



Photo by Dana Clark

Gehalgaon rehabilitation site not ready for habitation.

2. Situation at the Rehabilitation Sites Found Inadequate

The FFT visited one of the oldest rehabilitation sites in Gujarat, Aggar in Narmada district. The team also visited some of the villages that would be affected in Madhya Pradesh when the height of the dam reaches 95 m and three related rehabilitation sites that are in the process of being prepared.

A. Gujarat

Even though the Aggar rehabilitation site was set up more than 10 years ago, problems related to land and other basic facilities are still unresolved. Dalsukh Sonji Bhai, who now resides in Aggar, said that first he was resettled in Gaddher where he found the land uncultivable. On asking for a change, he was sent to Aggar, where he has only received 3 acres of the 5 acres of land he is entitled to. He is still trying to get the remaining 2 acres of land. Dalsukh Sonji Bhai belonging to the Tadvi tribe asked the FFT, “What is the solution? We have sacrificed our land, our livelihood was taken away and we are given a pittance in return. We are asking only that our standard of living be restored and that has not happened. We have lost food security, grazing land, crop land and livelihood. Here I cannot even dream of having milk.”

Savita Behn, an adivasi, has been forced to become a labourer from being a farmer after moving to the Aggar resettlement site. She now has to travel for 24 hours to Kathiawar, leaving her infant and two younger children at the resettlement site. She told the FFT of her desire to return to her previous home, even if she risked death by drowning. She felt it would be better than the miserable life that she is leading in the resettlement colony.

Bhikha Bhai Lalu Bhai, another adivasi residing at Aggar, has applied to the GRA for arable land. Besides issues related to land, Aggar does not have the facilities the government claims it has provided for rehabilitation sites in Gujarat.



Photo by Dana Clark

The fact-finding team speaking to the oustees living in Aggar, a rehabilitation site in Gujarat.

According to the Gujarat government's website, medical amenities and benefits like a mobile medical van, dispensaries at the rehabilitation sites, and nutritional supplements to children between one and five years through the Integrated Child Development Scheme (ICDS) are being provided at the resettlement sites. Dalsukh Sonji Bhai said there is no ICDS operational in Aggar and that a doctor only visits a dispensary for one hour a day, 3 km from the rehabilitation site. Moreover, Aggar has no cremation ground, provision for irrigation water, secondary school or transport facilities or any grazing land. People do not have access to the forest for firewood or medicinal plants, nuts and fruit which were a supplementary source of food and income.



Photo by Dana Clark

Resident of Aggar resettlement colony returns from gathering fodder for her cattle. The people and cows do not have access to grazing land.

B. Madhya Pradesh

The rehabilitation sites in Madhya Pradesh visited by the FFT were not suitable for habitation, even though they are designated by the government as constituting adequate rehabilitation for people threatened with submergence at the current dam level. The resettlement sites were, by and large, being rejected by affected communities. Some of the main reasons for rejecting the resettlement sites have been that the land was rocky and incapable of supporting crops; that there was no provision for agricultural land; that there was no provision for alternative livelihood; that there were disputes over title to the various house plots; that multiple assignments were made of the same tracts of land to affected villagers; and that the lands being allocated as resettlement sites would be submerged as the dam continued to rise.

The Chairman of the Grievance Redressal Authority of Madhya Pradesh in his interim report to the Supreme Court in June 2000 said that except Eklara, no other site that it surveyed could have been said to be a site established for Resettlement and Rehabilitation. The FFT saw the rehabilitation site chosen for Chikhaldia, Madhya Pradesh. Nine hundred families live in Chikhaldia, and 75 per cent of their agricultural land is slated to be submerged. One hundred and sixty eight families were recently issued notifications that they were in the anticipated submergence area at 95 m. These families are now listed in the government's Action-Taken Report as having been rehabilitated. In a meeting with the FFT, the people of Chikhaldia challenged the designation of these 168 families as rehabilitated, given that none of them had in fact been resettled or rehabilitated, and given that there is no suitable resettlement site available for residents of Chikhaldia.

