

Displacement and Protest Movements-The Indian Experience

Dr. J. Uma Rao

Lecturer, Damodaram Sanjivayya National Law University

Abstract: Large scale river projects involve construction of dams at several places, construction of reservoirs and canals and this would invariably result in large scale upheaval of communities and necessitate their rehabilitation. Displacement has important dimensions, economic, sociological and legal. All the facets are inherent parts of human life and are interwoven, with overlapping boundaries. From the sociological point of view, the various hardships suffered by the affected people and the different protest movements, and the methods to suppress them are examined. This paper focuses on protest movements against large scale projects like the Silent Valley Project, the Tehri dam, the Koel Karo project. The use of the law by the state for suppressing these movements by use of the Official Secrets Act, 1923, The Criminal Procedure Code 1973, The Terrorist and Disruptive Activities (Prevention) Act (TADA), Prevention of Terrorist Activities Act (POTA) and some Irrigation Acts is highlighted in suppressing the protest movements.

Key Words- development, protest movements, Acts

After Independence, India aimed at achieving rapid economic growth and at attaining self-sufficiency in all areas. Industrialism and large-scale development projects were thought to be symbols of progress. India's socialist philosophy also played an important role. The most influential development model of the twentieth century has been industrial development. Development was inseparably linked with major and mega projects including dams, ostensibly to augment water resources.

Large scale construction, which involves acquisition of land and which leads to displacement, was seen as a necessary extension of development and critics of the projects have been called not just anti-project and anti-development, but also anti-national and democratic activities like protest marches were often treated as public order problems. Politicians, policy makers and engineers may claim that the attendant results were not anticipated and that displacement was an unintended consequence, but historical records say something quite different.

The figures of displacement of people vary from a conservative estimate of 110 lakhs to a figure of 185 lakhs during the period 1951-1990. Since Independence over 1600 major dams and tens of thousands of medium and similar irrigation projects have been built with canal systems, and the invariable consequences of water logging and soil salination. Another estimate places the number closer to 210 lakhs by these dams till 1985.¹ These figures do not include the sizeable number of people who are not acknowledged as being 'Project Affected' (i.e., by loss of livelihood caused by natural resource extraction or degradation), those displaced in urban areas and those victimised by the processes of secondary displacement (those whose livelihoods are adversely affected either as a direct or indirect or as a short term or long term consequence of the developmental intervention, but who are not acknowledged as 'project affected people or PAPs). In several cases their numbers exceed officially recognised PAPs. If these are tallied the number of those displaced since independence would be as high as 4 crores. Another way to view the magnitude of the displacement process by considering the financial resources spent on big projects. An estimate says that from 1947 to 1980 India spent 15% of its total national expenditure on building dams.²

Due to large-scale displacement that has occurred worldwide, it would be no exaggeration to call the 20th century the 'Century of displacement'.

I. Bureaucratic Attitude

In our celebration of nation building, the sacrifices demanded by rulers were thought to be justified. Pandit Nehru was one of the first who legitimised this attitude. At the foundation laying ceremony of India's first major river-valley project, the Hirakud in Orissa, he said "if you have to suffer you should suffer in the interests of the country"³ Smt. Indira Gandhi the then Prime Minister of India in a letter to Baba Amte on August 30, 1984 said "I am most unhappy that development projects displace tribal people from their habitat, especially as project authorities do not always take care to properly rehabilitate the affected population. But sometimes there is no alternative and we have to go ahead in the larger interest"⁴ A veil behind which the State, the politicians and the bureaucracy have taken refuge is the utilisation principle, which says that there should be maximum benefit to the maximum people and minimum harm/pain to the minimum, but the figures paint an altogether different picture. This principle is invoked to provide legitimacy to the displacement and to show that it is in the greater public interest and that the individual interest has to make way to greater public good.

1. Vijay Paranjpye- "High Dams on the Narmada, A Holistic Analysis of the River Valley Projects" (INTACH) 1990, as quoted by Smithu Kothari, in "Whose Nation? The Displaced as Victims of Development" EPW Vol 31 (24) p 1476 at p.1477.
2. Dilip D'Souza, "Narmada Dammed-An enquiry into the politics of development," 2002, p 01.
3. The Bombay Chronicle April 12, 1948, as quoted by Smithu Kothari, in "Whose Nation? The Displaced as Victims of Development" EPW Vol 31 (24) p 1476 at p.1478.
4. Edward Goldsmith and Nicholas Hildyard Ceds, "The Social and Environment effects of large Dams Vol-II p.245", as quoted by Smithu Kothari, in "Whose Nation? The Displaced as Victims of Development" EPW Vol 31 (24) p 1476 at p.1477.

