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# JCC LAW REVIEW

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Jogesh Chandra Chaudhuri Law College

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## MEGA DAM PROJECTS DEVELOPMENT IN INDIA CAUSES DISPLACEMENT: LEGAL AND POLICY PERSPECTIVES

Chandrani Das\*

### I. PROLOGUE

Dams in India have been constructed across various perennial rivers, as a part of several multipurpose projects to serve a variety of needs basically dams are built to harness the river water so that it can be utilized according to the needs. The aim of a multipurpose project is storing water for irrigation purposes generating hydro-electricity by utilizing the water stored by the dams, preventing floods and facilitating afforestation in the catchments areas of the reservoirs.

Dams, once considered the blessing of mankind are now-a-days becoming the concern of environment. Dams, including large dams, are constructed because of the potential benefits that they bring; firstly, Water for increased food production, secondly, Generation of electric power without releasing atmospheric pollutants or greenhouse gases and for controlling floods and providing drinking water.<sup>1</sup>

Worldwide, over 45,000 large dams have been built, and nearly half the world's rivers are obstructed by a large dam. The belief that large dams, by increasing irrigation and hydroelectricity production, can cause development and reduce poverty has led developing countries and international agencies such as the World Bank to undertake major investments in dam construction. By the year 2000, dams generated 19 percent of the world's electricity supply and irrigated over 30 percent of the 271 million hectares irrigated worldwide. However, these dams also displaced over 40 million people, altered cropping patterns, and significantly increased salination and waterlogging of arable land.<sup>2</sup> The distribution of the costs and benefits of large dams across population groups, and, in particular, the extent to which the rural poor have benefited, are issues that remain widely debated.

During the period of 1947, water resource development works in India comprised mostly of diversion weirs or small earth dams not exceeding 15 to 20 metres in height, mainly in the form of small tanks and bunds with localised networks of canals. In fact there were only 30 dams that were 30 metres or more in height before the onset of independence. However, these many involved extensive and sophisticated modes of water harvesting, sometimes with massive canal systems, and involving creative application of indigenous technologies.

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<sup>1</sup> M. Tajuddin Sikder and K. Maudood Elahi, "Environmental degradation and global warming- consequences of Himalayan mega dams: a review", *American Journal of Environmental Protection*, Vol 2 No. 1, 2013, Pg 1

<sup>2</sup> World Commission on Dams, "Dams and Development: A New Framework for Decision-Making", Earth Scan Publications 2000.

Dams have always generated serious controversy in India as they have tended to be a major source of displacement-related conflicts. Estimates of national resettlement forced by development projects show that during 1950-90 the number of people affected was 18.5 million. According to the Central Water Commission, over 3300 dams have been built since independence and some 1000 more are under construction. 54 large dams in India have displaced about 44,182 of people. The World Bank's 'Project Completion Report' for the controversial Sardar Sarovar dam on the Narmada likely to displace about 0.2 million people.

Large storage works such as the Bhakra, the Hirakud, the Tungbhadra and the Damodar Valley Dams were amongst the earliest projects undertaken in the post-independence period in the country. Construction of high dams for hydropower generation was also taken up, especially in peninsular India, and this included schemes such as the Machkund, Pykara and the Kundah hydroelectric projects. The national plans also attempted to incorporate wherever possible a multi-purpose orientation to dam projects, including hydro-power, flood control and navigation, in addition to irrigation. Some 3,300 big dams have been constructed in India in the last 50 years. Budget provisions for major irrigation projects outstrip most other sectors, including health and education, in the annual plans of many state governments. These are also far in excess of financial allocations for establishing or strengthening decentralized irrigation schemes.<sup>3</sup>

The development project usually located in remote areas like villages, hills and forests where people are inhabitants and is traditionally agents of conservation. Displacement means a loss of livelihood, habitat and assets, social disruption and disorder and severance from an eco-system which had sustained them. This displacement threatens the poor and the weak with even greater impoverishment.

