

The Indian People's Tribunal on Environment and Human Rights (IPT) was formed on June 5, 1993 to conduct fair and credible investigations focusing on issues concerning human rights and environmental justice. Positioned as an alternative People's Court that gives voice to the struggles of grass-roots organizations and affected communities, IPT conducts investigations on issues concerning human rights and environmental justice. Through the hearings conducted so far the Tribunal has gained acceptance and continues to advocate for a change in the attitudes of the judiciary and government officials in responding to the grievances of socio-economically disadvantaged communities through greater transparency and accountability.

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List of Abbreviations

CM	Chief Minister
GR	Government Resolution
GRA	Grievances Redressal Authority
GOG	Government of Gujarat
GOM	Government of Maharashtra
GOMP	Government of Madhya Pradesh
GOI	Government of India
ha	hectare
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IPT	Indian Peoples' Tribunal on Environment and Human Rights
m	metre
MoEF	Ministry of Environment and Forests
MoWR	Ministry of Water Resources
MP	Madhya Pradesh
LAQ	Land Acquisition (Act)
NBA	Narmada Bachao Andolan
NCA	Narmada Control Authority
NGOs	Non-governmental organisations
NVDA	Narmada Valley Development Authority (Madhya Pradesh)
NWDT	Narmada Water Disputes Tribunal
NWDTA	Narmada Water Disputes Tribunal Award
PAFs	Project Affected Families
PAPs	Project Affected Persons
PESA	Panchayat Extension of Scheduled Areas (Act)
PIL	Public Interest Litigation
R&R	Resettlement and Rehabilitation
SC	Supreme Court
SSP	Sardar Sarovar Project

Panel Members

Dr. B.D. SHARMA is a social activist and participates in the struggles of the tribal people. He served in the Indian Administrative Service and later as Vice-Chancellor of North Eastern Hill University. He occupied the highest constitutional position concerning tribal people as the former Commissioner for Scheduled Castes and Scheduled Tribes. An authority on tribal affairs in the country, he was responsible for formulation of tribal policies, particularly the Sub-Plan Strategy. He was also instrumental in bringing back on the national agenda the Vth schedule as a vital policy instrument. Dr. Sharma has authored many books in Hindi and English, including *Tribal Affairs in India*, *The Web of Poverty*, *Fifty years of Anti-Panchayat Raj*, *Dalits Betrayed* and *Planning for Tribal Development*. E-mail: bharatjanaandolan@rediffmail.com

Ms. CHITRA PALEKAR is a film-maker/scriptwriter living in Mumbai. A post-graduate in Economics, she worked initially with Tata Economic Consultancy Services and then as a lecturer in Economics. At the same time, she was involved in the serious Theatre Movement. Performing in Modern Indian Classics such as *Yayati*, *Pagla Ghoda*, *Aadhe Adhure*, *Nag Mandal* she became an actor of repute in Hindi as well as Marathi theatre and won a number of Maharashtra State Awards. The film *Akriet* which was her debut as a producer and film actor, won international recognition. She has scripted and been an Associate Director of award winning films like *Thodasa Roomani Ho Jaayen*, *Kairee*, *Dhyaas Parva*; *Bangarwadi*. She was one of the three Creative Directors of Apna Utsav in Mumbai in 1989. She has also been a weekly columnist. Currently she is preparing to direct a film based on Mahasweta Devi's story. E-mail: chitp@yahoo.com

Shri HARSH MANDER is a writer and social advocate. He has served in the Indian Administrative Service in the predominantly tribal states of Madhya Pradesh and Chhatisgarh for almost two decades, mainly as a leader of district governments in tribal areas. He has also served as Country Director of Action Aid, a development organisation, from September 1999 until March 2004. Currently a visiting fellow at the Centre for Law and Governance at Jawaharlal Nehru University in New Delhi, Mr. Mander is associated

with various social movements, working with issues of communalism and communal harmony; nationalism, violence and the law; tribal, dalit, and disability rights; the right to information; custodial justice, and homelessness and the rights of homeless people and bonded labourers. He travels frequently, and writes and speaks regularly on diverse issues of social justice. His publications include *Unheard Voices: Stories of Forgotten Lives*; *Cry, My Beloved Country: Reflections on the Gujarat Carnage 2002 and its Aftermath*; and *The Ripped Chest: Public Policy and the Poor in India*.

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Part I

Background to the Present Inquiry

The Sardar Sarovar Project (SSP), a multi-purpose dam project built in the Narmada River Valley, has been challenged on several accounts by the thousands of families affected by the Project. The withdrawal of the World Bank from the project in 1993, the Supreme Court case, petitions to the monitoring agencies - the Narmada Control Authority (NCA) and the Grievances Redressal Authority (GRA), have all played an important role in the people's struggle against the violation of their fundamental right to life and livelihood.

As the dam height increases, it is imperative that the guidelines with respect to resettlement and rehabilitation are followed. Yet, reports from the valley and various statements related to the relief work by the Maharashtra and Madhya Pradesh governments, reflect that much needs to be achieved by the state governments to prevent further displacement in the submergence zone, before any further increase in the dam height.

It is with this background that the Narmada Bachao Andolan (NBA) requested the IPT to conduct an inquiry. The Indian People's Tribunal (IPT) constituted an independent citizen's panel to investigate, through a series of public hearings, into the situation of displacement, resettlement, and rehabilitation of families and villages affected as a result of the Sardar Sarovar Project (SSP).

The members of the Panel were Dr. B.D. Sharma, former Commissioner, Scheduled Castes and Scheduled Tribes, Government of India; Ms Chitra Palekar, filmmaker; and Shri Harsh Mander, former civil servant, researcher, writer and activist. The report for the Panel has been primarily written by Shri Harsh Mander, with a wide range of support and inputs from affected people, activists, government officials in Maharashtra, academics and friends.

Terms of Reference:

1. To hear the affected peoples' perspectives and experiences with regard to the implementation of the Sardar Sarovar Project (SSP) since its inception to the present date. To especially hear and analyse the cases of compliance or non-compliance of the rehabilitation policy, NWDTA and the Supreme Court's rulings.
2. To study the documents and reports - both official and non-official - that may be put up before it or be obtained by it independently, related to the displacement and rehabilitation of the Adivasi and non-Adivasi oustees, to derive its conclusions and recommendations related to just rehabilitation.
3. The Citizens' Panel will analyse the situation of the project-affected people in the valley and, to the extent possible, at the resettlement sites, in the context of the right to life, right to livelihood, and right to food, guaranteed by the Constitution of India and through its interpretative judgments, the Supreme Court.
4. To present the Tribunal report to the concerned governments, the sanctioning, monitoring and evaluating authorities and agencies, and to the citizens of the country.

For this, the Citizens' Panel may review the case of SSP in the wider context of the Narmada Valley Development Projects, the past and ongoing large dams in the Narmada Valley, and the larger water policy issues. It may also explore larger issues such as various acts and policies related to displacement of Adivasis and other disadvantaged/vulnerable communities, as well as policies related to village self rule and local self government (Panchayati Raj and Gram Sabhas) as is relevant to the issues related to displacement, resettlement and rehabilitation.

Public Hearing and Site Visit

The team conducted their field visits on September 6 and 7, 2004, to selected villages marked for submergence as well as those that have already faced the brunt of

submergence in Madhya Pradesh and Maharashtra, and resettlement sites in Madhya Pradesh and Gujarat. The team was able to hear hundreds of villagers from about 55 SSP-affected villages in Madhya Pradesh and Maharashtra, from a few resettlement sites in Maharashtra and about 25 resettlement sites in Gujarat. The logistical arrangements were facilitated by local villagers and activists of the Narmada Bachao Andolan (NBA), which is the organization of the affected people. The Panel also visited some resettlement sites that have been planned for oustees in Madhya Pradesh, but no one has even moved to these incomplete sites yet.

