Estate' in Article 31-A was found lacking. According to Supreme Court it did not include lands held under Ryotwari settlement and also other lands which figure in the land reform enactment. The situation became complicated as the term 'Estate' had come to be defined differently in different states. Thus, Seventeenth Amendment Act, 1964, was passed to get over all these difficulties. The Amendment defines' Estate' widely by substituting old clause (a) of Clause (2) of Article 31-A with a new clause and with that objective in view 44 Acts were added to the Ninth Schedule by the Amending Act. (M.G. Chitkara, P. L. Mehta, 1991: 19)

In 1967 Supreme Court held that Fundamental Rights could not be impaired even through the process of amendment. In response to this in 1971, when government got the opportunity to muster two-third required majority to amend the constitution, did three amendments.[6] The twenty-fourth Amendment of the Constitution amended Articles 13 and 368 and restored to parliament the power to abridge or take away any Fundamental Right by Amendment. The twenty –fifth amendment of the Constitution (1971) amended Article 31 relating to right to property and has taken away the power of judiciary to question the quantum of compensation on any ground of violation of Fundamental Rights and further established the supremacy of Directive Principles over Fundamental Rights. The twenty fifth Amendment, substituted the word 'compensation' by the word 'amount' and forbade the courts to go into the question of quantum of compensation.
An another important constitutional development took place when twenty fourth, twenty fifth and twenty sixth amendments were challenged in the Supreme Court in Kesavananda Bharati case.The Court spoke with different voices on the validity of the impugned amendments. However, the court reversed its earlier decision in Golak Nath case and upheld Parliament's right to amend the Constitution including the Fundamental Rights but it held that basic frame work of the constitution could not be amended.
It has also been observed that the right to livelihood and the right to work remain very feeble and ineffective fundamental rights, incapable of being enforced by judicial action.
Initially the Supreme Court has in several cases held that the right to live is not merely confined to physical existence but includes within its ambit the right to live with human dignity and all that this entails : the bare necessities of life such as adequate nutrition , clothing, shelter and facilities for reading, writing and expressing oneself in diverse forms, moving freely and mixing and co-mingling with fellow human beings (Francis Coralie vs Union Territory of Delhi, AIR (1978 SC 597) (K. Vasvani,1992) In view of the appalling prospect facing a person whose land is compulsorily acquired by the government , not only the right to life guaranteed by Article 21 of the constitutions but the various freedoms guaranteed by Article 19 too would seem to them to be nothing more than 'paper' rights. Restriction on the rights guaranteed by the constitution without adequate justification are ultra vires.' It remains; therefore, unexplained what social purpose has been served by the courts in unduly expanding and reconceptualising the right of life under Article 21 without carrying any burden to fulfil the enlarged commitment' (Annual Survey of Indian Law 1987) (K. Vasvani,1992)

B. R&R Policy 2007 and Gradual Recognition of Capability Approach: Public Purpose vs Public Participation

On 11 October, the Union Cabinet approved the National Policy on Rehabilitation and Resettlement (R&R) 2007 and it has been implemented throughout the country from 31st October, 2007.

Box:3

Salient Features

1. Resettlement and Rehabilitation policy to be given statutory status for the first time by bringing R&R Bill 2007.
2. Policy to be applicable not only to the persons affected by acquisition of land for projects of public purposes, but also to the involuntary displacement of a permanent nature due to any cause.
3. Beneficiaries of R&R policy are not only those whose land and property is acquired but also the families whose source of livelihood is adversely affected, i.e. any tenure holder, tenant, lessee, agriculture and non agriculture

[4] A.I.R. 1954, S.C. 119
[5] Golak Nath v State of Punjab, AIR, 1967, S.C. 1643.
[6] Golaknath v State of Punjab, AIR 1967, S.C. 1643, RC Cooper v. Union of India, AIR. 1970 S. C. 565 and Privy Purse Case

laborers, landless persons, rural artisans, small traders etc.

