

The displaced people

Forced evictions and human rights

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DOES a government have the right to displace entire communities forcibly? If a recent United Nations resolution is any indication, the answer is a resounding "no". Terming forced eviction a "gross violation of human rights", the resolution (No. E/CN.4/1993/L.11/Add.8) urges governments to desist immediately from all processes that lead to large-scale displacement of people and communities from their homes.

At a time when so-called development projects such as the Sardar Sarovar, and the new policies of structural adjustment are increasingly leading to human displacement, the significance of this path-breaking resolution needs to be underscored. Not least because when the U.N. Commission on Human Rights, the U.N.'s leading human rights policymaking body, passed it unanimously on March 10, 1993, India was a willing party to the decision.

The adoption of the resolution came after a three-year effort by a Mexico-

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based non-governmental organisation (NGO), Habitat International Coalition (HIC), that has been spearheading the initiative within the U.N. on housing rights and evictions. In various written and oral submissions, and in global surveys of past and pending forced evictions, the HIC has repeatedly used the experience of such projects as the Sardar Sarovar to convince the Commission to act.

The practice of forced evictions is a pervasive phenomenon of the development process, and is seen as a sacrifice for some undefined "larger good". No comprehensive data of the number of communities and people displaced is available, but some analysts estimate that in India alone, the figure over the last few decades must be an astounding 20 million to 30 million. Worldwide, it is estimated that tens of millions have been displaced in a handful of years by development projects; according to Probe, International (Canada), the World Bank alone is currently funding projects which will evict 1.5 million people off their homelands.

Displacement can take place in various ways. For instance, with a large dam such as the Sardar Sarovar, apart from the 100,000 people who will be directly affected by submergence, 700,000 to 800,000 more will be affected by the massive canal network, and a few thousand more by associated works — the staff colony, power house, and so on. Then there is a series of secondary displacement: families

cultivating land in the command area are displaced when the land is acquired for resettling the submergence oustees. (A tribal woman died in police firing last year when original cultivators in Taloda in Maharashtra resisted eviction). People eking out a living on forest land are displaced when land is required for compensatory afforestation and catchment treatment; and entire villages are threatened with eviction from an area declared a wildlife sanctuary to compensate for the wildlife being destroyed by the dam.

The Narmada Valley project shows up merely the tip of the iceberg of project-related displacements in India. The Suvarnarekha dam in Bihar, the Tehri dam in Uttar Pradesh, the Missile Test Range in Baliapal, Orissa, a series of super thermal power projects in various parts of the country, the private sector prawn and shrimp farms along the Orissa and Tamil Nadu coast, and the Kaiga Nuclear Power Plant in Karnataka are among a host of other projects that are likely to see forced eviction of entire communities.

Many more insidious processes of uprooting people have prevailed in India — destruction of traditional livelihood by the extraction of natural resources to meet growing urban needs at home and abroad, communal strife, and the dislocation of marginal farmers as commercialised agriculture favouring the large landholder takes over. The International Monetary Fund-induced structural adjustment policies



A human chain on the banks of the Indravati... protesting against the insidious process of uprooting people.

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now being implemented in India are bound to accelerate these trends as development is directed even more headlong towards meeting the needs of a small, consumerist elite.

A preparatory resolution adopted in August 1991 by the U.N. Sub-commission on Prevention of Discrimination and Protection of Minorities had shown a critical and timely understanding of the structural inequities in the social fabric that contribute to the prevalence of forced evictions. It stated that "discrimination based on race, ethnic origin, nationality, gender, and social, economic and other status is often the actual motive behind forced evictions"; that "misguided development policies can result in mass forced evictions"; and that "governments often seek to disguise the violence that may be associated with forced evictions by using terms such as 'cleaning the urban environment', 'urban renewal', 'overcrowding' and 'progress and development.' It also sought to identify those involved, stating that "forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a number of actors, including, but not limited to, occupation authorities, national governments, local governments, developers, planners, landlords, property speculators, and bilateral and international financial institutions and aid agencies."