On September 6, 2004, the public hearing was held in village Khaparkheda, tehsil Kukshi, district Dhar, Madhya Pradesh. This village falls within the submergence zone at 100 metres of dam height. Fortunately, the water is yet to reach this fully-populated village, and its residents continue the business of daily living, even as the threat of submergence looms very near. Affected people from Badwani, Dhar and Khargone districts were also present at this meeting, and presented their grievances. Several government officials were invited but none appeared for the hearing.

On September 7, 2004, the public hearing was held in village Nimgavhan, tehsil Akrani, district Nandurbar, Maharashtra. We accessed this village with great difficulty, after a long journey by jeep, boat and then on foot. On a hilltop, surrounded by the dam waters, we heard grievances of hundreds of adivasis from the Bhil, Bhilala, Pavra and Tadvi communities in the adivasi belt - including most of the affected villages of Maharashtra as well as villages of Jhabua district of Madhya Pradesh, which lie on the opposite bank. These villages have already been subjected to the rigours of submergence and forced displacement. We were told that villagers in this region have been facing submergence since 1994. Several government officials of the rehabilitation agencies and Narmada Development Department of Maharashtra appeared for the hearing. The officials include:

- Shri V.S. Ahire
Resettlement Officer
SSP – Kevadia

- Shri Waghmare
Sectional Engineer
Narmada Vikas Division
Dhadgaon, Akrani Tehsil

- Mr. D.D. Gond
Sub Divisional Officer
Narmada Vikas Division
Akrani

- Mr. Sharad Wadwe
Deputy Collector
Taloda

The second large public hearing, very late that night, was held at the R&R site of Parvetta-2, tehsil Sankheda, district Vadodara, Gujarat, where we heard people from the original Gujarat villages of Gadher, Vadgam, Mukhdi, Surpan and others, now resettled at as many as 25 R&R sites in Vadodara and Narmada districts. These villagers were resettled starting in the mid-1980s. In this public hearing, the case of canal and colony affected people of Gujarat was also presented.

A list of the villages and Vasahats (R&R sites) represented at the public hearings is attached as Annexure A.

The People's Tribunal members express their thanks to all individuals and organizations that have contributed to and enabled this report, and especially to villagers who travelled long distances, often in very difficult circumstances, with patience and hope, to attend the hearings, one of which was finally held as late as 4 o'clock in the morning. We would also like to acknowledge the officials who came forward to present their point of view before the Panel. A word of thanks from the writer of this report is due to Angana Chaterjee who accompanied him for another similar investigation into the Indira Sagar Project, and provided valuable feedback and inputs in the writing of this report.

The testimonials and documentary evidence offered during the Panel's visit to the affected area, and government records and documents form the basis of this report. Although there are many vital questions about social, economic and environmental cost-benefit ratios, human costs, economic viability and ecological impact of mega-dams that arose even during our brief visit, for the purpose of the report, the Panel restricts its observations and recommendations to the terms of reference, namely the situation of displacement, resettlement and rehabilitation for families affected by the Sardar Sarovar Project (SSP). The benchmarks relied upon are referenced in the text and include principles of human rights and natural justice, the Narmada Water Disputes Tribunal Award, judicial rulings, especially the Supreme Court judgment in the case of Narmada Bachao Andolan versus Union of India and others (2000), and the rehabilitation policies of the three states.

This report will be presented to the various concerned government officials, members of monitoring and evaluating bodies, to civil society groups, peoples' organisations and, more importantly, to the people of this country. Its primary objective is to assess the current situation of displacement, resettlement and rehabilitation of the people affected by the SSP and make recommendations for securing to them their entitlements, in all cases where it finds these abridged or violated in any way. Since the Sardar Sarovar Project has been discussed, debated and appraised at a large number of local, national and international fora including the World Bank and continues to be in focus, a peoples' struggle is on and continues to be in the focus. Hence this report has a significance in terms of bringing out the truth behind the controversy. The findings here must inform all new and proposed projects as also help us in finding out a solution to the long drawn conflict and decide the future of the project.

Part II

History and Background of the Sardar Sarovar Project

The Sardar Sarovar mega-Project (SSP) in the Narmada River Valley is one of the largest and most controversial of the large dams in India. The SSP, located at Navagam in Gujarat, is planned as the terminal dam on the Narmada River; a part of the series of 30 large, 135 medium and 3000 small dams planned on the river and her tributaries, collectively called the Narmada Valley Development Project (NVDP). The SSP was envisioned as early as the 1960s, but there were conflicts between the riparian states and opposition from Maharashtra and Madhya Pradesh over water sharing issues, which led to the formation of the Narmada Water Disputes Tribunal (NWDT) in 1969, which gave its awards in 1979. As the Tribunal allocated the Narmada waters to various states and ruled on sharing of SSP benefits, it also delineated the framework for resettlement and rehabilitation (R&R) of oustee families whose lands and/or houses would be submerged by the Sardar Sarovar Dam, and detailed out a time bound procedure to be carried out by the state governments.

The World Bank carried out an appraisal process from 1979 till 1985, and in 1985, signed loan and credit agreements with the Union of India and with the state governments, approving lending (IBRD and IDA – hard and soft loans together) a total of \$ 450 million (it released a part of this loan but withdrew before reaching the target). A part of the loan assistance from the Bank is yet to be paid back by the Indian government, and hence the agreements, we are told, are still legally applicable. These agreements upheld the NWDTA provisions for R&R, and also added four other principles of rehabilitation, including that there should be a better standard of living for oustees after displacement, they should be given land of better or at least the same quality as before, there must be equal treatment of oustees and people in the host community that receives the resettled oustees. In addition, the World Bank categorically stated that no cash compensation should be given in lieu of land.

The World Bank withdrew from the Sardar Sarovar dam and irrigation Projects in 1993, as a result of the publication of an independent review of the Project, under the Chairmanship of Bradford Morse, former Chair of the UNDP. The Morse Committee Report of the SSP was highly critical of the social and environmental aspects and impacts of the project, it concluded that the project was not viable in its current form, and that it could not proceed and be completed without un-institutional means.

For the last two decades, the people affected by the Project have been challenging many issues related to the dam, primarily displacement and rehabilitation. The ‘oustees’, as the affected people are officially known, are organized as the Narmada Bachao Andolan (NBA). In 1994, a PIL was filed in the Supreme Court by the NBA to raise various social and environmental aspects of the dam, and to question the viability of its benefits. The case carried on for six years; the Court stayed the dam construction for four years from 1995 to 1998. The final judgment by a three-court bench, delivered on October 18, 2000, was a split judgment. The majority judgment delivered by Justices Anand and Kirpal, permitted further dam construction to proceed from 88 m to 90 m. It upheld that beyond 90 m to every next level, construction should proceed only after full compliance with the resettlement and rehabilitation (R&R) as mandated in the NWDTA. The minority judgment delivered by Justice Bharucha, recommended stoppage of construction, proceeding only after receiving clearance to comprehensive plans and full compliance with rehabilitation norms at every 5 metres. The directions of the Supreme Court judgments, both the majority and minority ones, are annexed as Annexure B.

The Full Reservoir Level of the SSP is 138.68 metres. At this level, the total land to be submerged by the dam is about 40,000 hectares, including about 13,000 hectares of forest land. Official figures state that the submergence due to the SSP at its full height of 138.68 metres, affects 245 villages, including 19 villages in Gujarat, 33 in Maharashtra and 193 in Madhya Pradesh. In addition, there are many categories of people affected by various parts of the project; people who are not even necessarily recognized as “project-affected persons (PAPs)” and hence not entitled to R&R.

At the time of the Narmada Waters' Tribunal of 1979, the total number of affected families was officially estimated to be less than 7000 families¹. During our visit, we observed that some of the larger villages in the Nimad plains of Madhya Pradesh have 700 affected families in a single village even, so just 10 of those would make up 7000. Today, official figures place the Sardar Sarovar affected families in three states at around 41,000 (and in one document it is stated to be 43,816). However, activists of the NBA estimate the figure to be closer to 50,000 (after adding major adult sons and other currently undeclared but eligible families).