A Mega-dam project amongst policymakers remains largely undimmed, a formidable body of independent empirical research into many of these large dams has established how their social, human and environmental costs have been ignored or grossly understated in the planning of these projects, and the expected benefits exaggerated.

It was clear from the start that mega-projects would require the displacement or forced uprooting of substantial populations, particularly for hydraulic projects which entail large-scale submergence for reservoirs. However, national leaders and policymakers typically viewed these as legitimate and inevitable costs of development, acceptable in the larger national interest.

Rehabilitation primarily the process of reconstruction of the livelihood of displaced persons which have never been a guiding principle of the 1894 Land Acquisition Act which is still in use emphasizes cash compensation for loss. The government has taken the firm stand that rehabilitation would not be a prime consideration when acquiring land for 'public purpose'. The government has even sought to take away the right of appeal by those whose land stands to be confiscated by making the Supreme Court the only appellate forum.

<sup>3</sup> "Reassessing Internal Displacement in South Asia", Published by: South Asians for Human Rights (SAHR), 2013, Pg 89

## II. DIFFERENT CONSTRUCTIONS OF DAMS CAUSES DISPLACEMENT IN INDIA

The construction processes of Dams are rather multifarious and prolonged, which requires high level of technical expertise, along with suitability of various natural factors. One particular determinant of construction of dams in India is topographic suitability. River gradient strongly influence the location of dams. It is very relevant that if a river flows at positive gradient it will favour irrigation dams, while elevated water levels upstream aid water storage and diversion into irrigation.

The Indian governments play an important role in dam construction. The Planning Commission of India sets each state's five-year water storage and irrigation targets. Given these targets and topological surveys of potential dam sites, the irrigation departments of each State proposes dam projects. The federal committee examines the economic viability of these projects. The Planning Commission selects the final projects on the basis of investment priorities and sectoral planning policies. Construction of a dam and the associated canal network remain the State's responsibility.

The number of people displaced by dams and other development projects has been quite controversial. India is the third largest dam building country with over 3600 large dams and more than 700 under construction. Dams have been the biggest source of destruction of habitat and displacement of people in the last 50 years. According to the World Commission on Dams (WCD) has quoted, World Bank acknowledging that though large dams constitute only 26.6 per cent of the total WB funded projects causing displacement, the resulting displacement makes up 62.8 per cent of the total number of people displaced. It is also apparent that project authorities do not consider the problems of displacement and rehabilitation as important parts of the project. The primary concerns are engineering specifications and electricity and irrigation benefits. In this event, concerned authorities seldom undertake detailed and systematic surveys of the population to be displaced. This makes it very difficult to know the actual number of displaced persons.<sup>4</sup>

According to Walter Fernandes, the number of the displaced must have crossed 400 lakhs (40 million) but official figures are mostly underestimates. By official estimates only 1,00,000 were displaced by the Hirakund dam in Orissa. But researchers have put the figure at 1,80,000. By official count the Farakka Super Thermal Power plant in West Bengal affected no one. But World Bank has put the number of affected persons at 63325.<sup>5</sup> The number of persons displaced by the Hirakud dam was between 1.1 lakh and 1.6 lakh, while the official figures are only 1.1 lakh. Unofficial figures of displacement due to the Hirakud dam are 1.8 lakh persons.

In 1979 the number of families that would be displaced by the Sardar Sarovar Reservoir was estimated to be a little over 6000. In 1987 it grew to 12000. In 1991 it surged to 27000. In 1992 the Government declared that 40000 families would be affected. Today, it hovers between 40000 and 41500... but according to the NBA (Narmada Bachao Andolan) the actual figure is 85000 families - about half a million people... The Bergi dam near Jabalpur was the first dam on the Narmada to be completed

<sup>4</sup> Himanshu Thakkar, "Large Dam Projects and Displacement in India", In his presentation to the World Commission on Dams (WCD), March, 2000.

<sup>5</sup> Walter Fernandes, "Displacement-What is all the fuss about?", Humanscape, November 1999.