The land initially chosen by the government for the Chikhaldia resettlement colony was rejected by the people because Rajendra Kumar Pandey, the owner of the land next to the resettlement site, at the same level, has been notified that his land will be submerged. He showed the FFT the area in the map and claims that the Narmada Control Authority (NCA) officials have accepted that there are risks of submergence with the Chikhaldia site. The site has not been developed

at all. The Madhya Pradesh government has therefore stated that the Chikhaldia people should abandon their homes and shift into the rehabilitation site already designated for residents of Gehalgaon but even that site is not ready for habitation and has only a row of metal emergency tin-shed shelters and a few locked and abandoned small houses, electric lines with no power, and incomplete construction of infrastructure such as a school and a clinic. More fundamental than the lack of infrastructure is the fact that the house plots are allotted for the people of Gehalgaon and the people of Chikhaldia do not want to be uprooted twice. Furthermore, the plots being offered do not provide for agricultural or grazing land and are therefore unsuitable to the needs of the affected people.

Gehalgaon and Gopalpura in Dhar district are listed as rehabilitation sites almost ready but the FFT found that at each rehabilitation site, there were three empty structures: the school, dispensary and grain store. The hand pumps were not working; electric poles did not carry any wires. There are a few small houses built at the sites but they were locked and abandoned. No agricultural land has been provided at these two rehabilitation sites, only house plots have been marked out. The people of Gehalgaon and Gopalpura pointed out that there was no agricultural land available nearby and asked how they were expected to cultivate land far away from their houses. The GRA (Madhya Pradesh) has instructed the Narmada Valley Development Authority that resettlement and rehabilitation sites developed or being developed should be located within a radius of 2-5 kilometres of the agricultural land²⁴. This did not appear to be the case in any of the Madhya Pradesh resettlement sites visited by the FFT.

The team visited the Halder Bhawaria resettlement site where cotton and papaya plantations of previous owners were still standing and there were no house plots allocated. Mohan Bhai of the submergence village of Bhawaria in Dhar district said that the site chosen by the government is low-lying and prone to water logging.

HLRN-HIC is concerned about the pattern that the FFT observed in the resettlement process; that is, the selection of rehabilitation sites that are likely to be submerged; no provision of agricultural land to those entitled to it. The oustees have neither been provided grazing land nor any other alternative to their livelihood options, such as harvesting minor forest produce that was available in their home villages.



Abandoned locked houses in Gehalgaon rehabilitation site in Madhya Pradesh.

Photo by Dana Clark



The undeveloped Gopalpura rehabilitation site in Madhya Pradesh.

Photo by Dana Clark

²⁴Summary records of the meeting of the committee of the R&R sub-group and the GRA on 28 February 2002.

The NWDT Award has categorically laid down that “every displaced family from whom 25 per cent is acquired shall be entitled to and be allotted irrigable land to the extent...a minimum of 2 ha²⁵.” Giving only house plots to oustees without irrigable agricultural land violates the award.

The government of Madhya Pradesh has admitted that it has not as yet made provisions for providing land for the affected people who are losing agricultural land. An affidavit filed by the government of Madhya Pradesh in the Supreme Court in May 2002 states that the R&R sites developed so far are for oustees who are not entitled to land²⁶. “As regards those who are required to be allotted agricultural land, the R&R sites for such project-affected families (PAFs) will be developed at the places where they agree to take land allotted to them²⁷.” Assigning people submerged at one level of the dam to land that is known to be vulnerable to submergence as the dam continues to go up is basically a shell game with numbers: it does not constitute effective rehabilitation. It would appear that this practice is designed to justify an increase in the dam height without paying comprehensive attention to the needs of affected villagers or considering the cumulative impacts of submergence. This short-sighted approach is being rejected by affected villagers, who are understandably refusing to move to lands that are likely to be submerged.