4. Social impact assessment by independent multi-disciplinary expert group made mandatory in case of displacement of 400 or more families in plain areas and 200 or more families in tribal and hilly areas, DDP blocks or areas mentioned in the V & VI Schedule of the Constitution.
5. Involvement of stakeholders in R&R through R&R Committee at project level comprising o representatives of SC/ST and women of the affected area along with representatives of NGOs working in the area, banks, Panchayati Raj representatives.
6. Effective monitoring arrangement for timely rehabilitation and resettlement.
7. Amendment in the Land Acquisition Act, 1894 proposed to incorporate the consequent amendments as a result of rehabilitation and Resettlement Policy 2007. (The Hindu,2009)

In India the idea of an R&R policy emerged mainly out of the push and pressure from two different arenas. Firstly, the pressure from the displaced on the ground of their sufferings and secondly on the part of government because of the delays in land acquisition, challenges and litigation and the delays that these caused to the implementation of the project in question. Critiques says that in the final draft of 2007 policy second aspect overshadowed the concerns of displaced.

Regrettably, right from the beginning of policy formulation participation aspect remain missing. The principles of consultation and participation are only grudgingly accepted by the government, and in very limited senses. The tendency is to plan and formulate policies, projects and programs in a wholly non-participatory manner within the closed circles of the bureaucracy and the technocracy, put them briefly before the general public as a matter of form, and ask for comments. (Iyer R. R., 2007)

One more significant provision in the new policy is that all the projects which are displacing population above a threshold number need to do a Social Impact Assessment (SIA) which assess the possible impact of project on public and community properties, assets and infrastructure" . This assessment will be swotted by an independent multi-disciplinary group and on the basis of this the project will have to get a SIA clearance and will have to follow all conditions set therein. The other two significant provisions were that "Land acquired for a public propose cannot be used for any other purpose but a public purpose" and if acquired land not utilize for more than 5 years it should be give back to the government. It has observed that projects acquire land in excess and use later for different purposes.

The policy has few more serious limitations like the objective of minimizing displacement of people to obtain this in meaningful way, it has to be considered at the project conception stage itself, where it should focus not only the size of project but the choice of technology too.

It is also not clear how the policy will confirm that these recommended criteria have been followed in the project conception, preparation and design.

Policy has many other escapes. For example, the resettlement provisions contain "land-for-land, to the extent Government land would be available in the resettlement areas; preference for employment in the project to at least one person from each nuclear family … subject to the availability of vacancies and suitability of the affected person." Such clauses like "if available", "as far as possible" are already commonly and extensively used by project authorities in the country to elude responsibility of proper rehabilitation, and such ambiguities and escape-routes in a policy will provide the opportunities to evade from their responsibilities

The policy has imperative provisions for grievance redressal mechanisms like Project/District R&R Committees, an Ombudsman, a National Monitoring Committee, a National Monitoring Cell and a National Rehabilitation Commission. But there is nothing in the policy that directs that whether any of these committees and commissions has the power to stop construction on the project and related activities, stop all expenditure (except possibly salaries) in the event of a failure or slippage of resettlement.

Still the potentially affected people do not have a meaningful say in the project decision making process. Internationally, the idea of Free and Prior Informed Consent (FPIC) is increasing becoming the new desired goal, especially where the affected people are tribals. Our policy is not able to ensure that the affected people have a rightful part in the decision making related to the project.

The 2007 Policy is as best as inadequate in a framework where there are no adequate checks and balances. The processes are open to abuse and the appointment processes of all bodies raise serious questions about independence. The process wholly excludes the affected groups a say in their own future.

C. Operationalization of Capability Approach and Some Reflections on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

For a long time, a key criticism of the rehabilitation regime in the country was that land is acquired through a law (the Land Acquisition Act), but there was no law conferring the explicit right to rehabilitate the affected people. In response to this later Government of India passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013**.**

The Act came into force from 1 January 2014. it is a legislation that regulates land acquisition and laid down rules for granting compensation, rehabilitation and resettlement to the affected persons in India. The Act establishes regulations for land acquisition as a part of India's massive industrialization drive driven by public-private partnership.