(1990). It cost ten times more than was budgeted and submerged three times more land than the engineers said it would. About 70000 people from 101 villages were supposed to be displaced but when they filled the reservoir (without warning anybody), 162 villages were submerged.<sup>6</sup>

## III. THE DISPLACEMENT SCENARIO

All mega dam projects displace dirt and substrate, thereby altering the biological, geological, and physical attributes of landscapes significantly. Mountaintops are removed to fill streambeds, harbours deepened and protected by artificial piers, river and aquifer courses altered, lands cleared, leveled, and planted with neat rows of trees. Changes in soil characteristics, land forms, and habitat result in changes in species composition with long-term economic, cultural, and health consequences. So, when we think about displacement by mega-projects, we need to look beyond the fate of humans displaced rising reservoir waters to include (1) displacement of significant volumes of rock and soil, (2) displacement of hydrological patterns, (3) the displacement of natural habitats and the creation of new ones, (4) displacement of species and plant and animal communities that goes along with displacement of niches, and (5) the resultant disappearance of livelihood opportunities for resource-dependent communities.

There is a disagreement over exact number of displaced people. It seems likely that no less than 40- 50 million people have been displaced. Various studies on displacement point out that in earlier phase until 1980 was marked by meagre compensation towards the affected people and lack of any attempt to understand the issues of rehabilitation of the displaced people. Most of the affected people were from poor households and with the displacement they were further marginalised due to loss of their livelihoods.

The people are voluntary displaced due to acquisition of their land for developmental activities across India are a major issue. They have resulted in widespread protests across the country. People began to protest, for example, major projects such as Sardar Sarovar, Salient Valley, the Manglore Thermal Power, the Dabhol power and so on.

In India people continue to be involuntary dislocated and the goal of resettlement remains exceedingly difficult to achieve. Moreover, the aims of sustainable development, where people are better than they were before resettlement is far from being achieved. Seeing this issue merely a financial seems to be incorrect. Compensation by itself cannot fully restore and improve levels of income of those who have been involuntary displaced.

In the 1990s, development-induced displacement emerged as a major concern and also a challenge among the Indian social researchers. The concern arose because of dramatic rise developmental projects and urban expansion in the 1980s fuelled by construction of dams and urban development coupled with disastrous outcomes in resettlement experiences.<sup>7</sup> This led to an increase in popular resentment and protest, which brought the issue on forefront.

<sup>6</sup> Arundhati Roy, "The Greater Common Good". Frontline, June 4, 1999. website: [www.narmada.org/index.html](http://www.narmada.org/index.html) visited on 20.12.13

<sup>7</sup> Kalim Siddiqui, (1993) "Large Dams and Environmental Problems", Dag og Tid, (in Norwegian) 25th February, Oslo, Norway.

The Upper Krishna irrigation project (i.e. dams and reservoir) displaced about 300 000 peoples. Loss of livelihoods and displacement has become a recurring feature of Singrauli region of Madhya Pradesh state mainly due to construction of dams, power and mining since 1960s. Displacement in the Singrauli region began first by the construction of *Rihand* dam and *Govind Sagar* Reservoir in the 1960s. Later on in 1980 Thermal power projects were set up, which led to expansion of coal mining in the region. All these activities have initiated a series of displacement and loss of livelihoods of the people in the region.<sup>8</sup>

The Sardar Sarovar project has affected nearly 300 villages, with 163 000 people have been displaced and among them tribal population has been severely affected (Table 1).<sup>9</sup> In fact, it seems that the colonial land acquisition Act 1894 ignores that fact that in rural economy land is the sustenance not merely of land owners but also to the landless service groups. To attract private investors and profits have become the sole criteria. The force is being used to evict the people from their homes and lands, where they may have lived for generations is unjust and inhumane and could not be justified in truly democratic sense. On this issue government seems to be bent on advocating and protecting the interest of tiny corporate sector.