By not providing agricultural or grazing land and alternatives to their traditional livelihood sources at the rehabilitation site, India is also in violation of its obligation to protect the right to adequate housing under international human rights law. One of the basic components of the human right to housing is access to livelihood options. For rural and tribal populations, livelihood is dependent on agricultural land and common property resources such as grazing lands and forests. The rehabilitation of affected persons without alternative agricultural land and basic facilities does not comply with the requirements to protect right to adequate housing under international human rights law.

3. Problems with Land Rights in Tribal Areas

A phenomenon in tribal areas throughout the country is the non-settlement of land ownership rights. This has a very serious implication in the SSP-affected villages. With the land ownership rights of the tribals not recognised, appropriate rehabilitation is not available to them. In the submergence villages visited by the fact-finding team, this issue was repeatedly raised by the tribals. The adivasis said that the revenue records often did not reflect the factual situation of land use and ownership by the people.

From the testimonies of tribals from various villages, two main issues emerged. Dediya Jatriya, an 80-year-old man from village Anjanwara, Madhya Pradesh, told the team that according to the *tehsil* records, his father was the legitimate landholder while he (Dediya) was an adult son. This is despite his father having passed away more than 25 years ago. According to him, there are many people in a similar position in his village and the land records have not been changed to include their names. Kailash Awasni told the FFT that the government should recognise the forest land the adivasis have cultivated for generations as their rightful land and compensate them for the loss of these lands.

Bahaduria Narmadiya of Anjanwara said that there were more than 100 houses in his village and that there were more than 150 tribal people who are cultivating

²⁵The Sub-clause IV (7) of Clause IX (the land for land provision) of the NWDT Award.

²⁶Those losing less than 25% of their holdings, landless agricultural labourers, landless labourers and their adult sons are not entitled to agricultural land under the NWDT Award.

²⁷Page 12 of the affidavit filed by Mr. Vyas member rehabilitation NVDA on behalf of the Government of Madhya Pradesh in response to the Writ Petition (Civil) No.328/2002 Narmada Bachao Andolan Vs Union of India and others. This case was filed by the NBA after the NCA cleared the increase in the height of the dam. The NBA claimed that rehabilitation of those affected at 95 m had not been done, violating the previous Supreme Court directions.

land – revenue or forest cultivation or both. However, he said that the government records reflect only nine tribal cultivators in his village.

According to Loharia Shakaria, in almost all the villages in Alirajpur, Madhya Pradesh, the land rights of the tribals have not been recognised. This has been brought to the notice of the local officials, NVDA officials and the NCA officials, besides the GRA. The affected families, especially the tribals, have asked the government to bring the land records up to date and resurvey the village to include omitted families. The government has ignored these demands. Now when they face submergence, no compensation is being given because the government claims that this is forest land.

The Madhya Pradesh Rehabilitation and Resettlement Policy provides that encroachers will be treated as owners for compensation and allotment of land if encroachments are prior to 1987. Bhutiya from Dubhkheda said that the government has never bothered to survey his village to record the number of tribals who had cultivated forest areas before 1987. Huliya Patel of Domkhedi (Maharashtra) said that in his village there was no revenue land since the government had not taken up this process fully to convert forest cultivations to revenue records. While this process was carried out partially in the early 1990s, it was suspended before it was complete. Dadliya Karbari of Domkhedi said that the Maharashtra government has just completed the survey of forest cultivations but has yet to grant official and legal recognition by issuing land titles.

The government is obligated to recognise the land occupancy patterns of tribal communities as in Convention 107 of the International Labour Organisation but has failed to do so.

4. Ex-Parte Rehabilitation Violates State Policies and International Standards

While speaking to the affected people in the submergence villages, the FFT was repeatedly confronted with the issue of *ex-parte* allotments.

In December 1999, the NCA decided to make *ex-parte* allotments of house and agricultural land to “non-responsive” project-affected families, that is, families not yet accepting any rehabilitation offer of the state²⁸. In this process, the state delivers a notice via registered mail informing the oustees that they have been offered three choices of agricultural land. If they do not respond, they receive *ex-parte* allotment certificates by post informing them that they have been designated land in a particular resettlement colony. Once the mail is delivered, these people are then counted as those affected people who have been rehabilitated, though they have not physically moved from their original villages.