The People's Tribunal believes that **there are an estimated 11,000 families yet to be rehabilitated, who are affected at the current height of 110 metres². Many thousands of these have already faced and continue to live with the trauma of submergence, and others who are affected at the same level will face submergence at higher levels of rainfall.** Hence, the current reality is that the construction of the Sardar Sarovar Project has proceeded to a height of 110.64 metres, but rehabilitation has not been kept pace, as a result we saw that the displacement had caused great devastation and avoidable human suffering to the affected populations. The task of our Peoples' Tribunal was to convene public hearings among the people affected by different works of the SSP, and to investigate the status of displacement, resettlement and rehabilitation.

¹ The NWDTA states, "according to present estimates, the number of oustee families would be 6147 spread over 158 villages in Madhya Pradesh, 456 families spread over 27 villages in Maharashtra." It does not mention Gujarat oustees here.

² The GOMP's figure for balance families under 110 metres, including temporary and permanent was 12681. Reducing about 2500-3000 families who have moved to Gujarat or to R&R sites in Madhya Pradesh, the figure for Madhya Pradesh is about 10,000. This of course includes all people who have not moved to their R&R sites, since they cannot be said to have been rehabilitated, despite contrary claims of the state government. Add to this, the figure of an estimated 1500 declared and undeclared (but eligible) families in Maharashtra, for which the Task Force and *tapu survey* are good bases. In addition, there are about 200 families left in Gujarat in Mukhdi, Antras, etc.

Part III

Summary of Major Findings

When 30 metres of the Sardar Sarovar dam remain to be constructed beyond the current height (final height is 138.68 metres), we believe that serious questions about the feasibility of rehabilitation for thousands of already affected families, as well as those earmarked for future submergence, need to be raised. This is an even more formidable challenge because under the Award, at least half of the balance of families is eligible for land-based rehabilitation.

It is a matter of deep regret that a rehabilitation master plan with corrected and updated land records, final numbers and lists of project-affected families, and details of agricultural land and house plots to be offered to all entitled oustees, is yet not ready even at this advanced stage of the project. Cultivable, irrigable land has not yet been identified to resettle the thousands of families who are entitled to and are demanding rehabilitation with land. The officials are not making adequate efforts towards creating ‘rehabilitation villages’ as was envisioned in the Award, on the contrary, people’s testimonials show that officials are actively trying to divide affected populations by offering land far away from each other, acquiring some oustees’ fertile agricultural land to settle others, and other such strategies. As a result, thousands of families in the remote and hilly tribal communities of Maharashtra (district Nandurbar) and Madhya Pradesh (districts Jhabua, Badwani and Dhar) as well as thousands in large, heavily populated mixed caste villages in the fertile Nimad plains of Madhya Pradesh, await just rehabilitation with very little information and even less hope.

Any process of coercive and involuntary displacement imposed on people by state authorities inevitably leaves a trail of enormous human suffering. However, our field visits and public hearings confirm that the callousness of state authorities, and their multiple and often wanton failures to adhere to the binding commitments and duties of the state as defined by the law, the Award, state rehabilitation policies, and universally

accepted norms of justice, have gravely compounded the sufferings of the affected people.

We feel that the forced displacement without adequate rehabilitation that has taken place in this project has grossly violated human rights, the NWDTA and SC judgment and caused great harm and insecurity of food, housing, water, to the Adivasi people. Moreover, there has been a grave impact on the health and safety of the PAFs, because the incidence of water-borne diseases has increased severely in the reservoir, there is severe malnutrition and chronic hunger due to lack of food, and several deaths have taken place due to snake-bites and crocodile attacks.

The People's Tribunal is shocked and intensely distressed to note that the State government of Madhya Pradesh has not provided to even a single affected family of the SSP a single acre of agricultural land in lieu of their involuntary loss of lands and livelihoods. It has achieved this by what is not less than an actively deceitful set of processes adopted by the public officials of Madhya Pradesh in violation of its written commitments, obligations and policies. The Government of Madhya Pradesh has actively, in flagrant and wanton violation of the letter and spirit of both the Award and its own rehabilitation policy, promoted cash compensation, and in effect, imposed cash compensation in lieu of land without making any exceptions.

In the light of these grave failings, we feel that the construction of the dam height to 110 metres right now is unjustifiable, given that the resettlement and rehabilitation of several thousand families affected at this dam height still remains. We heard, met and saw hundreds of such families. At the same time, the official bodies are contesting these numbers and are claiming the balance families as 'zero'. Again, we feel that this is totally unjustifiable, and that it is both morally and legally binding on the concerned officials to fully rehabilitate thousands of families already affected, in the letter and spirit of the Award, and to comprehensively plan for the rehabilitation of all other families, before proceeding further with the dam construction.

PART IV

A. Survey and Identification of PAFs

The Award defines an ‘oustees’ as “any person who since at least one year prior to the date of publication of the notification under Section 4 of the Act [Land Acquisition Act, 1894], has been ordinarily residing or cultivating land or carrying on any trade, occupation, or calling or working for gain in the area likely to be submerged permanently or temporarily.”

In addition, it is stated that every major son, over the age of 18 at the time of Section 4 notification, must be treated as a separate family.

It is these definitions that have been used by government and rehabilitation officials, to identify and enumerate all people affected by the project. The following is the situation of identification of oustees in the three states:

Situation in Gujarat:

Initially when it was constituted, the NWDT Award did not apply to Gujarat, but merely directed Gujarat to resettle oustees of the other states affected by SSP. Only in 1985 was a Government Resolution (GR) passed in Gujarat in order to make the Award applicable in this state as well. As an unfortunate result of this, the definition of ‘oustees’ in Gujarat too became limited to those affected by submergence, as in the definition above. Thus the thousands of families in Gujarat affected by the construction of the 75,000 kilometre-long canal network, including over 23,000 families who have lost more than 25% of their land, and those “colony-affected” villagers of the six villages around the dam site, are not even given the basic entitlement of being called “project-affected persons”, and hence are all denied rehabilitation based on the principles set out in the Award. We feel that those families who have lost most of their land holdings to the canal or the colony or other related works of the project, should, in the spirit of natural justice, be treated on par with the submergence-affected people and be given the same entitlements.

We also read, with great anguish, recent newspaper reports of how the Kevadia Colony area is to be developed for eco-tourism, and heard from people that the villagers of the six villages are to be summarily removed from their properties by the end of October 2004. The Adivasis, who have lived on those lands for generations, described to the People's Tribunal how they are now being viewed as a security threat in their own homes, by tourists from the cities of Gujarat and elsewhere. These are the people of Navagam, Kevadia, Wagadia, Kothi, Gora, Limdi, whose lands were acquired as early as 1960-61 at a meager Rs. 80-250 an acre. They told us that only after a long struggle have they managed to remain on their lands, even though their lands are mostly all acquired for the project. But now, we hear that they are about to be forcibly removed even from their smallholdings, which have been their slender lifeline for survival. For those who have title deeds, they are to be offered a maximum of Rs. 36,000 as compensation, through a GR which was issued in 1991-92. Most families that have accepted the money, have received even less than this. This, of course, is totally insufficient for buying replacement land of any kind. We think that a grave injustice has been done to these people when their lands were forcibly acquired in the 1960s. Since more than 750 families continue to live in the region, forcibly evicting them now would be a further, severe injustice. Instead they should have a part of the benefits being derived from the project, or be justly rehabilitated wherever they choose.

Situation in Maharashtra:

As for the Maharashtra submergence villages, the total number of PAFs has chronically been a matter of dispute and continues to be so, even though the dam is at 110 metres today, and several disputed peoples' homes and lands have even come under submergence by now.

In December 2001, the Maharashtra government commissioned a Task Force, chaired by the Divisional Commissioner, Nasik, which gave its final report in July 2002. This was a comprehensive household-level survey of all families in the villages, undertaken jointly by government officials such as those of revenue, forest departments and Narmada Vikas Department (NVD), along with villagers and their representatives, the NBA. We believe

that the Maharashtra government is certainly to be commended for this unprecedented step towards identification of all oustees and their rehabilitation. We are also happy that the state cabinet also endorsed the report of this Task Force in 2003, and decided that they would settle the issue of these so-called 'undeclared' people, or people whose eligibility for rehabilitation under the Award has not been officially acknowledged. The Task Force found 2176 families who are living in the submergence villages but are still 'undeclared' as PAFs. We believe that they need to be declared eligible, and rehabilitated urgently, since many of them have already faced submergence of their properties.