**Table 1: The percentage of tribal population displaced due to large dams in India**

Name of the Project	State	Population facing displacement	Percentage of tribal people
Karjan	Gujarat	11,600	100
Sardar Sarovar	Gujarat	200,000	57.6
Daman Ganga	Gujarat	8,700	48.70
Ukai	Gujarat	52,000	18.92
Maheshwar	Madhya Pradesh	20,000	60
Bodhghat	Madhya Pradesh	12,700	73.91
Icha	Bihar	30,800	80
Chandil	Bihar	37,600	87.92
Koel Karo	Bihar	66,000	88
Maithon and Panchet	Bihar	93,874	56.46
Masan Reservoir	Bihar	3,700	31
Mahi Bajaj Sagar	Rajasthan	38,400	76.28
Polavaram	Andhra Pradesh	150,000	52.90

<sup>8</sup> R.N. Sharma, and S.R. Singh, "Displacement in Singrauli Region: Entitlements and Rehabilitation", Economic and Political Weekly, Vol 24, No. 51, December 2009.

<sup>9</sup> S. Parasuraman, "The Development Dilemma: Displacement in India", Publisher-Basingstoke, Macmillan. Physical Description: XXI, (1999) pp 39

Ichampalli	Andhra Pradesh & Maharashtra	38,100	76.28
Tultuli	Maharashtra	13,600	51.61
Upper Indravati	Orissa	18,500	89.20
Bhakra	Himachal Pradesh	36,000	34.76
Pong	Himachal Pradesh	80,000	56.25

Source: Kalim Siddiqui, "Development and Displacement in India: Reforming the Economy towards Sustainability", Journal of Physics: Conference Series 364 (2012) 012108, Pg 6-7

The government of India admitted that several million people displaced by different mega dams and still 'awaiting rehabilitation', a figure regarded very conservative by most independent researchers. The developmental projects are always put forward as development for national interest.

At least 50 million people have been displaced since independence under the colonial Land Acquisition Act of 1894. Most of these people are difficult to trace, who are living in urban shanty towns across the big cities in India. Despite the years of protests and demonstrations on the issue of displacement and rehabilitation little progress has been done to ameliorate the sufferings of the affected people. However, the government has announced its policy on National Resettlement and Rehabilitation Policy (NRRP) in 2007 which states: "through a careful quantification of costs and benefits that will accrue to society at large, of the desirability and justifiability of each project. The adverse impact on affected families - economic environmental, social and cultural - needs to be accessed in a participatory and transparent manner".<sup>10</sup>

On the issue of displacement risks, has identified key vital components such as: Landlessness; joblessness; homelessness; marginalisation; food insecurity; community disarticulation; loss of access to common property resources. According to him, preventing these factors would mean reversing the risks. He emphasis that land is the basis of people's productive system in agrarian society and if it is not replaced by steady income generating employment would lead towards impoverishment.<sup>11</sup>

In recent years states like Gujarat, Haryana, Jharkhand, Madhya Pradesh and West Bengal have displaced very large number of people in order to acquire land for SEZs that was expected to attract millions of US dollars on nearly half-million acres of land. It was also claimed that these investments would create more than half million jobs, but due to high mechanized and automation the job creation was far less than expected.

#### IV. RIGHTS OF THE DISPLACED PEOPLE DUE TO DAM PROJECTS - THE RESPONSE BY THE INDIAN JUDICIARY: TRACING THE RIGHT BEYOND SPECIFIC LEGISLATION

In the absence of any law on rehabilitation, it was expected that the judiciary will take a dynamic stance while interpreting Article 21 of the Constitution, and grant relief to the oustees. In any case, the judiciary has recognized that Article 21 incorporates

<sup>10</sup> Kalim Siddiqui, "Development and Displacement in India: Reforming the Economy towards Sustainability", Journal of Physics: Conference Series 364 (2012) 012108, Pg 7

<sup>11</sup> Cernea, Michael M. (2000) "Risk, Safeguards and Reconstruction: A model for population displacement and resettlement", Economic and Political Weekly, Vol 35, No 41, 2000, 7th October

certain unenumerated rights in the enumerated Right to Life, and has given it a broad interpretation to include right to life with dignity<sup>12</sup>, and to mean more than mere survival and mere animal existence.<sup>13</sup> Right to be rehabilitated is the logical corollary of the right to life with dignity. Thus, in the absence of any enumerated right to be rehabilitated, the judiciary could correct the legislative error by recognising the same as an unenumerated right under Article 21 and it did the same in Narmada. However, it is important to contextualize the decision to ascertain whether the expansion of Article 21 has solved the problem at hand, which is, providing rehabilitation to the displaced.