After the efforts of many years the Land Acquisition Act came into effect. The first draft of this legislation was prepared in 2007 and since then after the several discussion and revision it was shaped. The Preamble to this law elucidates its objective to establish a framework for a participative, informed and transparent mechanism for land acquisition. This law lays down an elaborate acquisition architecture in place, introducing numerous new procedures such as the consent requirement; Social Impact Assessment ('SIA'); exceptions for Scheduled Areas etc. as well as considerably reconstructing existing provisions such as the urgency clause; the definition of 'public purpose' etc. In its 120 years of existence, the Land Acquisition Act, 1894 helped institutionalize involuntary acquisition, with little regard to the rights of those who were dispossessed of their lands, bereft of their livelihood, security and community. The lack of an effective consultative process under this colonial legislation was reflective of the broader premise backing the entire law on land acquisition then, which was based on the doctrine of eminent domain. The tone of the legislation assumed a priority to the requirements of the State for the public good, which would always override the interests of the landowners, and treated them as unfortunate 'victims of development'.(Usha Ramanthan, 2011)

The Land Acquisition Act, 2013 tries to convert the askew model of development by endeavoring to make the land acquisition process more facilitative and consultative. It included a obligatory prerequisite of 'consent' whereby all development schemes need the prior consent of 80 per cent of land owners in the case of private companies and 70 per cent in the case of public private partnerships. (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, § 2(2)(b)(i) and (ii).)

The Central Act of 2013 was brought to give effect to pre-existing fundamental right to livelihood of citizens. It ensures that livelihood will not be taken away unless(i) it is in public interest and that is seen by social impact assessment (ii) The affected citizens are given rehabilitation. The amendments made without considering the above factors will take away fundamental rights of the citizens.

However, the Gujarat, Andhra Pradesh, Telangana, Jharkhand and Tamil Nadu later amended the act by way of ordinances to exempt broad categories of land projects from consent provisions, social impact assessment, objections by affected citizens and participation of local bodies. Projects exempted are linear category projects such as industrial corridors, expressways, highways etc.

In December 2014, an Ordinance was promulgated to amend the 2013 Act. The Ordinance was repromulgated in a modified form in April 2015, and again in May 2015. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015 was introduced in Lok Sabha on May 11, 2015 to replace the April Ordinance. An Amendment Bill, 2015 was passed in Lok Sabha however the same was blocked in Rajya Sabha and is still with Parliamentary Committee.

Amendments proposed in the bill, included exemption of consent of land-owners, social impact assessment (SIA) and restriction on the acquisition of agricultural land for five categories of projects, including defense, rural infrastructure, other infrastructure projects, industrial corridors and affordable housing.

Public Participation in Practices

Field experience suggests that despite apparently sound policy and committed agencies, one of the root causes is often the failure of resettlement legislation and institutional practices to take account of the real-life context of resettles and their

livelihood. In short, while policy and institutional practices may look good on paper, in practice they may be inappropriate for local conditions This part will look at resettlement experience of Narmada Bachao Andolan to demonstrate how resettlement compensation, despite a strong policy basis and generally realistic allocation of resources for resettlement, is undermined by legislation and practices which take account of official conditions but frequently refuse to acknowledge actual conditions in terms of local requirements, environment and available resources

Narmada Bachao Andolan

All over the world dams and the anti-dam movement play an emblematic role for the entire resettlement problem. Among dam resistance movements, one in particular, the Narmada Bachao Andolan in India, has garnered by far the most attention of any other around the world. Numerous studies, books, dissertations and articles, not to mention websites, list serves, films and videos focus exclusively on the NBA and the Sardar Sarovar Project, dwarfing in comparison the discussion of resistance in the rest of the world. Without question one of the most notable leaders of a resistance movement today is Mehda Patkar, the charismatic leader of the Narmada Bachao Andolan, has taken a major role not only in the development of that organization, but in the transnational anti-dam movement and the evolution of the discourse on sustainable development as well. She has launched marches, hunger strikes, drowning team vigils, and law suits, arguing tirelessly for the restoration of both rights and resources to the project affected peoples. She has militated for the withdrawal of funding for the project from international sources. She has also endured arrests and detainments at the hands of outraged authorities and had to go into hiding at one point when authorities attempted to interrupt one of the drowning team vigils. She has testified before numerous inquiries, including a U.S. Congressional committee, on the failures of the project to inform the people, to plan adequately for resettlement and its overall lack of sustainability. She also became a commissioner when the WCD was formed and in the final report claimed the right to make a final comment in which she continued to challenge the reigning model of development as leading to the marginalization of the majority despite any precautions that might be recommended by the commission (WCD 2000: 321-22). In many ways, even though she herself is not threatened with displacement and resettlement, through her commitment to the struggle, including her promise to drown in the rising reservoir if the dam is completed to its planned height, she has come to symbolize resistance to Development Induced displacement around the world.