II. Effect On Tribals

Tribals comprise 7.5% of the country's population. Over 40% of those displaced till 1990 come from these communities, underscoring the fact that tribals are disproportionately affected by developmental displacement.⁵ A large mass of humanity has had to leave their homes, farms, neighborhoods, and entire communities have had to start their lives from scratch due to displacement. Most of the Dams are in predominantly tribal areas and tribal cultures are distinct from those groups belonging to modern economy. They are marginalised from the mainstream political system and are vulnerable to exploitation. The special needs of tribals have not been taken into account in past resettlement plans and policies and their encounter with the modern economy through displacement mostly resulted in material impoverishment and social disintegration.

There are, of course exceptions to this attitude as with the Apa Tanis Project in Subansiri district of Arunachal Pradesh, where outsiders were not allowed to enter the valley. It was ensured that there was cash flow into the valley. Village Panchayats and local bodies consisted of tribal leaders and members. Disputes were settled by tribal courts and local bodies were also the law enforcers. Schools were established where children were educated irrespective of parental means.⁶ But instances like the Apa Tanis project are very few. Displacement brings about drastic changes in people's lives as they permanently alter the ways in which the land, water and other natural resources were being used. For Example, the Barh Mukti Andolan has documented how entire villages have switched from farming to fishing and how all able bodied persons have migrated in the dismal search for any work.⁷

III. Effect on Women

Women's trauma is particularly compounded by the loss of access to fuel, fodder and food collection, which inevitably requires greater time and effort. Few resettlement sites have made provisions for this. Such women experience greater indigence and are forced into the labour market. There is a disruption in established relationships. Children are adversely affected since schooling is less accessible.

Developmental projects have brought in suffering in all countries generally and developing poor countries particularly. The law in India is not equipped, at best ill equipped, to counter this attitude.

The close of the 20th century will be remembered for the large numbers of people evicted from their houses, farms and communities and forced to find a living elsewhere. Resettlement has consequently gained importance in development literature due to (i) A worldwide concern over the adverse environmental and social costs of large infrastructure projects (ii) The well organised and well publicised resistance movements against involuntary resettlement in many countries of the world for⁸.

Anthropologists have identified two different types of displacements. (a) Voluntary, (b) Involuntary. Two factors, "Push" and "Pull" have been identified. The "Pull" factor is identified with voluntary relocation. It consists of mostly young families who still manifest their social and economic ties with their villages. Such families have the luxury of coming back to their native places. Ties are maintained with people/relatives back in the villages which serve as cushioning and are great stress relievers in cases people come across harsh conditions in their new surroundings.

The ouster by large-scale projects comes under involuntary relocation, which is identified with the "Push" factor. It forces people out of their traditional localities. Levels of anxiety and insecurity are much higher for example oustees of the Narmada and Tehri projects. Entire villages were forced to move out. It consists of two closely related yet distinct processes, displacing people and rebuilding their livelihoods. The complexity of involuntary resettlement and the diversity of project situation make good resettlement a difficult task. When people are displaced, production systems get dismantled, kinship grouping gets disrupted and long established residential settlements disorganised. Jobs and assets are lost, links between producers and customers are often severed and local markets get disrupted. People's lives are affected in painful ways. Such resettlement is usually the outcome of a planned political decision and is deemed to fit into the nation's ideology and the larger social good. People displaced by wars/famines can return to their homes once the cause has subsided and therefore support in the interim is an adequate measure, while development induced displacement is permanent in nature. Interim sustenance and support is therefore not enough for income generating and living conditions. Short term programmes like provision of relief payments and refugee camps are not enough.

IV. The Scudder-Colson Theory of Relocation

This theory has greatly affected resettlement theory and policy across many countries. This theory says that relocation, whether voluntary or compulsory is a stressful experience. Members of communities undergoing relocation react in predictable and broadly similar ways.