The resolution adopted by the Human Rights Commission also observes that "the practice of forced evictions involves the involuntary removal of persons, families and groups from their homes and communities, resulting in increased levels of homelessness and in inadequate housing and living conditions", and that "forced evictions and homelessness intensify social conflict and inequality and invariably affect the poorest, most socially, economically, environmentally, and politically disadvantaged and vulnerable sectors of society."

The resolution further urges governments to "confer legal security of tenure to all persons currently threatened with eviction and to adopt all necessary measures giving full protection against forced evictions, based upon effective participation, consultation and negotiation with affected persons or groups." One of the most persistent demands of mass movements such as the Narmada Bachao Andolan waging a struggle on behalf of those displaced by the Narmada Valley Project is that development planning must involve the full participation of the people who will be affected, and that no eviction is justified without the community's willing consent.

In the case of those already displaced, the resolution urges governments to "provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons and communities which have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups." This is particularly relevant in India, where a vast number of those displaced (including by old projects such as the Hirakud and Pong dams) have still to be adequately rehabilitated.

The Commission has in its resolution requested the U.N. Secretary-General to prepare a report based on an analysis of international law and jurisprudence, and on the response received from governments, the relevant U.N. agencies, NGOs and community-based organisations. The analytical nature of the report allows for and must include the particular insights that anti-displacement campaigns such as the Narmada Bachao Andolan have acquired. The report can result in powerful recommendations to the U.N. system and the world's governments.

What force does the resolution have in India, apart from exerting a gentle moral pressure on the government? There are, in fact, more tangible implications, but they must be properly worked out and rendered into an effective instrument. Significantly, the resolution treats forced evictions as being incompatible with the International Covenant on Economic, Social and Cultural Rights (ICESCR), an agreement signed by 118 countries including India. Article 11(1) of this Covenant urges all countries to "recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food; clothing and housing and to the continuous improvement of living conditions." In a General Comment adopted in December 1991 to give legal interpretation to this article, the ICESCR monitoring committee has asserted that "forced evictions are incompatible with the requirements of the ICESCR and could only be justified in the most exceptional circumstances and in accordance with the relevant principals of international law."

Further, in 1992, based on evidence of forced evictions in Panama and the Dominican Republic, the committee found that both the countries had violated the Covenant. The information that led to these pronouncements was made available by HIC. The committee's pronouncement coupled with

spirited NGO mobilisation against state policies in both these countries led to a significant decrease in forced evictions. There is a clear precedent relevant to India in this.

Article 51(c) of the Indian Constitution places the Government under obligation to "foster respect for international law and treaty obligations in dealings of organised people with one another." *The Government is, therefore, under constitutional obligation to make the necessary legislative and policy changes to meet the guidelines of the resolution.*

During the session of the U.N. Human Rights Commission in February-March 1993 and at the time of voting, the Indian Government supported the resolution without reservation. However, in virtually all its actions, it has been moving in just the opposite direction. The blatant defence of the Sardar Sarovar Project despite its widespread discrediting and the conclusive proof available that the basic conditionalities set by the World Bank cannot be met satisfactorily is one indication of this. A new "justification" is now doing the rounds — that the "right to development" is more important than human rights considerations. The Indian Government once again took such a stand at the recent Asian regional meeting in Bangkok in preparation for the World Conference on Human Rights. This is an apparently contradictory assertion but one which conveniently allows for the covering up of human rights violations. The message is clear: evictions and a host of other gross violations of human rights will continue to be tolerated in the name of some ill-defined development model.

At this stage, mass organisations, trade unions and campaigns against evictions can use the U.N. resolution to their advantage. A special task rests with the progressive lawyers, who must utilise the resolution, along with the relevant articles and directive principles of the Constitution, to build up legal arguments and develop case law so that forced evictions can be challenged. The immediate task, given the near-certainty that the Government will not publicise this resolution, is to bring it to the notice of authorities and bureaucrats at all levels. The media, which has only sparsely covered this historic development at the U.N. can also play a valuable role in publicising the resolution. It is only through such concerted action in support of mass movements struggling against destructive development that the reprehensible and unconstitutional practice of forced evictions can be stopped. ■