The extraordinary struggle around SSP has turned a new page in the history of resettlement and rehabilitation world wide. It has exposed to national and international scrutiny some deeply rooted flaws of development policies and planning not only in India, but many other countries too.

The movement in the Narmada valley, and the transnational campaign supporting it, led to several unintended long-term structural changes in Washington, DC also. Jai Sen (1999) argues that paradoxically the campaign reduced democratic control over the structures of the World Bank by increasing the control of the US Congress and the concentration of power of the major share-holding states of the North (G7 members control about 60 percent of the vote) over the staff of the World Bank. However, the campaign also resulted in internal changes of control and review mechanisms at the World Bank. Among the latter is the revised information disclosure policy, which lays down that specific project information was pertaining to environment and resettlement be made known to those affected by the project prior to its appraisal (Udall, 1998). It also contributed to the setting up of the Inspection Panel at the World Bank as well as of the World Commission on Large Dams, a forum for the negotiation of a new set of international ecological and human rights standards for large dams in which all stakeholders participate (World Commission on Large Dams, 2000). The WCD, comprising major stakeholders (construction firms, international funding agencies, popular movements, and national governments), administered eight detailed case studies of large dams, conducted country reviews, surveyed over 125 dams, held hundreds of consultations world-wide, and received over 900 evaluative submissions. Its report was prepared:
The Report adopts a “rights and risks” approach to populations affected by dam projects, and recommends participation by them at every stage of decision-making. The WCD Report states that:

Those whose rights are most affected, or whose entitlements are most threatened, have the greatest stake in the decisions that are taken. The same applies to risk: those groups facing the greatest risk from the development have the greatest stake in the decisions. . . . and, therefore, must have a corresponding place at the negotiating table.

In consequence the international, national and local authorities, they all developed policies, guidelines, laws, acts, study material, courses, trained personnel and so on but If we look at the news on Narmada Dam from the year 2010 to 2018, the situation about the participation of PAP seems as grim as it was the 30 years back.

In March 2010 according to Ms. Patker, only 30 percent of the canal network of the project has been constructed in over 30 years, while 66,000 km length of canals remain unbilt, “not due to opposition by the NBA, but because farmers are

unwilling to part with 30,000 hectares of land that would submerge and due to absence of command area development plans. In the face of resistance by farmers, Gujrat is now toying with the idea of an underground canal. (The Hindu,2010)

There was much talk about the benefit sharing of PAP and several models have been developed but a vast gulf between theory and actual practices still exists. Ms pattker mentioned that "Despite the pondage attained by submerging tribal lands, forests and communities, not more than seven to 10 per cent of the available water is being utilized by Gujrat. "Moreover, with much of the water supplied to cities, especially Gandhi Nagar, the Kutch residents have moved the Supreme court demanding their due share. On the other hand, Maharashtra is demanding Rs. 1,800 crore compensations from Gujrat, for loss in allocation of power, While Madhya Pradesh, also a BJP ruled State, has also not got its share of power, but is keeping mum." Not only this Gujrat government is demanding from center for funds or for adopting the project as a national project which would be contrary to the centre's own Interim reports and findings that speak of non compliance with the rehabilitation and environment safeguard measures.

In 2000 Supreme Court rejected the NBA's petition and allowed the project to proceed, at the same time made an important mandatory stipulation for the continuance of work, namely, that further progress would be subject to checks at every stage (every increase of 5 m in dam height) on the status of these measures. Still several people are waiting for their compensation. Large scale corruption in rehabilitation and resettlement of outsees exposed by the NBA led to the court appointing a judicial commission of inquiry in Madhya Pradesh.