It is also said that initially, in the time up to relocation and few years of adjustment thereof, people's behaviour is conservative. They avoid risks and stick to familiar practices and groups of people. Once they establish themselves economically and socially, they are less stressful and insecure and there is a change in people's attitude. They take risks, are innovative, are more flexible and individualistic when compared to people who have not been resettled. A community is said to be successfully resettled when it has integrated itself into wider regional setting in such a way that it has attained

5. The 29th report of the Commissioner of S.C. & S.T

6. Sangeeta Goyal, "Economic Perspectives on Resettlement and Rehabilitation" EPW, Vol 31(24) p 1461 at p 1464.

7. Dunu Roy 'Large Dams for whose benefit?' EPW, Vol. 29(50) p. 3129.

8. Roli Asthana "Involuntary Resettlement, Survey of International Experience" – EPW Vol 31(24) p. 1468.

economic and administrative ability.⁹ Since there are no rigorous global statistics available about development induced displacement, the magnitude of the problem cannot be fully appreciated. It is a reality that large scale building of dams along with canals, reservoirs etc. would bring in more and more people in the category of involuntary displacement. Added to this, the infrastructure to sustain such projects like building of roads, housing colonies, industrial estates and power houses would force many more people into the displaced category.

A Risk Model shows how impoverishment can occur as a result of displacement. It points out that when displacement or relocation leave people worse off, empirical evidence reveals a set of 8 recurrent characteristics that need to be closely monitored. They all contribute to a process of impoverishment. The risks thus to be avoided are:

- Lawlessness
- Joblessness,
- Homelessness,
- Marginalisation,
- Morbidity,
- Food insecurity,
- Loss of access to common property and
- Social disarticulation.

If a person, who has relocated, successfully comes out without falling into any of the above-mentioned categories, he can be said to have been successfully relocated and resettled.¹⁰ One way to measure the success or failure of the rehabilitation measures adopted by a country is to study the opposition by affected and supportive groups to their displacement and the method and spirit in which such opposition is handled by the state and the concerned authorities.

V. Protest Movements

Protest indicates demonstration or expression of disapproval / dissent / discontent on some issue. In a democracy, the expectation is that the Government's decisions reflect the majority will. However, in view of the division of ideology or political party system, there is probability of disagreement on the Government's decision. Article 19 (1) (a) guarantees the right to express dissent. Article 19(1)(b) says that all citizens shall have the right to assemble peaceably and without arms. Infact an important component of democracy is the right to protest and having the Government to listen to the people's grievances. "To treat all protest as a nuisance, a violation of public order, the most common attitude of the administration and the Courts, is to misunderstand democracy fundamentally."¹¹ The question is when the state plans meticulously every minute detail of the construction of the project, why can't the same concern and foresight be extended towards the displacement misery it would cause and the costs and methods of rehabilitation?

The resistance to development projects is not new. By the mid 19th century itself, communities had mobilised to oppose colonial policies of resource extraction, like the Epidemic Commission of 1864, followed by the Canal Commissions of 1885 and 1888. The spirited protests of Raja Digambar Mitter and L. Ghosh prior to 1890 were noteworthy. Be it the Drainage Committee of 1907 or the Flood committee of 1928, report after report lays down clear evidence of the devastating impact of projects on population. From 1947 Kapil Bhattacharaya warned repeatedly how the proposed dams, roads and bridges would impoverish both nature and society. Nobody listened, because they said there was not 'sufficient evidence'.¹² There were protests against the Forest Act of 1876. Most of these protests were from tribal areas which were most affected. The beginnings of the anti-dam movement can be traced back to the issues raised by the affected farmers of the Mulshi dam, 1921-24. The environmental and social costs of constructing large dams were raised by prominent social reformers like Senapati Bapat and Vinayak Bhuskute.¹³

The voices of contentious engineers like Kapil Bhattacharya, who pointed out the mistakes in Damodar Valley Corporation, inspired leaders like Ram Manohar Lohia to take up the struggle. Ram Manohar Lohia, in the late 1950s and 1960s organised one of the earliest post-independence protests against developmental displacement. It was one of the most remarkable struggles for justice for 3 lakh people who were to be displaced by the Rihand Dam (U.P.). A day before submergence, 100 political activists and community leaders were picked up and imprisoned. There was no effort to rehabilitate those displaced and the fate of over 70% is not known while the remaining have faced the repeated trauma of multiple displacement.¹⁴