People interviewed in Jalsindhi said that nine project-affected families were given *ex-parte* notification of land in Gujarat, even though they had been asking for land in Madhya Pradesh. As per the NWDT Award, the people have a right to choose if they want to be resettled in their home state or in Gujarat, and they should not be forced to accept land in a different state. The NWDT Award clearly lays down that the people have a right to choose which state they want to be rehabilitated in and should be given an option of three alternate irrigated lands to opt from. In Chikhaldia, 16 project-affected persons have been given *ex-parte* allotments in Gujarat and are declared as rehabilitated in the Action-Taken Report

²⁸At the 59th meeting of NCA

of the government of Madhya Pradesh. People told the FFT that these families prefer resettlement in Madhya Pradesh and have indicated this to the local NVDA officials, NCA officials as well as Gujarat officials.

Gulsingh Bhamta of Bada Amba (Madhya Pradesh) said that he and his entire village wanted land in Gujarat and approached the NVDA officials. They were taken to Gujarat to select land but rejected the land as it was of very bad quality. They asked for better land but instead, the government served *ex-parte* allotments to them.

The extent to which the *ex-parte* allotments lead to rehabilitation only on paper is illustrated by a letter written by the Deputy Collector SSP, Nandurbar district, Maharashtra, on 14 May 2001, to the Upper Collector. In the letter, he says that on verifying the *ex-parte* allotments, several discrepancies were found. The allotments were made without surveying the plots and it was discovered that out of the 145 allotments made to project-affected persons at the height of 90m, there was land available only for 79²⁹.

The Justice Daud Committee report in June 2001 stated that it saw evidence and intimated to the authorities concerned that *ex parte* notices were being issued carelessly. Often, offers are made but there is no availability of land in the resettlement colonies. The Task Force set up by the Maharashtra government also examined the phenomenon of *ex-parte* allotments. In its report in September 2002, it found that some of the land being given as *ex-parte* allotments in Maharashtra was already being cultivated or was owned by other people and some of the land was uncultivable. The Maharashtra government in October 2001 has decided that in future, *ex-parte* allotments of agricultural and residential plots would not be made to SSP-affected families in Maharashtra³⁰.

On 7 January 2002, at the 51st meeting of the Rehabilitation and Resettlement Sub-Group, the Gujarat government submitted a note saying that out of the 883 *ex-parte* allotments made up to dam height 100m, none had come to actually take possession of the plot allotted to them. The Gujarat government suggested that if *ex-parte* allotments are not accepted by the project-affected families within three months, their entitlements to land and house should be cancelled and they should be given cash compensation.

Allocating unsuitable land or non-existent land through the *ex-parte* process is another attempt by the state governments to alter the NWDT Award and to absolve themselves of responsibility of rehabilitating the affected populations. *Ex-parte* allotments appear to be a tactic being used by the governments to inflate the numbers of rehabilitated to get permission for further raising of the dam height, without regard to the reality of how or whether people have been adequately rehabilitated. In actual fact, the people are still living in their original villages and when faced with submergence, will be rendered homeless. The *ex-parte* allotments are being used to coerce oustees to shift to land even if it is unsuitable, since refusal would leave them homeless.

Forcing people into houses and land which are not suitable amounts to forced evictions and is a violation of the right to housing guaranteed under Article 11(1) of ICESCR, in addition to violating provisions of the NWDT Award. For displacement to conform to the right to adequate housing, there should be genuine consultation with the affected population, sufficient notice of the eviction should be given and the alternative land with basic amenities and livelihood

²⁹ Reference of letter: No/R&R/SSP/105/2001

³⁰ Govt. of Maharashtra letter no. SSP 31/2001/CR 120/R 5 dated 22 October 2001. On 22 October 2001, the Maharashtra government informed the Naramada Control Authority of this decision.

opportunity should be made available. The UN Comprehensive Guidelines on Development Based Displaced lay down that affected persons should provide their full and informed consent as regards the relocation site.