In April 2010 about 800 people affected by the Maheshwar hydel dam project have launched an indefinite protest in the capital, demanding that the Union Ministry of Environment and Forests put a halt on the project until the rehabilitation and resettlement of villagers catches up with the construction of the dam. According to the terms of the environment clearance, R&R work was to have kept pace with the dam's construction, and should have been completed six months prior to submergence. However, the construction is now more than 80% complete, and submergence was expected by November 2010, while less than 5 percent of R&R work has been completed.

On April 23, 2010 citing negligible progress on rehabilitation and resettlement fronts and an advanced stage of dam construction, the Union Ministry of Environment and Forests had ordered suspension of construction work on the dam. In response to this Madhya Pradesh Chief Minister Shivraj Singh wrote letter to Prime Minister Manmohan Singh, dated April 28, 2010 called the MoEF decision arbitrary.

On 7th May 2010 PMO convene a meeting. While the Central Water Commission gave its opinion in writing on the risk involved if the work was stopped completely, the M P Chief Secretary gave an assurance on behalf of the state government that R&R work would be completed. Under pressure from the MP government and the Prime Minister office the Ministry of Environment and Forests has decided to allow partial construction of the Maheshwar dam to resume, modifying its own suspension order.

The Narmada Bachao Andolan, which is coordinating the protest on the failure to complete R&R work, had mentioned that "since the earliest (suspension) order was under the provisions of the Environment Protection Act, it can not be modified and work cannot be resumed on the basis of assurances." (The Hindu,2010)

On the 29th of October 2009, the union minister for Environment and Forests, Shri Jairam Ramesh has again written a letter to the Chief Minister, Madhya Pradesh Shri Shivraj Singh Chauhan and informed him that there have been grave violations of the conditions of the environmental clearance. As a consequence, the Ministry has proposed to stop the construction work on the dam until a comprehensive R&R Plan with all details of agricultural land, house-plots, etc is submitted to the Ministry and found to be implementable, and until the R&R works are brought up to pace with the construction work on the dam.

In November 2010, eeven after 7 months after the project work was suspended, people realizes that there is no progress in the work of rehabilitation and resettlement, therefore the sea of 20,000 to 25,000 people (over 50% of them women) of Mandleshwar town affected by the Maheshwar dam gathered on 23rd November 2010 and marched through the town, in defense of their right. After the rally and the public meeting, the outsees handed over to the Sub-Divisional Officer, Maheshwar, two memorandums in the name of Union Environment Minister, Shri Jairam Ramesh and Madhya Pradesh Chief Minister, Shri Shivraj Singh Chauhan. It was demanded in the memorandums that the Maheshwar project and Power Purchase Agreement must be scrapped and the environmental clearance revoked, since the Maheshwar project has become unviable and high cost and is unlikely to provide electricity to the common people of Madhya Pradesh, and because the authorities have refused to provide a minimum 2 hectares of irrigated land to landholders, adult sons and daughters and landless farmers, and because the impact of submergence is likely to be far larger than envisaged. They also demanded that

the rehabilitation and the other offices of the project must be relocated to Mandleshwar outside the dam site, as the district administration had put prohibitory orders on the dam site to conceal the clandestine construction work at the dam site done by the project authorities in violation of statutory Orders. The outsees declared that they would continue to struggle with courage and determination to achieve the desired outcomes as they have done for the last 14 years.

In May 2011 a Madhya Pradesh High Court judgement of rehabilitation and resettlement of adult Sons of the Omkareshwar dam displaced people was overturned by a Supreme Court Order. The Supreme court in its place of directing the state for complying with the lower court order, ordered 'land-for-land' rehabilitation for land owners while ignoring the rights of adult sons. These cases were filed by the Madhya Pradesh government against High Court orders that favored proper rehabilitation under the land-for-land policy for dam-displaced people, (The Hindu, 15 2011)

In April 2012, the NBA opposed the move of the Madhya Pradesh government and the SMHPCL (Shree Maheshwar Hydel Power Corporation Ltd) seeking permission from the Ministry of Environment and Forests to fill the dam up to 154 meters, claiming that it would cause the deaths of thousands of project-affected people. According to SMHPCL, only 22 villages would be affected — 13 villages fully and 9 villages partially — once the reservoir is filled up to162.76 meters. The NBA, however, claims that 61, villages fell under the submergence zone and less than 15 per cent of the project-affected people have been rehabilitated. The NBA has accused State government authorities, including the Khargone District Collector of providing "false certificates" to the SMHPCL. (The Hindu,2012)

In June 2013, thousands of outsees affected by the Indira Sagar, Omkareshwar, Maheshwar, Upper Beda and Man dam demonstrated in capital city Bhopal on 28th June 2013 and began their Satyagrah.