A. The Silent Valley Project:

The Silent Valley Project (SVP) was perhaps the 1st instance where the development vs. environment debate gained prominence. In the late 1970s the Kuntipuzha River in Kerala's Palghat district flowing through a valley was considered an ideal place for constructing a dam. The envisaged benefits were irrigational potential of 10,000 hectares, generation of 240 megawatts of power in addition to job creation. On the other hand, construction of the dam would lead to destruction of one of the world's richest biological heritages. The controversy started with a report of the task force, which recommended that

9. Ibid at p.1469.

10. Ibid pp.1469-1470, Developed by Michael .M. Cernea (1990).

11. K.Balagopal "Right to Protest", The New Indian Express, Vskp.Ed., 15-8-07 p.5.

12. Supra note 7.

13. See generally Sanjay Sangvi, "The New Politics of Environmental Socialism in India" in the book titled "Globalisation and Social Movements" Ed. P.G. Jogdand and S.M. Michael, 2003 p.219 at p 220.

14. Smithu Kothari, in "Whose Nation? The Displaced as Victims of Development" EPW Vol 31 (24) p 1476 at,p. 1485., End note 42.

the project be abandoned and the area be declared a biosphere reserve. However, if the Government would not abandon the project for any reason, the report laid down several safeguards, which resulted in the controversy. The project was opposed by Kerala Sastra Sahitya Parishat (KSSP), an effective grassroots environmental body, and an organisation called the Friends of the Trees, both of these being supported by a Save Silent Valley Committee in Bombay supported by World Wild Life Fund (WWF) etc. The project was supported by the Government of Kerala and the Kerala State Electricity Board. Soon several international organisations also joined in support of the environmentalists. The Government of Kerala then approached the Prime Minister of the day and asked that the project be given the green signal. This gave rise to a furore and the Kerala Government was asked to stop further work in late 1979. Later two committees were appointed to study the feasibility of the project. The first one was headed by the famous agricultural scientist, Dr. M.S. Swaminathan who asked for the project to be stopped. The second committee headed by Prof. M.G.K. Menon also submitted a report. The personal note of Mr. Menon was that the project be stopped and it was stopped in 1983. It is to be noted that the movement was successful inspite of the Governments' determined efforts to carry out the project and the non-interventionist stand adopted by the Kerala High Court which had the following to say "we were taken through copious, extracts from various works, reports and other materials regarding the technical feasibility of the project. But in this region we cannot substitute our judgment for that of the Government, on the question as to whether a national asset is to be more conveniently utilised as a hydro-electric project with prospects of greater power generation, or retained in its pristine glory for preservation of forests and wildlife, prevention of soil erosion."¹⁵

The success of the Silent Valley Movement is considered a golden chapter in the history of the conservation movement, but there seems to be a renewed interest in the project. Though the proposal is not exactly in the same area which was constituted a global heritage site in 1984, it seems to be close enough to be near it to pose a threat, as the Pathrakkadavu Hydro Electric Project proposed on the Kunti river proposed just outside the boundary of the park could pose a threat to the silent valley eco system. The Kerala Sastra Sahitya Parishat which was instrumental in the silent valley movement advises further studies to be taken up before any further project is taken up. Rapid EIA done by the KSEB (Kerala State Electricity Board) also acknowledged the threat to the flora and fauna. The fundamentals of the project regarding rainfall data on which the feasibility of the project depends are also questioned. It is lamented that such arguments continue to fall on ears deafened by the vociferous ideology of development. Like dams, ideologies too have time and cost overruns.¹⁶ The sustained campaigns and protests seem not to have been in vain as borne out by the fact the Kerala Cabinet approved a proposal to create a buffer zone for the Silent Valley National Park, which would have the status of a reserve forest.¹⁷

B. The Tehri Dam:

The Tehri dam was always perceived as a threat by the local population who consider the river Bhagirathi not only as a means of livelihood, but have religious, cultural and emotional ties with it for generations. As early as in 1965, when Sri K.L.Rao, the noted engineer and Minister visited the area, the people expressed their apprehensions about and the opposition to the project to him. Nevertheless, the Planning Commission approved the project in 1972. In 1973, the Communist Party of India organised an agitation against the project. However the Government of Uttar Pradesh obtained administrative approval in 1976. In retaliation 35 gram sakhās in Tehri district passed a joint resolution opposing the project. The Zilla parishad also opposed the project but the Government decided to go ahead with it. To oppose the Government's action the Tehri Band Virodh Sangharsh Samiti (TBVSS) was formed, which passed a unanimous resolution opposing construction of the dam. Turning a deaf ear to this, the Government awarded construction contracts which led to severe protests from all sections of the Society.¹⁸ The opposition strategies included press campaigns, reports, seminars and litigation.