In *B D Sharma v. Union of India*,<sup>14</sup> it was ruled that the overarching projected benefits from the dam should not be counted as an alibi to deprive the fundamental rights of oustees. They should be rehabilitated as soon as they are uprooted. Further, the court provided a time frame by which the rehabilitation must be complete: before six months of submergence. Such a time limit fixed by the Court was reiterated in the Narmada's case. In *Narmada Bachao Andolan v. Union of India*<sup>15</sup> it was observed that rehabilitation is not only about providing just food, clothes or shelter. It is also about extending support to rebuild livelihood by ensuring necessary amenities of life. Rehabilitation of the oustees is hence a logical corollary of Article 21. Further, in *N.D. Jayal and another v. Union of India*,<sup>16</sup> the court held that the right to development encompasses in its definition the guarantee of fundamental human rights. Thus, the courts have recognised the rights of the oustees to be resettled and right to rehabilitation has been read into Article 21. In Narmada's case a feeble attempt has been made to define rehabilitation as providing a quality to life *beyond just food, clothes or shelter*. In the light of this construction it is essential to contextualise the law by analysing its application to the cases of Tehri.

#### i. The Tehri Dam Project

In the year of 2002 Status Report of the Public Works Department of Tehri, the dam will displace 12,547 families. In *N.D. Jayal and Another v. Union of India*, a petition under Article 32 of the Constitution of India was the second round of legal action connected to the safety, environmental and rehabilitation aspects of Tehri Dam before the Court. The court rejected each of the objections of the petitioners and observed that the rehabilitation was taking place *pari passu* the implementation of the project. The court in general eulogized the benefits of a dam and concluded that since the government had constituted committees to look into the question of rehabilitation and accepted its recommendations subject to certain conditions, and since the project was being implemented in the terms thereof, the government had applied its mind to the question of rehabilitation. It further observed that petitioners have not been able to

<sup>12</sup> *Francis Coralie v. Delhi*, AIR 1981 SC 746: Justice Bhagwati observed that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing with fellow human beings.

<sup>13</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1968 SC 180: The court observed that Article 21 means something more and "the inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed. The ambit of "right to life" is wide and far reaching. It does not mean only that life cannot be extinguished as taken away but much more than that.

<sup>14</sup> 1992 Supp (3) SCC 93.

<sup>15</sup> AIR 2000 SC 3751.

<sup>16</sup> (2004) 9 SCC 362.

establish that the respondents are carrying on construction without complying with the conditions of clearance.<sup>17</sup>

#### ii. The Narmada Dam Project

Dam building is one of the most important causes for development related displacement. The brutality of displacement due to the building of dams was dramatically highlighted during the agitation over the Sardar Sarovar Dam. It has been called 'India's most controversial dam project' named Narmada Bachao Andolan. The Narmada Valley Development Project (NVDP) is supposed to be the most ambitious river valley development project in the world. It envisages building 3,200 dams that would reconstitute the Narmada and her 419 tributaries into a series of step-reservoirs. Of these, 30 would be major dams, 135 medium and the rest small. Two of the major dams would be multi-purpose mega dams. The Sardar Sarovar in Gujarat and the Narmada Sagar in Madhya Pradesh, would, between them, hold more water than any other reservoir in the Indian subcontinent. The official figure indicates that about 42,000 families would be displaced but non-governmental organizations such as the Narmada Bachao Andolan (NBA) puts the figure to about 85,000 families or 500,000 people. The Narmada Valley Development Project would affect the lives of 25 million people who would in the valley and would alter the ecology of an entire river basin.