Of these, 899 undeclared persons were found to be over the age of 31. The project received a conditional clearance from the MoEF in 1987; hence that year was set as the cut-off year to determine the number of major or adult sons. Hence the number of 899 represents the people who were over the age of 18 in 1987 and should certainly be granted entitlement as adult sons. They are 'undeclared' since the government does not recognize their existence in the village. However, many of them have at least one kind of documentary proof, such as name in voters' card, or a ration card. Even though they are 'undeclared' for the purposes of rehabilitation, some of them showed us notices from the government saying that they are to fall in submergence, so they must move their houses to a higher level. Surely, this by itself should prove their existence in these villages and should be sufficient to declare them as PAPs.

However, at the time of our public hearing, more than 2 years after the publication of the Task Force report, we were told that more than 800 of these families are yet to be declared, their lands and properties are yet to be identified and acquired, and their rehabilitation is yet to be planned and implemented. Even for those 349 families who have been recently declared by Justice Kurdukar of the Maharashtra Grievance Redressal Authority (GRA), some of their properties have already got submerged without the process of land acquisition or compensation. We believe that this has been an unfortunate result of pushing the dam construction ahead, even though the necessary land acquisition and rehabilitation processes have clearly not been completed as required under the Award and the law. Such a serious violation of the legal rights of the oustees, and the Supreme

Court judgment, has sadly not evoked any appropriate directions, even less action against the responsible officials, on behalf of the inter-state monitoring authority, NCA.

The Task Force also found that 1277 persons belonged to the age group of 18 to 31 years. These are people who were not 18 years old in 1987, but will qualify for rehabilitation if the cut-off date is changed to the date of rehabilitation rather than the arbitrary date of 1987. The Justice Daud Committee report, which was released in January 2001, recommended that the difference between declared and undeclared families must be ended since all people are coming under submergence. The Committee also recommended that the cut-off date for counting major adult sons be changed to the date of rehabilitation, which would entitle these 1277 families for rehabilitation. However, these people have not yet been declared affected and eligible. The Maharashtra government passed a GR in December 2003, approving the change in cut-off date; however, they made this subject to approval from the Narmada Control Authority (NCA). The NCA, however, according to information received by us, has refused to give its approval and has told the Maharashtra government not to increase numbers at this stage. This can clearly be seen as a strategy being used by the authorities to deliberately keep numbers low, in order to keep up the patently false claim of ‘full compliance with rehabilitation.’

The Task Force ended its report with the recommendation that the Maharashtra government must undertake an extensive “*tapu* survey” to determine which hamlets of certain villages would get marooned. The Maharashtra government, we are glad to report, did undertake the “*tapu* survey”, and completed this in October 2003. Through the survey, it was found that 93 families, who were earlier thought to be marooned at the full height of the dam, actually fall into the actual submergence, rather than just getting marooned. The GOM admits its mistake in leaving these people out of even the Task Force list; however, they have not been declared affected yet, hence their entitlement is not yet officially recognised. In addition, 57 families were declared as “*tapu*-affected”, or marooned, whose lands are also to be acquired and they are supposed to be rehabilitated. Not only has this not been done yet, but also hundreds of others also coming in the ‘*tapu*’

have not been surveyed or mentioned in the Tapu Report. We were told by the people of Savariya and activists who showed us documents that at least 250 families of Savariya village (Akrani tehsil) are identified but not yet declared as affected.

A big impediment to the process of survey and identification of families is that land records, especially in the Adivasi areas, are completely out of date, causing many people to lose their entitlements to rehabilitation because they are not recognized as affected people, simply because land records have sometimes not been updated for generations. The story of a long process and struggle for securing these rights was articulated and presented to us by many Adivasi men and women, such as Ganya Vasave, vice-sarpanch of Atti village, Manya Pavara of Savariya, Noorji Vasave of Chimalkhedi, Pinjaribai Pavra of Sikka and Kevalsingh Vasave of Nimgavhan.

In the Akrani tehsil of Nandurbar district of Maharashtra, there are 73 villages that are classified as forest villages where the people have not been given their land rights. Of these, 24 lie in the submergence zone of SSP and the others are outside the area. The case has been filed by the oustees in Bombay High Court since the last few years; the interim orders given by the Court directed the state government to submit a proposal to the Centre for diversion of this forest land. The GOM proposed that 14,000 hectares of forest land, in these 73 villages, be diverted and regularized. The MOEF, however, agreed to the diversion of 4073 hectares and granting of land rights, but only after the resolution of the case of T.N. Godhavarman versus the Union of India, pending before the Supreme Court of India. In the meantime, in 24 of these 73 villages, part of these 4073 hectares is either submerged, or many tribal families have been evicted from their land.

Hence we heard from people and saw in documents that the numbers of affected people in Maharashtra have been constantly increasing due to better surveys and identification of PAFs. However, it is sad that many of these persons end up losing their entitlements since much of their properties are submerged even before these were acquired, or even if acquired, it is not replaced with alternative land or livelihood. The state cabinet decided

on 21 January, 2004, that the dispute over the 'undeclared families' would be resolved, and there were meetings to this effect between members of the NBA and ministers.

However, we are told that it has not yet happened. Hence, we met and heard many families affected under 110 metres, whose names are in the Task Force report, but they are still not on official records. We believe that this loss of food security and livelihood of people has now resulted in a humanitarian crisis that could certainly have been avoided.

Maharashtra is the state where maximum submergence has occurred till date, but still communities continue to stay, demanding fulfilment of their rights.

Situation in Madhya Pradesh:

In the villages of Alirajpur tehsil of Madhya Pradesh, which lies on the opposite bank of the Narmada from the Maharashtra villages, the situation is very similar. However, unlike Maharashtra, in Madhya Pradesh, there has unfortunately never been a comprehensive household survey such as undertaken by the Task Force set up by the Maharashtra government, or even a '*tapu*' level survey. We feel that these are urgently needed. Land and succession rights are especially an issue in these villages. In these Adivasi communities, we found innumerable examples in which even old persons' names are not on the records and land acquisition has been done in the names of deceased persons since succession rights have not been granted, and where land rights are not settled in the case of decades-old forest cultivators. In these interior inaccessible tribal villages, land records are notorious for very frequently not being updated for years, even generations. Even 50 to 70-year-old men are classified as "major (or adult) sons" by the Narmada Valley Development Authority (NVDA), rather than as independent landholders. This is, for example, the case of Pidiya Hazariya of Jalsindhi and Dedia Jhetriya of Anjanwara, whose petitions we received. We were told that the NVDA has, in principle, agreed to take official steps to redress all such cases, but this has not been done yet.

Without this, even entitlements to land holdings and, through this, to rehabilitation are not acknowledged; therefore fair and legal rehabilitation for unrecorded oustees is an impossibility. Bawa Mahariya and Pervi Gulabsingh of Jalsindhi explained this in the public hearing, with their very clear and perceptive analysis of the character of the state, and its strategies to acquisition their property, land, water, forests, other resources, and deny them their due. They convinced us of the unreliability and injustice of the present system from the perspective of a PAF, particularly an Adivasi.

Not just in Alirajpur villages, but also in the seven forest villages of Badwani tehsil, Badwani district, land records are totally outdated and land rights are not correctly settled. The land acquisition process of these villages is a mess, with different official documents even varying on the amounts of land owned by the same family. We heard the testimony of Kishore of Kharya Bhadal village, that his family's land has got submerged, but land rights are not yet settled.

In the Nimad plains of Madhya Pradesh as well, the identification of families entitled for rehabilitation has been done in a very unsatisfactory manner. Thousands of adult sons have been left off the lists of PAFs. Here too, succession rights are not granted to heirs of landholders, thereby compounding the problem of the adult sons having been excluded, since their rights are not recognized.