The points of contention were, in this case not only the usual Government apathy towards R & R but also a threat of catastrophic proportions posed by the project. The Tehri Hydro Electric Development Corporation (THEDC) was formed to implement the project. Though the environment clearance was not obtained, initial funds were released and later the Finance Ministry insisted that the clearance be obtained for further release of funds. The Environment Ministry comprising of experts recommended that the project wouldn't be cleared as not only was it unsafe but also data regarding vital aspects such as rehabilitation, disaster planning, watershed management etc. was not available. Instead of accepting this report, the Government set up an expert committee to study the feasibility.

This committee had one expert seismologist, the internationally well known Vinod Gaur, who insisted that the committee should take into account the likelihood of an earthquake beyond 8 points on the Richter scale. Though the committee agreed initially, the committee considered the likelihood of an earthquake of 7 on Richter scale as adequate.¹⁹ The approximate energy released by an earthquake of 7 magnitude is equivalent to the explosive power of 90,700 tonnes of (TriNitroToluene) TNT, and that of 8.5 magnitude is 2,86,15,850 tonnes of TNT. Even a lay man can see that a structure designed for 7 magnitude can hardly withstand the pressure of an earthquake of 8.5 magnitude.²⁰ The Government, to overcome the recommendation of Dr. Gaur, assigned the tasks to the Ministry of Mines, which is known as an aggressive pro-development agency, with an unenviable environment track record. The Department of Mines chose as their expert Prof. Jaikrishna, who was an earthquake engineer, and not a seismologist and he opined that the design of the dam was quite safe

15. See generally OP 2949 of 1979 Society for Protection of Silent Valley and others Vs Union of India (from unreported decision of Kerala H.C) Armin Rosencranz *et al*, "Environmental Law and Policy in India", 1995, p. 285.

16. "New Whispers in Silent Valley", The Hindu Magazine, Vskp.Ed.,1-08-2004, p.1.

17. "Buffer zone proposal for Silent Valley approved", The Hindu Vskp.Ed.,7-6-2007 p.7.

18. Armin Rosencranz *et al*, "Environmental Law and Policy in India", 1995., at p. 290.

19. Sundarlal Bahuguna.-"Investment in disaster?" The Hindu Survey of Environment, 1991,p 28 at p. 28.

20. *Ibid*.

against the strongest expected earthquake.²¹ The dam was also a point of controversy between The Ministry of Power and the Ministry of Environment. Even between the Government and the environmentalists, the safety aspect assumed more importance than the rehabilitation aspect, unlike the Narmada, where R & R is the focal point.²²

The TBVSS filed a petition under Article 32.²³ It contended *inter-alia* that:

- The dam was seismologically risky posing severe threat to downstream settlements like Haridwar and Rishikesh.
- The State had no right to sanction such projects for temporary benefits, which would permanently alter land use.
- The dam life would not be more than 20 years due to silting up.
- The risks far outweigh the benefits.

The Supreme Court, relying on the statements of Prof. Jai Krishna, discussed earlier, held that the Government of India could not be said not to have applied its mind nor has it failed to consider the relevant aspects of safety and dismissed the petition.²⁴