It is noteworthy that as per the common R&R Policy of the Government of Madhya Pradesh for the outsees of the Omkareshwar, Indira Sagar, Maheshwar, Man and Beda dams, the outsees have to be allotted land and other benefits of the R&R Policy, and resettled well before submergence. But there was no compliance with the R&R Policy, because of which the outsees reached a pitiable state

In January 2014, Hundreds of thousands of outsees affected by the Omkareshwar, Maheshwar, Indira Sagar, Sardar Sarovar, Man, Upper Beda, Jobat and Bargi dams have been fighting for their rights, under the aegis of the NBA. Their protests, fasts, jal-satyagrahas and non-violent actions are suppressed by repeated arrests, jails, beatings, and indifference by the state join the Aam Adami Party and still struggling to be resettle and get the fair compensation (Down to Earth, January 13,2014)

The apolitical NBA movement assumed political overtones in January 2014, when two of its tallest leaders, Medha Patkar and Alok Agrawal, joined AAP in their quest to practice and propagate an alternative politics. Patkar contested the 2014 Lok Sabha election from Mumbai and Agrawal from Khandwa in Madhya Pradesh. Both lost, but remained mainstays of the outfit. Later both the leader left AAP party. The movement remain continue. Despite a strong struggle in 2015, over 6,000 people have converged against further plans for dam construction.

The year 2016 unfolded a new chapter in the controversial Sardar Sarovar Dam. It was reported that money was swindle from a rehabilitation scheme, lands of thousands of tribal families in Madhya Pradesh have been given to original dam-displaced people, even without their knowledge. Later these people discover themselves as landless, they are being termed as the new "refugees" of the Sardar Sarovar dam on the Narmada River.

On 17th September 2017 Prime Minister Narender Modi inaugurated the gigantic structure of Sardar Sarovar Dam however the struggle of affected and displaced people to build their life again without their jangle Jameen and jal did not stop and still continue.

Sardar Sarovar Dam project is a case wherein all the affected were not fully compensated. Moreover, the various social groups also are not received equal share in the costs and the benefits of the project. The most affected social groups are unequally carrying the burdens of loss of land and culture. In addition to the dam, more than 41,000 families (more than 200,000 people) were displaced in the three states of Gujarat, Maharashtra and Madhya Pradesh. More than 56% of the people affected by the dam were Adivases,

In addition to the displacement the big development projects and the rising industry have also pushed them into the continuously expending, low paid, uncertain, temporary and insolvent labor market, to make ends meet in a society dominated by capital and market.

Narmada case evidently shows that even though the quandary of those displaced has been widely questioned and researched for over three decades now, government and other concern organizations drafted policies, laws and issued the guidelines accentuating on the participation of Affected People, but in actual practice resettlement schemes are widely considered a failure.

It has observed that a good policy, legislation and plan cannot ensure good resettlement in the absence of proper participation, sufficient resources for implementation and the presence of strong will at political and institutional level. In theory, if responsible institutions take the steps outlined and are backed up by political commitment to good resettlement then resettles should receive equitable compensation and not suffer during the process of resettlement. However, in practice, even where there is political commitment to good resettlement, and where adequate resources have been allocated, there may be nonetheless be problems in delivering effective and equitable resettlement packages.