#### V. ADDRESSING ISSUES OF PROTECTION OF RIGHTS OF INTERNALLY DISPLACED PERSONS BY LEGAL AND INSTITUTIONAL MECHANISMS

At the national level, the first policy draft was prepared in 1985 by a committee appointed by the department of tribal welfare when it found that over 40 per cent of the DPs and PAFs 1951-80 were tribals.<sup>18</sup> The next draft came from the ministry of rural development eight long years later in 1993 and the third in 1994.<sup>19</sup> After a few earlier drafts (1993 and 1994), the Ministry of Rural Development has finally come up with the Draft National Policy on Rehabilitation in 1998. This draft policy has some positive features. In the first place it does acknowledge that displacement results in 'state induced impoverishment'. It also recognises that 'no developmental project can be justified if a section of society is pauperised by it.' In brief the draft policy seems to correct the shortcomings of the existing legal regime and to a large extent tries to bridge the gap between the constitutional aspiration of social justice and the anti-people and anti-poor law on acquisition. It is significant to note that at about the same time the draft policy was drafted, the same Ministry also finalized the Land Acquisition (Amendment) Bill (LAB), 1998 widely regarded as anti-people and which actually ignored the draft policy on rehabilitation. Not unexpectedly, on the 31 October 1998, the Union Cabinet approved the Land Acquisition (Amendment) Bill, 1998; the Union Cabinet rejected the Draft National Policy on Rehabilitation.<sup>20</sup>

<sup>17</sup> *Bulbul Khaitan & Nitya Priya*, "Rehabilitation Of The Displaced Persons In India", NUJS Law Review, Vol 2 (2009), Pg 116

<sup>18</sup> Government of India 1985

<sup>19</sup> D.K. Samir, B. Paula and K. Madhuresh, "People on Move: How Governments Manage Moving Populations", Mahanirban Calcutta Research Group, Kolkata. (2004)

<sup>20</sup> Global IDP Database, "Profile of Internal Displacement: India Compilation of the Information Available in the Global IDP: Database of the Norwegian Refugee Council", (2001) <http://www.idpproject.org>, accessed on 23 October 2013.

In 2004 National Rehabilitation Policy for Project Affected Families (NPRR) was passed with minimal debate. NPRR only applies to those displaced due to development projects and is primarily meant to safeguard the interests of resource-poor landless agricultural labourers, forest dwellers, artisans and adivasi groups. The NPRR should safeguard adivasis from arbitrary displacement but has no provisions to consult them. However, the NPRR has grave shortcomings:

1. Financial assistance is restricted to the equivalent of a minimum wage for 625 days: families below the poverty line would much rather have jobs than receive once-off allowances.
2. Cash compensation is inappropriate for people who may have had little experience of the market economy and thus unwisely use cash made available.
3. There is little safeguard against corrupt officials.
4. Provisions for project affected people to participate in grievance procedures are extremely restrictive.
5. NPRR has no provisions regarding multiple displacements although field evidence shows most IDPs suffer from multiple displacements.
6. NPRR procedures are only activated when a set number of people are displaced at least 500 families in lowland and 250 families in highland areas. Civil servants are tempted to under-enumerate in order to avoid liability to pay compensation.<sup>21</sup>

The Government of India has established a fairly strong and independent mechanism to assess the environmental feasibility of all large projects, and no project can be commenced without an environmental clearance. It is long overdue that a parallel process be put into position for the 'rehabilitation clearance' of such large projects. This will ensure that detailed rehabilitation planning is integrated into the overall planning of the project, and that affected populations are extensively informed and consulted. The feasibility of the rehabilitation package should also be studied in advance before construction.