In the year 1991, when the region shook on an earthquake of 6.1 on the Richter scale, destroying 2000 settlements and killing 800 people, the safety aspects of the dam were questioned again by the TBVSS but the Tehri Hydro Electric Development Corporation (THEDC) insisted that the dam was not affected by the earthquake. The dam was constructed and people began to move out from 2001 onwards and different regions were submerged from 2001. Though the land acquisition began from 1979 onwards, the people still unrehabilitated are estimated at 13000 – 18000 families. Some families who were rehabilitated were asked to move again for some other projects- an airport.²⁵ On fourth August 2004 a tunnel in the project caved in resulting in loss of life, evoking anguish from several environmentalists. “Environment activist Vandana Shiva urged the Government to reassess the costs involved in the construction of the Tehri dam in the wake of the tunnel collapse. The large scale dam and road building in the Himalayas was playing havoc with the region’s eco-system.”²⁶ It was reported that the accident at the Tehri Hydro Electric Project at Uttarakhand had led to fresh demands by environmentalists and non-governmental organisations (NGOs) to stop the filling up of the dam’s reservoir and review all on going hydel projects in the Himalayan region. It was the second such incident at Tehri in three years after 60 workers were buried alive during a landslide in 2001. Also questioned was the functioning of the committee constituted by the Supreme Court to monitor rehabilitation and environmental compliance.²⁷ On 29/10/2005, the Uttarakhand High Court ordered the closure of Tunnel 2. In October 2005 the last of the Tehri dam gates was closed and the old town of Tehri disappeared under water.

Though the builders and engineers of the dam call it a marvel, the environmentalists and the affected people call it a dam built on their tears, one of them being Sundarlal Bahuguna.²⁸ The judgment in the Tehri dam case and the one in Narmada case are perceived as retrogressive and as encouraging other similar projects. “With no NBA to deal with, bolstered by the Supreme Court’s hostile judgments on the Sardar and Tehri dams, the Madhya Pradesh Government and its partner the NHPC have rampaged through the region with a callousness that would shock even a seasoned cynic.”²⁹

C. Koel Karo:

In erstwhile Bihar, before its division into Jharkhand, Chhattisgarh and present day Bihar, two dams were proposed to be built on the northern and southern banks of Koel Karo River. The benefits from the dams were generation of 710 MW of power only, as no irrigation was envisaged. It was estimated at that time that the villages and people affected would be 130 and two lakhs respectively. The background for the project was that the drought of 1967 in Palamau, followed by a famine necessitated a solution. The then prime minister came up with the idea of a dam to be built on the North Koel River. In 1970, the Koel Karo Jan Sanghatana was formed. The proposed construction sites of Koel Karo dam were tribal dominant. In 1994, the opposition movement gained momentum, and around 70,000 tribal oustees gathered at the submergence zone and organised strong protests. An appeal was filed on their behalf in the Supreme Court, which stayed land acquisition proceedings by the Government for five years. As soon as the five years expired, the Government again announced that it would again build the dam, but with the Jharkhand Mukthi Morcha (JMM) active in those parts, the resistance built up rapidly and the fight against the dam is still continuing. After formation of Jharkhand State, the Government of the day again wanted to take up construction of the dams, this again led to protests.³⁰

In February 2001 Adivasis protested against the Koel Karo dam, at the police outpost at Tapkura, Jharkhand. A large contingent of police opened fire from rifles and sten guns on about 5000 people gathered, which resulted in 9 people

21. *Supra note* 20 p. 301.

22. See generally, Kalpana Sharma “Involving a new philosophy”, The Hindu Survey of Environment 1992, p. 47.

23. Remedies for enforcement of rights conferred by this part :-

- 1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- 2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, which ever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- 3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) & (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
- 4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

24. *TBVSS Vs State of UP* 1992 (Supp) 1 SCC 44.

25. See generally “Ravi Chopra and Rajendra Bansal, Tehri Engineers Pride, Peoples sorrow”, The Hindu Survey of Environment 2006, p 87 at pp. 87-90.

26. “Tehri Accident Toll 27; Hopes of Finding Survivors Fade”, The Hindu, Vskp Ed., 5-8-2004, p.1.

27. “Review On-Going Hydel Projects”, The Hindu Vskp Ed., 4-08-2004, p.11.

28. *Supra note* 25, pp. 87-90.

29. Arundhati Roy, “An Ordinary Person’s Guide to Empire.”, 2005, p. 256.

30. *Supra note* 24 p.49 and Meghnath, “Palamau from ‘no’ to ‘yes’ on dams.”- The Hindu Survey of the Environment 2001, p.165 pp.165-172.

being killed and 22 injured. The Adivasis were protesting against the construction of the dam, as it would submerge the forest area on which they were dependant.

Interestingly, though the adivasis form about 8% of the country's population they form 47% of the people displaced due to large projects.³¹ Irrespective of the political party in power, large dams and multipurpose projects occupy prominent mind space and the struggle of the affected goes on.