B. Land Acquisition

Land acquisition is the process by which the State acquires private lands without the voluntary consent of the landowners, for what it claims to be a ‘public purpose’; in this case the construction of the SSP. Land acquisition is governed by the Land Acquisition Act of 1894 (LAQ), an act used by the British colonial government against its subjects in the colony, and continues to be used even today in much the same spirit.

At the outset, we would like to observe that the LAQ was initially enacted by the colonial rulers to be used for small-scale acquisitions, within a territory. Today, this same colonial legislation is being used to acquire vast stretches of land, across several states. This incongruity has never been taken note of, hence we believe that the whole process has been farcical and ritualistic.

This legal framework for the coercive acquisition of land by the State is therefore heavily weighted against the citizen, and it needs urgent amendment. However, it was our observation that the manner in which this highly defective law is being implemented deprives people further of even their limited and heavily curtailed rights as envisaged under the law.

In the first place, the notification under section 4 of the Land Acquisition Act, 1894 is designed to provide information to the land-owners and house owners about the state’s intention to acquire land for what it claims to be a ‘public purpose’, and to give them the opportunity to challenge this intention with informed objections. However, we found that there is very little evidence of proactive efforts by state authorities to inform rural and tribal people about the state’s intention through modes of communication that are accessible to them, like the beat of drums and public meetings. The need is considered met merely by a gazette notification and publication in newspapers. For a large proportion of people affected by the SSP, the Adivasi people in the Vindhya and Satpura mountains, this is useless since they are mostly unlettered due to paucity of well-functioning government-run schools in the region. In fact, the 29th Report of former

SC/ST Commissioner, Dr. B.D. Sharma, criticizes the process of section 4 notification as a “farce”, particularly for Adivasi people, because it does not serve the purpose of providing information to oustees required for them to access their legal rights, as it is supposed to.

In many cases, we found that notices under section 4 of the Land Acquisition Act are issued generally close to or even after the time of physical displacement. We heard from Badribhai of Bagud village that the land acquisition process has not yet been completed in his village, even though it falls into the submergence zone at the current dam height of 110 metres. This entirely formalistic adherence to the bare letter of the law, that too in a manner that does not scrupulously adhere to even this letter of the law, does not firstly give an opportunity to the landowners to raise objections and be heard about the alleged public purpose of the acquisition. It therefore becomes a meaningless exercise, because the construction of the dam has for years continued apace, and the acquisition of the land is a foregone conclusion long before the affected families are formally noticed under the provisions of the law. This is thereby reduced to a mere formality.

The problem is further aggravated because the initial estimation of the people and lands affected by submergence were made (as admitted even by the officials in the 52nd meeting of the NCA) on the basis of contour maps, without field visits. Actual field visits were undertaken often many years later, mainly in preparation for the section 4 notification. As a result, the affected people lived for many years in completely avoidable uncertainty.

The hardships caused by faulty land acquisition processes were greatly aggravated because as already noted, land records, especially in the tribal areas - the villages of Maharashtra and the villages of Jhabua district of Madhya Pradesh - are for the most part unreliable. Often for generations, land titles are not updated after the death of the landowners.

In both Madhya Pradesh and Maharashtra, the actual lists of persons to be displaced remains disputed even today, because of incomplete land records, faulty surveys and failures to record adult sons eligible as separate units for rehabilitation. The state governments are not being proactive in resolving these disputes, involving thousands of families, despite sustained agitations and assurances.

The processes by which rates of land are fixed, calculated, and objections and appeals heard and disposed of, are not transparent. One problem, which we encountered, was that landholders with irrigated landholdings were often paid compensation for unirrigated lands. The quality of the land has also not been taken into consideration while valuing the land. Those, whose lands are of higher quality, have been paid as much compensation per acre as those whose lands are of inferior quality. Some families have had to put in the money for their houses to purchase land, which otherwise would have been used to make a replacement home.

The direct fallout of this is that the people have been unable to purchase land that equals their present holdings in quantity or quality. They have either been able to buy less land than they have at present or have been forced to purchase land of much lower quality.

The situation of the landless labourers, especially in the Nimad plains of Madhya Pradesh is especially grim. The total compensation due to them was in itself not a very large sum (not even Rs. 1 lakh for most). Even this was received in installments. With no opportunities to receive additional monetary support in the form of loans etc., the people were unable to purchase even a house with this money. The money ended up being spent on day-to-day expenses and the repayment of past loans.

The villagers informed us that after the surveys were conducted, there was no crosschecking done by the local authorities. The surveys of the houses have been done in an arbitrary and ad-hoc manner, where only the length and the breadth of the house were measured. The number of rooms in the house, and the wood and the materials used for the construction of the house has not been specifically valued. The monetary appraisal of the house plot has also been done in a similarly casual manner, without reference to its

location. Due to these reasons, the prices of the houses have also been grossly undervalued. Houses, which are similar in structure and kind, have also been found to have been valued differently. Therefore, brothers of a family living in similar houses on similar sizes of plots have received varying compensation. Ranvir Patel of village Semalda, Manawar tehsil, has maintained a detailed record of his village, and he placed before us documents and statistics and examples to prove this.

But by far by the biggest failing of the implementation of the LAQ has been the denial of an important constitutional provision, known as the Panchayat Extension of Scheduled Areas (PESA) Act. The said Act covers scheduled regions and districts, which includes almost the entire area affected by the Sardar Sarovar Project. The Act mandates that in the said areas, the village-level gram sabhas must be consulted and their informed consent achieved before beginning a process of land acquisition, and also for rehabilitation. In his presentation, Shri Ratansingh of Khaparkheda village said that, in spite of his village passing a *therav prastav* – a resolution, and sending it to the concerned officials, the gram sabha's consent was never sought, let alone taken, either for planning acquisition or rehabilitation. We believe that the PESA Act was instituted to protect regions where vulnerable Adivasi populations live, and to give them a voice when they need to be displaced. However, we were told that this has not happened anywhere, and this is therefore a most unfortunate abdication by the State of its duties to protect the rights of its vulnerable Adivasi people.

We were told that Mr. Digvijay Singh, former Chief Minister of Madhya Pradesh, was briefed about this in 2003 by another panel of eminent persons, consisting of Mr. L.C. Jain, former member of the Planning Commission, Ms. Shabana Azmi, and Swami Agnivesh. Following this, we are told, the GOMP had issued orders to provide all the information on the number of PAFs and their entitlements to every Gram Sabha, which would review the official information and pass a resolution indicating the flaws and necessary changes in records, as well as other suggestions. However, we found that this was still being implemented at best in a token formalistic way. The views of the Gram Sabhas are not respected and records still remain incorrect, as we saw from the example

of Khaparkheda village. We recommend that, in future, the concerned authorities follow the PESA Act very strictly. For villages where land acquisition has already been done, we feel that even at this stage all information must be shared with the gram sabha and their views and suggestions given due weight. For villages where displacement is yet to occur, we strongly assert that submergence should not be allowed to occur until the consultative land acquisition is properly carried out as per the constitutional provisions.

C. Displacement and Rehabilitation of PAFs

In a highly significant judgment in the case of B.D. Sharma Vs. Union of India and others, Writ Petition (Civil) No. 1201/1990, the Supreme Court of India clearly laid down that the complete rehabilitation of the oustees must take place at least six months *before* the submergence of their properties.

“Rehabilitation should be done so that at least six months before the area is likely to be submerged, rehabilitation should be complete in respect of homestead, substitution of agricultural property and such other arrangements which are contemplated under the rehabilitation scheme.”

A copy of the SC order in the case of Dr. B.D. Sharma versus Union of India and others is annexed as Annexure C. This significant ruling clearly lays down not just the humanitarian but legally binding principle that the complete rehabilitation of the oustees must take place well *before* the submergence of their properties, and by implication, the related phases of construction of the project which will lead to this submergence. This is what the NWDTA too had stipulated and SC judgment 2000 also reiterated.