CONCLUSION

Experience shows that mechanistic or paternalistic plans may at times be appropriate in protecting people from immediate impoverishment. However, such plans are not likely to be appropriate in accelerating the dynamic transition to renewed productivity and restored living standards. It is now widely recognized that restoration of incomes and living standards requires the active participation of those adversely affected. Therefore, participation is important because the success of resettlement, like the success of most of the projects that cause it, depends to a great extent on the responsiveness of those affected. However, many critics still feel that substantive participation by non-elites is unrealistic. The general assumption prevailing is that affected populations may have a vote on projects; they must not have a veto. Processes to empower the hitherto excluded will face difficulties because not everyone has the same capacity to participate. Sherry Arnstein, an early theorist of participation, draws up a "ladder of citizen participation" with eight rungs: the bottom two rungs are, in reality, nonparticipation; the middle three signal varying degrees of tokenism; and the top three confer varying degrees of citizen power ("partnership, delegated power, and citizen control"). (Sherry R. Arnstein,1969) The reason might be that in most of the cases in all over world it has actually seen that participation was mere manipulation it never gained entry into decision making arenas. In some cases, it came so late that it imposed excessive social and human costs on the total enterprise. When participation comes late in the sequence of decisions and actions, it signals that technical, political, and managerial elites did not, at the outset, intend to include non-elite participatory voices in decisions. In such cases participation by non-elites must be conquered by "forcible entry." Not surprisingly, imposed participation is perceived by elites to operate in the adversarial mode and adversely affect the capabilities of people. Nowadays though we have been hearing and practicing from some time "*sabka saath sabka vikas*" (each one's support, each one's development), it is perhaps fair to acknowledge that in the case of development induced displacement the practices were not remain stanch to this principle.

REFERENCES

[1]. Misra R.P. (1978), Target Group and Regional Development: Case for a more Comprehensive Social Policy, in Regional Planning and National Development, Misra, R.P., Urs, D.V. and Natraj, V.K (ed.), Vikas Publishing House Pvt. Ltd.,New Delhi,1978,pp. 272
[2]. Kluittenbrouwer (1978), On the concept of Process of Marginalization, Occasional Paper No. 37, The Hague,ISS,1973 in Regional Planning and National Development, Misra, R.P., Urs, D.V. and Natraj, V.K., , Vikas Publishing House Pvt. Ltd.,New Delhi,pp. 274
[3]. Second Five Year Plan(1956) Gvernment of India, Planning commission , New Delhi,
[4]. Third Five Year Plan(1961), Gvernment of India, Planning commission .New Delhi, 1961
[5]. Government of India report of the Committee on Rehabilitation of Displaced tribals due to development Projects (1985) , Ministry of Home Affaires, New Delhi
[6]. Kothari Smitu (1995), Developmental Displacement and Official Policies: A Critical Review, Lokayan Bulletin Vol.11,pp 5
[7]. Sitta A., The Role of the right to development in the Human Rights framework for development, Internet
[8]. Tenth Report on the Law of Acquisition and Requisitioning of Land, (1958),pp 1
[9]. Venkatesan J. (22 August 2010) ,Potential future value of land must be considered for compensation: Supreme Court, The Hindu
[10]. M.G. Chitkara, P. L. Mehta (1991), Law and the Poor ,Ashish Publishing House, New Delhi, pp.18
[11]. K. Vasvani, (1992), Rehabilitation Laws and Policies: A Critical Look, in E. G. Thukral (ed) *Big Dams, Displaced People: Rivers of Sorrow Rivers of Change*, Sage, New Delhi, pp. 159
[12]. The Hindu (New Delhi), 19 February, 2009, p. 19

[13]. Iyer R. R (2007)., Towards a just Displacement and Rehablitation Policy. Economic and Political Weekly, July 28, 2007
[14]. Narmada dam needs review, not funds: Medha Patker (March 24, 2010), The Hindu,
[15]. Maheshwar dam work to resume partially, The Hindu, May 11, 2010
[16]. Cernea , M.M. (ed.), Putting people first: Sociological variables in Rural Development Projects, New York:oxford University Press.
[17]. Narayanan Pradeep (2003), Empowerment through Participation: How Effective is this Approach?, Economic and Political Weekly, , pp 2484 ,
[18]. Parsai Gargi (15th May,2011) , NBA to seek review of verdict**,** The Hindu,
[19]. NBA is spreading falsehood, say Maheshwar dam promoters(April 3, 2012),The Hindu
[20]. Sherry R. Arnstein ((1969). , A Ladder of Citizen Participation, 35 J. AM. INSTITUTE OF PLANNERS pp216- 217
[21]. Editorial Note(April-June 2013) NUJS Law Review, Vol VI,No.2,pp 2-4