It can be observed that large scale displacement has been and continues to take place affecting millions of people adversely, particularly the poor, the downtrodden and the tribals. The government's and the bureaucrat's attitude towards this continues to be callous. There have been protest movements against this, but with the exception of very few they cannot be termed successful. The State's use of draconian laws like the Official Secret's Act 1923, the Criminal Procedure Code, TADA, POTA and also some Irrigation Acts has been the reason for suppressing the protest movements.

III. Protest Movements and The State's Response

Having seen in some detail the reaction of the affected people to some developmental projects, a look at the manner and method adopted by the state in dealing with these reactions would be in order. It is said that law has both liberation and repression potential. An attempt is made to see which laws are used and how they are used in dealing with people's movements. Broadly speaking, the laws used are the Official Secrets Act 1923, The Code of Criminal Procedure 1973, and State Irrigation Acts.

A. Official Secrets Act, 1923:

It is a vestige of the Colonial Government. It is a draconian law that has drawn harsh criticism. Under this Act, information from any Government is considered official information, and hence it can be used to override freedom of information requests. The colonial administration remained deliberately alienated from the people at large, with provisions such as the Official Secrets Act shielding it from any public scrutiny. This all-powerful state apparatus bore down heavily on the impoverished peasantry, with the once well-organised village-level systems of management and self-governance largely destroyed.³² Independent democratic India has not been able to shake off this colonial legacy and the usage of the Official Secrets Act is viewed skeptically, particularly with reference to developmental projects as shown by these lines, "In cases of inter-state or international disputes, river flows are classified as secret, making constructive work on conflict-resolution very difficult. When certain projects face opposition and controversy on environmental or human (displacement) grounds, the Act is sometimes invoked to deny information (or even physical access to place) to the people. This is a widely recognised evil."³³ The Government is authorised under this Act to declare certain places as prohibited. These places are to be such that information about, destruction of or interference with these places would benefit an enemy. One wonders how the Act can be put to use against peaceful protest movements against dams. A protest may give rise to a suspicion that sabotage may occur at a protest site, but imposition of the Act contravenes Article 19(2) of notification to bring a police station, a bus station, a hospital, a school, and markets under Official Secrets Act reasonable? ... What is so strategic about the bus stand in Kevadia colony that entering it and raising slogans in it are offences punishable with three years imprisonment or are considered acts of spying, punishable with imprisonment of 14 years?"³⁴

B. The Code of Criminal Procedure [Section 144]:

Section 144 is used where speedy or immediate remedy is needed, if a duly authorised District Magistrate opines so. The magistrate may direct a person to abstain from doing certain acts or with regard to any property under the person's possession or management, if the magistrate opines that his direction will prevent obstruction, annoyance or injury to lawfully employed persons, or prevents danger to human life or safety or prevents disturbance to public tranquility, riot or affray. Where it is not possible to serve notice, ex-parte order can be passed and the order under the section can be against an individual or persons of a particular area or general public visiting a particular area. The order under this section shall be in force for two months extendable by a period of 6 months by the State Government. Order issued under this section may be rescinded by the magistrate or State Government either on own motion or application. This Section is used to prevent assembly of activists at project sites. The objective of the section is to prevent obstruction, annoyance or injury to any person who is lawfully employed and the prevention of danger to human life, health or safety, as well as to prevent disturbance of public tranquility or a riot. Though the Section speaks of Public Peace, the moot question is whether the activities of those opposing the state's lopsided policies can be prevented under this guise. This section continues to be used against those who take up the cause of the Project displaced. "In a democracy like India, almost the entire Delhi is under section 144. How can the aam admi (common man) seek redress?"³⁵

The other Acts used against movements were The Terrorist and Disruptive Activities Act (TADA) and Prevention of Terrorist Activities Act (POTA), both of which stand repealed as on date. These Acts principally aimed at preventing terrorist activities by agents of foreign powers like ISI and their cells etc. in India as well as acts of terrorism perpetrated by Indians. It is ridiculous to use these Acts against tribals who oppose big dams, which threaten the tribals' livelihood. The

31. Rajani Iyer, "Water Privatization and people's Organizations"- in the book titled "Globalisation and Social Movements - Struggle for Humane Society" Ed. P.G.Jogdand and S.Michael, p 239, at pp.246-247.