In addition, Clause IV (7) of Chapter IX of the NWDT Award states:

*“Allotment of Agricultural Lands: Every displaced family from whom more than 25 percent of its land holding is acquired shall be entitled to and be allotted irrigable land to the extent of land acquired from it subject to the prescribed ceiling in the state concerned and a **minimum of 2 hectares (5 acres) per family**, the irrigation facilities being provided by the State in whose territory the allotted land is situated”.*

Further, Clause IV (2) (iv) and Clause IV (6) (ii) of Chapter IX of the Narmada Water Dispute Tribunal Award stipulates that rehabilitation must strictly precede submergence and be undertaken at least a year before submergence. Clause IV (2) (iv) of the Narmada Water Disputes Tribunal states:

“Gujarat shall acquire and make available a year in advance of the submergence before each successive stage, irrigable lands and house sites for rehabilitation of the oustee families from Madhya Pradesh.”

Also, Clause IV (6) (ii) states:

“In no event shall any areas in Madhya Pradesh and Maharashtra be submerged under the Sardar Sarovar unless all payments of compensation, expenses and costs as aforesaid is made for acquisition of land and properties and arrangements are made for the rehabilitation of the oustees there from in accordance with these directions and intimated to the oustees.”

Hence the NWDTA clearly listed out how Gujarat and the other two states would carry out resettlement and rehabilitation in time-bound manner. In addition to the policy of giving minimum 2 hectares of land-for-land for every landholder, the Award also mandates that oustees be given a house plot in specially established rehabilitation villages, with all basic community amenities. It gives a clear choice to oustee families as to whether to settle in Gujarat or their own home state.

The Supreme Court verdict, which was presented in October 2000, upheld that R&R for the SSP must be completed as mandated in the Award, and that further construction at each stage is contingent on the full and satisfactory implementation of rehabilitation as laid down under the Award.

In this context, the actual displacement and losses due to submergence, which is the situation in which thousands of Adivasis, whom we visited, find themselves today, is a gross violation of the NWDTA and the SC judgment, and the individual state governments must be held directly responsible for the contempt of the court directives, and causing torturous deprivation and uprootment of tribal communities living in these mountainous areas since generations. Today, their socio-cultural and ecological environs stand severely affected and disrupted, and much of their valuable life-supporting natural resource base is lost.

Maharashtra:

Maharashtra began its land acquisition processes in the late 1980s, at a time when they had no plan for resettlement of affected people. The earliest land for rehabilitation, which was 4200 hectares of degraded forest land in the Taloda region, was diverted from the Forest Department and made available as late as 1990 and 1994 (in two instalments). Many families were indeed settled on this land, but we are told that the 1500 hectares of this land could not be allotted due to it being deemed to be uncultivable. Today, the oustees of the 9 villages in Akkalkuva tehsil of Maharashtra, are asking for this balance 1500 hectares where they want to be resettled. Noorji Padvi of Danel village made an impassioned presentation at the hearing, and said that his people want to be settled on forest land, and that the government owes them this 1500 ha of forest land. We believe that this is a reasonable request, and given that the Maharashtra state cabinet has already approved it, we wonder why no progress has happened on this issue since January 2004. The officials present at the hearing did not have any information about this, but neither did they deny the cabinet's decision. We recommend that 1500 ha of this already earmarked degraded forest land be immediately diverted for the resettlement of these oustees.

For the oustees of Akrani tehsil of Maharashtra, the government is buying private lands for resettlement. However, we have learnt that this process is taking place very slowly, and in the meantime, the dam height continues to be raised and more and more families continue to come under submergence.

In all, the Maharashtra Task Force found 568 families who were declared to be PAPs but not yet rehabilitated. Till the present time, over 300 of these families are still not rehabilitated. This is of course apart from the estimated 2000-odd families who are affected but still not declared as PAPs, according to the Task Force figures. Hundreds of these families have already faced the brunt of submergence. This is further established by the fact that GOM paid a compensation amount of Rs. 37 lakhs in 2002 about Rs. 60 lakhs in 2003, to more than 1100 families affected at 100 metres, while the figure

affected at 110 metres is much higher, and we know that a large percentage of them are not rehabilitated.

However, we observed that at the time of this writing, a table was put up on the website of the NCA, which shows balance PAFs under 110 metres in all three states, as 'zero'. A copy of the table along with the web link is Annexure D. Such a grossly false presentation of the reality which we stand witness to, is not only a highly condemnable act of official deceit, but is a contempt of court, for which the officials must be held accountable and strict action taken against them, out of respect for the affected persons' rights including the right to information. We understand that this is a result of distorting the data on PAFs by using the distinction between temporarily and permanently affected persons, and also by allotting ex-parte land to PAFs.

Madhya Pradesh:

As mentioned earlier, the most incriminating finding of this People's Tribunal regarding Madhya Pradesh is that the GOMP has not secured adequate and cultivable agricultural land for even a single oustee family within the state, through an elaborate process of subterfuge and subversion by state authorities of their written and legally binding commitments to which they had agreed.

This subversion, we found, has happened in a variety of ways. The primary one, we are told, is a practice of allotting land, either in Gujarat or Madhya Pradesh, in an ex-parte manner (which literally means one-sided, without hearing or the consent of the affected party) to the oustees. In doing this, the government has not only ignored the PAFs' right to choice of the state to settle in, but also the choice of land, by allotting uncultivable grazing land to many families in Madhya Pradesh.

We are told Madhya Pradesh has always worked under the assumption that all people entitled to land under the Award would move to Gujarat, where they are to be resettled in the command area. This assumption is not based on the consent of the affected families of Madhya Pradesh, and thereby flagrantly violates the Award. Hence, the authorities have

sent ex-parte notices to thousands of landholders giving them the location of their allotted land in Gujarat. This mechanism clearly violates the provisions of the Award and the SC judgment, which say that each oustee family should be given three choices of land and then resettled with land of their liking. In many cases, the ex-parte land allotments in Gujarat, we are told, are of totally uncultivable land. Some of the lands allotted in Gujarat, when inspected by PAFs, were not even fully paid for and were not legally purchased from owners.

However, it is important, we felt, to also challenge the facile assumption made by the Madhya Pradesh government that most land-owning families would want to move to Gujarat. In our interactions with the PAPs, we saw that this assumption was clearly flawed since the overwhelmingly large proportion of families who were interviewed by us, want to be rehabilitated only in their home state of Madhya Pradesh. However, the authorities send them notices of ex-parte land allocations in Madhya Pradesh, and that too, of land which is totally uncultivable. As a result, not a single family in Madhya Pradesh have been resettled with land.

The oustees of Picchodi village in Badwani district and Jalsindhi village in Jhabua district told us separately that 39 of them have approached the Supreme Court of India, through 2 different petitions, in order to demand land-based rehabilitation in Madhya Pradesh. In April 2004, the Court directed the NVDA of Madhya Pradesh to purchase private land to resettle these oustees, and directed oustees to present proposals of land available. A copy of this order is Annexure E. People told us that they made efforts to travel around the area and find private sellers who are willing to sell their agricultural lands for oustees. However, Buddha Banga of Picchodi told us that in the presence of the GRA, the NVDA flatly refused to purchase private lands, in spite of agreeing to it before the Supreme Court. At the time of this writing, the hearing is yet to come up in the Court. The Jalsindhi applicants have already lost almost all their land, and Picchodi oustees have already fallen into the submergence zone at 110 metres, and it is obvious to us that they, along with thousands of others have not been rehabilitated.

Another method of subversion by the state of Madhya Pradesh has been through the process of making a distinction between temporarily and permanently affected oustees.

To reiterate from earlier in the report, the Award defines an ‘oustees’ as follows:

“Any person who since at least one year prior to the date of publication of the notification under Section 4 of the Act [Land Acquisition Act, 1894], has been ordinarily residing or cultivating land or carrying on any trade, occupation, or calling or working for gain in the area likely to be submerged permanently or temporarily.”

We are convinced that this tactic is being used by the state of Madhya Pradesh in order to artificially reduce the number of oustees that it needs to officially show as rehabilitated. A table showing how this is being done was submitted to us and is Annexure F. We think this is extremely unfortunate, and recommend that the GOMP be directed to terminate this policy right away.