#### *i. Land-for-Land*

If the objectives of rehabilitation of persons displaced as a result of large dams is to ensure that they are not only better off, but are direct project beneficiaries, then at the heart of such a strategy must be a policy of replacing agricultural land and agriculture-based livelihoods with alternate agricultural land of viable size and productivity and with appropriate complements of credit and input assistance. The World Bank Policy outlines a few circumstances in which the cash compensation option may be appropriate: where the land taken for the project is a small fraction of the affected asset and the residual is economically viable; where livelihoods are not land-based; and active markets for land, housing and labor exist, displaced people regularly use such markets, and there is sufficient supply of land and housing. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

<sup>21</sup> Paula Banerjee, "IDP Protection at the National Level in South Asia", (2004) [www.fmrreview.org/FMRpdfs/BrookingsSpecial/11.pdf](http://www.fmrreview.org/FMRpdfs/BrookingsSpecial/11.pdf), accessed on 21 October 2013.

In the Indian rural context, such situations where active markets for land exist, and displaced persons regularly use them, would be rare. The Bank recommends land-based resettlement options in all other situations. According to the Bank, these options may include resettlement on public land, or on private land acquired or purchased for resettlement. Whenever replacement land is offered, resettlers are provided with sites for which a combination of productive potential, locational advantages and other factors is at least equivalent to the advantages of the old site. If sufficient land is not available, options built around opportunities for employment or self-employment should be provided in addition to cash compensation.<sup>22</sup>

#### **VI. SUGGESTION**

India has an opportunity to take a leading role in reforming the SSP to ensure more effective protection of internally displaced persons. First, the Indian government should substitute rehabilitation for compensation as a means to care for people affected by the SSP. Second, it is necessary to revise the eligibility requirements for rehabilitation. Finally, India should develop a comprehensive legal structure to address development-induced displacement that is consistent with international norms and laws.

##### *i. The SSP Should Focus On Rehabilitating The Displaced, Rather Than Providing Compensation*

As the SSP causes displacement and its accompanying harms, the Indian government should make every effort to minimize displacement and provide displaced persons with alternative land and shelter. However, in situations in which it is not feasible for the government to provide land, rehabilitation—a process through which the displaced are made economically self-sufficient should replace compensation.

##### *ii. The SSP Should Revise Its Definition Of Project Affected Persons*

Before rehabilitation measures can be effective, the Indian government should revise the criteria for determining eligibility under the NWDT Award. Currently, only people living in the SSP reservoir areas who hold legal title are eligible for compensation. These eligibility criteria should allow people who are dependent on the land and have no legal title, or are located in areas beyond the SSP reservoir, to obtain rehabilitation.

##### *iii. India Should Develop A Legal Framework To Deal With IDPs*

The only way to establish and implement these broad reforms is to develop a legal framework that will ensure that IDPs are equitably treated. India's existing legal infrastructure is inadequate for ensuring the protection of human rights in the implementation of the SSP. Thus, India should develop and adopt a comprehensive legal and policy framework that avoids involuntary resettlement, minimizes displacement when it is unavoidable, and makes certain that displaced people receive adequate assistance to restore their living conditions to at least pre project levels. In addition, India must establish effective sanctions in order to ensure that development projects are partnered with rehabilitation policies and plans. In fact, India has the greatest opportunity to prevent development-induced displacement at the outset given that as development projects progress, states often grow less open to advice from outside parties. This legal framework should include: (1) a statement of objectives; (2)

<sup>22</sup> *Ibid*



mechanisms for resolution of conflicts; (3) appeals procedures; (4) valuation and compensation for lost assets; and (5) shelter, infrastructure, and social services.

## VII. CONCLUSION

Displacement, resettlement and rehabilitation have been serious concern for all developing countries including India. A large number of development project such as dams have been initiated and established in the last five and half decade resulting in eviction of 40 to 50 million people approximately, mostly tribal/rural. Only about 25% have led some sort of rehabilitation, the quality of which is far from satisfactory. Projects have been poorly formulated and inefficiently implemented resulting in an undesirable impact on environment leading to deterioration in the quality of people's lives. Disruption in the established pattern of life of displaced people is traumatic and results in a spiral of impoverishments; economically, socially culturally and politically. It resulted in landlessness, homelessness, joblessness, marginalisation, poor food security, increased morbidity, and loss of access to common property resources and social disarticulation. Most displaced and project affected persons belong to the marginalized and powerless classes, asset less poor such as landless labours and small and marginal farmers.