32. Madhav Gadgil and Ramachandra Guha, "The Use and Abuse of Nature", 2004 p.12.

33. Ramaswamy R. Iyer, "Water- Perspective, Issues, Concerns", 2003, p.149.

34. See generally Furquan Ahmed "Popular Movement In Water Resources Management and the Role of Law"-in the book titled "Water Laws in India Ed.Chhatrapathi Singh,"1992 p.243 at p.250.

35. "Medha Patkar, Others Detained", The Hindu, 20-6-2006, Vskp. Ed. p.12.

TADA has been used in Bhoopalpatnam and Inchampalli Projects. The Gujarat government, in connection with the Narmada Project, has also used it. It is lamentable that statutes enacted for prevention of terrorists and unlawful activities are invoked against protesters whose very livelihood is affected by the large projects. Though both these Acts have been abolished, The Unlawful Activities (Prevention) Amendment Act, is still in force. Section 15³⁶ of the said Act can be invoked to prevent and repress any dissatisfaction expressed through agitation in connection with construction of large dams. The section is very wide in its scope and there is every likelihood of it being invoked in connection with protests regarding construction of dams and the resultant agitations, if any that may arise. The section is very widely worded thus making it easy to be misutilised.

C. Irrigation Acts:

Various States have different irrigation Acts under which, wide powers are bestowed on the land officers. Most of the provisions are penal in nature and go against people's initiative to tackle the water problem faced by them. The powers range from withholding information about projects to seeking police help under the pretext that the protesters are interfering with irrigation.

The harassment faced by the Tarun Bharat Sangh (TBS) in Alwar district in Rajasthan best shows this aspect. TBS was a voluntary organisation, which had enlisted local co-operation and brought water to the dry and arid regions of Rajasthan. The work was funded and carried on by the communities themselves. Though permission was obtained beforehand from Block Development Officer and the District Magistrate, the State Machinery did a U turn and contemplated action against the communities including demolition of the tanks put up by them, as they were, in the Government's eyes, not properly constructed and thus could endanger the people living close by. But much to the chagrin of the Government, some of the legally sanctioned and technically sound tanks constructed by the Government were washed away, those constructed by TBS, continue to function.³⁷

Another cause taken up by TBS was against mining. All the rainwater disappeared into these mines. The mines also deprived cattle of grazing land and posed danger to human and animal life. TBS approached Supreme Court and was given a favorable verdict, in the form of an order by the Supreme Court that no mining could be carried on in the protected area.³⁸ The State Government, in spite of this, wanted to continue mining activities and false affidavits were filed, protesting TBS activists were attacked and even attempts were made on Rajender Singh's life. In fact the mine owners attacked Rajender Singh's car, which was duly noted by Justice M.C. Jain who was on a fact finding mission. The Supreme Court ordered that one of the mine owners, who carried on the assault be imprisoned for one week for contempt of court.³⁹ The Supreme Court made the Centre declare the Aravali a fragile Eco-system and banned mining. This notification was got watered down by the mine owners. In response to these, the TBS organized a 3-month Satyagraha in 1993. After some years, the State Government started responding positively and acknowledged that the work done by TBS had regenerated forests. The State Irrigation department, which declared dams built by TBS illegal and threatened demolition, started co-operation.⁴⁰

It can be observed that large scale displacement has been and continues to take place affecting millions of people adversely, particularly the poor, the downtrodden and the tribals. The government's and the bureaucrat's attitude towards this continues to be callous. There have been protest movements against this, but with the exception of very few they cannot be termed successful. The State's use of draconian laws like the Official Secret's Act 1923, the Criminal Procedure Code, TADA, POTA and also some Irrigation Acts has been the reason for suppressing the protest movements.

Lastly one would like to conclude that economic progress of the country is very important, but it cannot and should not be at the cost of the people.

36. Section 15 is very broadly worded and can take in any agitation it says "...or detains any person and threatens to kill injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorists act".

37. *Supra note* 34, p.253.

38. *Tarun Bharat Sangh, Alwar Vs Union of India* AIR 1992 SC514 at p518.

39. *Tarun Bhatat Sangh, Alwar Vs Union of India* AIR 1993 SC 293 at p 295.

40. See generally "Kiss of Life for Mother Earth", from the book titled "Prophets of New India", 2004, p. 203 at pp. 210- 213.