Thus far, it is our finding that not a single oustee has been offered or allotted adequate cultivable agricultural land by the Government of Madhya Pradesh.

In addition we note that a process of a household-level survey, such as the Task Force in Maharashtra has never been conducted in Madhya Pradesh. As a result, there are thousands of families left without rehabilitation while having faced or are to face submergence. This is clearly illegal and greatly unjust, and we feel that this needs to be addressed right away.

Gujarat:

Gujarat prides itself on having completed resettlement and rehabilitation of oustees fully and completely. While it is true that thousands of families have been resettled with land in Gujarat, and we recognize that this is, at least in comparative terms, a commendable feat, which has never before been accomplished for any dam project in the country, the quality of this rehabilitation still has a great deal of serious flaws. We also heard from hundreds of villagers gathered from 25 resettlement sites at the public hearing at Parvetta,

that a very large number of people have been shifted to R&R sites in Gujarat, but have not been given fertile and irrigable lands at least equal to the quality of that which they have given up for the SSP. Thousands of people in Gujarat are unhappy with the uncultivable land they have been allotted. Most of the villagers who spoke to us, or gave submissions, talked about this. Many of them told us that they have written to the GRA also, but have never received any replies. We read from official documents that GRA Gujarat has received more than 20000 petitions, over 70% of which are land-related grievances. We understand that the GRA has indeed replied to most of these. However, in their replies, the GRA expects a response from the illiterate PAF within 30 days, failing which they close the case. This is why many PAFs, not having been able to tackle the red tape demands of the bureaucracy, feel that their grievances have not been addressed by the GRA. For many, the situation has deteriorated so much that these families have moved back to their original villages of Gadher, Vadgam, etc, and are living on the riverbanks yet again.

However, this too is not without problems. Bhagwanbhai Dhoda Tadvi, who has moved back to Vadgam from his *vasahat* (R&R site) at Malu, was anxious as he shared with us that he has been constantly under threat from forest officials and police, who are threatening to burn down his house if he doesn't return to Malu. He replied that he was determined to stay and fight. At the time of this writing, we heard that indeed his house was partially demolished by forest and government officials, with the help of police. We believe that destroying a home and that too by state authorities is a deplorable inhuman act, no matter what purpose it was done for. We recommend that the predicament of Shri Tadvi be addressed immediately, and he be compensated for the damage caused to his house and family, and also that strict action be taken against the concerned officials.

Most R&R sites in Gujarat are located in the command area. Unfortunately, most R&R sites were flooded this year, and thousands of families lost their crops, due to water logging in the command. This, we are told, is primarily due to unplanned and inadequate drainage facilities being provided along with the canal network. At the hearing, Narayan Tadvi and Bharat Tadvi of Krishnapura Vasahat described the situation as pathetic and

even suffocating. There are documents to show that the Gujarat government knew about the possibility of water logging in the command from many years ago, but the experience of this year makes it obvious that enough has not been done to address this. As a result, thousands of families, many of whom are already displaced people, have faced the compounded trauma of losing their crops due to water logging this year.

Hence, we believe that, while compared to the abdication and dismal performance of the other state governments, it is to be commended that the Gujarat government has allotted land to so many thousands of families, but the quality of land in many cases is very poor, the purchases often clouded by murky allegations of corruption, and there are thousands of others left out who cannot be said to have been rehabilitated at all. Rehabilitation, in this case, has not been completed satisfactorily.

PART V

The Narmada Control Authority (NCA)

The Narmada Control Authority, as mentioned earlier, is an inter-state monitoring body. It encompasses within it, the Resettlement and Rehabilitation (R&R) Sub-Group and the Environment Sub-Group (ESG). The NCA and its sub-groups were created by the Award in 1980 as the machinery for implementation of its directions and decision, by checking up on social and environmental measures taken. The Sub-groups were meant to do this by conducting regular field visits. They were to consent to a dam height increase only after checking compliance as well as consulting with the GRAs. However, on asking the villagers, we found that the NCA and the Sub-groups had not conducted a single field visit for the last four years. In addition, people felt that the R&R Sub-group was being sidelined by the NCA's general body, who were consenting to height increases without verification of ground level realities. This of course leads to the NCA falsely claiming 'zero' balance families under 110 metres, as mentioned above, and as seen in the table in Annexure D. This official falsity is all the more serious since we see on the table that the total Madhya Pradesh PAFs below 110 m dam height is shown to be 5168, which is a sharp and unexplained decline from the original official figure that used to be 12681. This reduction of its legal responsibilities for rehabilitation is a sleight-of-hand achieved by the device of illegally reducing the so-called 'temporarily affected people', as mentioned before. Nowhere in the NCA documents could we find a mention of its acceptance of this belated differentiation between temporarily and permanently affected families, or even for that matter of the practice of giving cash compensation, yet it is obvious to us that they have tacitly accepted it.

In addition, we found instance when the directions of the NCA are not being followed. We were told that the NCA had directed the state governments to acquire large chunks of land, measuring 200 hectares or more, in order to set up 'rehabilitation villages' as was envisioned in the Award. However, this has not been followed.

Hence we feel that, overall, this suggests a deliberately weak role and position of the NCA, the structure that the apex court had most depended on to ensure compliance with its directions that rehabilitation must keep pace with dam construction.. We recommend that the NCA must conduct immediate and urgent field visits to assess the current situation on the ground, and not give further clearance until this is done, as well as all the truly balance families are rehabilitated.

PART VI

The Grievance Redressal Authority (GRA)

The Grievance Redressal Authorities (GRA) were created during the Supreme Court proceedings, and appointed in each state by the respective state governments, as a mechanism to investigate and resolve complaints and grievances of PAFs regarding their rehabilitation. However, it is obvious to us that the performance of the GRAs in the three states, but especially in Madhya Pradesh, has provided little hope to affected families seeking their legal entitlements, as the GRA has failed to adequately address the issues affecting them. The basic problems that people talked about in dealing with the GRA included: 1) its insistence on dealing only with specific complaints from individual oustees and not generic problems presented to it; 2) the length of time it takes to decide cases (up to two years); and 3) the Chairman's refusal to make field visits or conduct public hearings. We were told that Mr. Sohoni of the Madhya Pradesh GRA has made just one visit to the affected area during two years, and this Authority has operated out of Bhopal with occasional hearings in Indore, making it virtually impossible for impoverished oustees to travel the distance to approach it. But the biggest flaw in the Authority's functioning is that it has no independent machinery to verify and investigate the oustees' grievances.

People told us that if they made a complaint against the NVDA, the GRA would send the NVDA itself to investigate the disputed claims of the oustees and the NVDA. We believe this defeats the purpose of the GRA in many ways. In this regard, the submission that we received about the case of Shri Gulabsingh Kutriya of Bhitada village, Alirajpur, is quite telling. He has been declared as an oustee who is losing over 25% of his agricultural land to submergence; such has been mentioned in the government Gazette as well. Later the NVDA began claiming that he is losing less than 25% of his land, and hence is not entitled to alternate land. Shri Kutriya wrote to the GRA about this. Instead of getting an independent level survey done by an independent agency, the GRA directed the NVDA to reply to the claim. The NVDA, we are told, did not do a survey to check the level, but

merely reiterated that he was losing less than 25% of his land. The GRA accepted this argument and disposed of Shri Kutriya's case.

We also found that in cases in which the Authority has issued positive directions to the NVDA, the government has not acted upon them in a timely manner. In this regard, we would like to mention the submission we received about the case of Shri Ganpat Sursingh of Nadi Sirkhedi village, Alirajpur. He and his fellow villagers agreed to resettle in Gujarat and were issued land there. But when they went there, they found that the same land had been allotted to others from another hamlet of their village. They returned to their original village and wrote to the GRA about this. The GRA directed that they must be allotted alternate land in a week's time. Shri Ganpat says that it has been two years since and the GRA's orders have not been followed. Unfortunately, the GRA has taken no actions to see to the implementation of its own orders.

In another key issue, that of claims for inclusion in the PAF lists, the Authority has stated that the burden of proof lay entirely on the claimant. As stated before, this burden requires producing documentary evidence, but this is often not possible for the claimant because of the state's own negligence and failure to update land records. Even where some documentary evidence exists, the Authority has been very selective. The Authority has refused to accept any document – even voter's identity card, ration cards etc that is dated after to the issue of the Section 4 notice, arguing that the person concerned had an incentive to lie about his age.

We believe that the GRA, especially in Madhya Pradesh but also in the other states, has failed in to live up to its responsibility of monitoring the rehabilitation of oustees and insuring affected people of the protection and entitlements due to them under law.

PART VI

Resettlement and Rehabilitation (R&R) sites

We also received a submission from 43 families of Picchodi village and also heard from Shri Haresingh of Picchodi and Shri Ghanshyam of Bhavariya village, who are all protesting the acquisition of some of their lands for making R&R sites for oustees. These families are also oustees and they are affected by submergence from SSP. They are also facing the double brunt of displacement since their balance lands, those higher and not affected by submergence, are being acquired for R&R sites. As mentioned in the 'land acquisition' section above in this report, these communities were not consulted before their R&R site was chosen, in violation of the PESA Act. If they had been, then families such as these 43 families would not have chosen such a site that renders them all landless. To add to this, we saw an affidavit filed by the GOMP in the Supreme Court before the 2000 verdict, saying categorically that they would not acquire lands of SC/ST communities for R&R sites, and such lands as would make the owners landless as the result of the intended acquisition. After the verdict, they changed their policy without consulting the Supreme Court and inserted the phrase 'as far as possible'. Hence they now are routinely making SC/ST communities landless by these processes. We think this is unacceptable and recommend that the GOMP stops this process right away.

PART VII

Recommendations

At the outset, we would like to say that significant and sustained research on big dams, including the report of the World Commission on Dams, demonstrates how large dams incur significantly more costs than benefits. These social and ecological costs are prohibitive and disproportionately borne by marginalised peoples and cultures. The Sardar Sarovar is no different. Beyond the extent of agony and devastation caused by displacement, the denial of resettlement and rehabilitation, and extreme hardship caused due to submergence without rehabilitation in the SSP, this Panel's investigation confirms that local project, state and central authorities have been severely negligent and have inflicted a great deal of human and social suffering. This is primarily the result of the failures of government agencies to adhere to the letter and spirit of the Narmada Water Disputes Tribunal Award, the Supreme Court judgment in 2000, to the rehabilitation policies of the three state governments, and internationally accepted norms and standards for forcibly displaced people. The recommendations below are restricted to issues of displacement, resettlement and rehabilitation of those affected by the SSP, even as in the body of the report we have made observations connected to other areas of malfunction within the project. Given the gravity and enormity of human suffering, we urge that the following recommendations be acted upon immediately:

- (i) We have found that the principle of providing land for land for all project affected people provided for both in the Narmada Water Disputes Tribunal Award and the SC judgment has been widely violated, most brazenly in the state of Madhya Pradesh. It is proposed that further displacement in the remaining villages be stopped forthwith, until all project affected persons are rehabilitated actualising land-based rehabilitation in set-up rehabilitation villages with all amenities and sufficient house plots, adjacent to agricultural land.

- (ii) The problem of disputed lists of affected people must be resolved transparently and expeditiously, by an independent authority, after hearing all affected people, within the Gram Sabhas and not outside. This should be done within the next 6 months and should be approved by a planning committee with official as well as non-official members, which should be appointed in each state along the lines of the practice adopted by the GOM. We feel that the unofficial members must include the member of the peoples' organization, NBA, which is the only movement group working among the oustees of SSP in the 3 states. All PAFs listed in Maharashtra Task Force must be declared eligible and rehabilitated.
- (iii) All PAFs who are temporarily affected, or those with houses and/ or lands that are marooned, should also be considered affected at a given dam height.
- (iv) All the state governments must be directed to prepare a master plan of all balance PAFs, with details of agricultural land in big chunks to be allocated to them, as was recommended by GOI appointed Five Member Group in 1994.
- (v) The government of Madhya Pradesh should be directed to purchase private land as per SC judgment 2004 and offer denuded forest land for tribal communities if need be, as a last resort.
- (vi) The process of ex-parte land allotment must be stopped right away, since it a process that allows the subversion of the land-for-land principle, and is only used by the authorities to show 'zero' balance families on their website. We believe that it is not a legitimate process to justly rehabilitate affected people; instead oustees must be allotted arable irrigable land of their choice.
- (vii) All major sons in each of the affected villages must be brought onto record, and the final number of PAFs at full dam height must be declared. The cut-off

date for major sons in families where land acquisition took place much earlier but rehabilitation has not yet occurred, should be extended at least till 1995.

- (viii) As per the SC judgment, each major son, at least in the case of tribal families in the forest areas, should be granted 2 hectares of land whether in Maharashtra or Madhya Pradesh.
- (ix) The R&R Sub-Group must direct the state governments of Madhya Pradesh to stop distributing cash compensation in lieu of land and house plots for rehabilitation, following the principle avowed in the NWDTA, the Supreme Court judgment and every major document on rehabilitation in the SSP. The Sub-Group should also ask the governments and authorities to give up the illegal distinction between temporarily and permanently affected families.
- (x) The R&R sub-group as well as Environmental sub-group of NCA must regularly visit the Narmada Valley to assess the latest situation first-hand and produce a detailed report to the concerned ministries mentioned above. The frequency needs to be at least once every three months to produce quarterly reports as was directed by the Supreme Court in its judgment in the case of B.D. Sharma versus Union of India and others in 1990.
- (xi) Noting the gross violation of land rights, right to food, right to rehabilitation and right to life, the Government of India should not release any further funds for SSP till it verifies that the total compliance on R&R policy is attained.
- (xii) The villages that are yet to be submerged must be rehabilitated prior to the completion of the dam, even if it requires halting construction for the present. The linkages between dam construction, resettlement and rehabilitation must be fully and strictly complied with, in the letter and spirit of the Supreme Court instructions.

- (xiii) Public and government monitoring mechanisms must be instated and strengthened, and their functioning ensured, to verify that resettlement and rehabilitation processes are undertaken in ways that are transparent, principled, and in accordance with the law.
- (xiv) In compliance with the rulings of the Supreme Court of 1991 and 2000, further dam construction should be stopped for the present until the gaps in rehabilitation are fully remedied, and future construction schedules must ensure that in no case is submergence allowed to outpace full rehabilitation. The people already affected by submergence who have not been fully compensated and rehabilitated in accordance with their legal entitlements must be fully rehabilitated, and all families in villages earmarked for future submergence resettled and rehabilitated in all respects at least 6 months prior to their submergence.
- (xv) The manifest and multiple failures of the present monitoring and grievance mechanisms must be remedied, in recognition of the fact that none of these failures would have been possible if these mechanisms had functioned. There should be accountability and penalties for these failures of public officials. The role of civil society, especially local movements and affected people themselves, in independent monitoring should also be formally acknowledged and respected by the state, and repressive adversarial positions against democratic movements and resistance abandoned.
- (xvi) An independent monitoring and evaluation (M&E) agency in each state must be set up right away and should be functional.
- (xvii) There should be a field-based activist acceptable to the affected peoples' organization, as a part of the R&R Sub-Group of NCA.

(xviii) We strongly recommend that a commission be set up immediately by the Government of India, which is empowered to look into all the problems related to displacement, uprootment, relief and rehabilitation, including those listed above, faced by people whose lands, livelihoods or shelters are adversely affected by the project. It should be ensured that the water levels are not allowed to rise further till these problems and grievances are adequately resolved, and it is confirmed by this Commission that proper rehabilitation has been accomplished in conformity with the Award and the orders of the Supreme Court. The situation in the Narmada Valley in the coming years would decide the fate of not only the lakhs of people to be affected by SSP and other large dams, but also the fate of the mega-projects in the country.

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