5. Differentiating between Temporary and Permanent Submergence to Reduce Numbers of People to be Rehabilitated

The Madhya Pradesh government has differentiated between temporary and permanent submergence to reduce its

obligations and to try to obscure the number of people to be affected and rehabilitated at various dam heights. The NWDT Award clearly lays down that there will be no differentiation between permanent or temporary submergence. The NWDT Award defines oustees as *“any person who since at least one year prior to date of publication of the notification under Section 4 of Land Acquisition Act 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”*³¹.

It is of grave concern that the R&R Sub-Group by clearing the increase in the height of the dam has accepted the differentiation between temporary and permanent submergence and allowed the Madhya Pradesh government to alter the NWDT Award. On 8 February 2002, the Madhya Pradesh government reported to the R&R Sub-Group that 70 submergence villages were left for resettlement in the state at dam height 95 m³². On 26 February 2002, the government gave information about only 30 villages. No information was provided regarding the status of rehabilitation and resettlement of the other 40 villages coming under submergence at 95 m. On 18 April 2002, the Action-Taken Report submitted by the Madhya Pradesh government showed the project-affected families of only 30 villages would be affected at dam height 95 m when at an earlier stage the affected villages were shown to be 70. The reason given by the state government was that for giving clearance to dam height 95 m, rehabilitation and resettlement of project affected families of only 30 villages would be necessary, that is, those whose houses or agricultural land would be submerged permanently and whose houses would be submerged temporarily. In the remaining 40 villages, only agricultural land would be temporarily affected and hence Madhya Pradesh argued that at this stage the rehabilitation of those project-affected families would not be necessary. This position of the Madhya Pradesh government arbitrarily alters the NWDT Award’s definition of oustees which was upheld by the Supreme Court³³.

This designation of temporary and permanent not only violates the NWDT Award, it also has serious implications on the right to housing, land and livelihood of the people. If the floods of this year’s monsoons are any indication, the people in areas designated as “temporarily” submerged have suffered loss of home personal property, crops, cattle and livelihood. Even when the waters



These “temporarily” submerged houses at Doomkhedi were found unfit for habitation by FFT.

Photo by Dana Clark

³¹ Clause XI Sub-clause I (2) of NWDT Award.

³² As reported in the summary records of the consultations between the R&R Sub-Group and Madhya Pradesh Grievance Redressal Authority from February to April 2002.

³³ In its judgment in the Narmada Bachao Andolan Vs UOI in October 2000. See Annex I for directions of the Supreme Court.

recede, they will not be able to grow another crop for the rest of the year. They and their cattle have no access to clean drinking water. They are seriously affected and deserving of rehabilitation.

The situation in Madhya Pradesh illustrates that rehabilitation is being emphasised only as a numbers game, to prepare lists and tables and charts and documents, and even empty resettlement colonies, in order to create the illusion of rehabilitation. However, the charts and tables do not reflect reality in terms of who has been or will be affected or who has been rehabilitated. The emphasis seems to be on creating records and documents that can be used to support an increase in the dam height, rather than ensuring the right to housing of those affected by the project.

This is also a classic undermining of accountability—the agency is unable to meet the terms of the NWDI Award so rather than reconsidering the consequences of the project, it is trying to change the rules, lowering the standards, removing protections for vulnerable people, making it more likely that project-affected people will be impoverished and that their right to housing will be compromised.

6. Lack of Information about Displacement and Rehabilitation

Wherever the FFT went, they were confronted with the issue of uncertainty, confusion, misinformation or no information. The affected people were unsure when and who would be submerged; where they would be rehabilitated; what the entitlements were on being displaced and why agricultural land were not being given. The people reported that information in the government documents added to the confusion as they sometimes did not reflect the real picture at the ground level.

- (a) The residents of Chikhaldia, Madhya Pradesh, showed the FFT a home that had been declared affected at 95 m. They then pointed out a row of houses on the same street, built around the same time, located at an even lower level but not officially declared as affected at 95 m. The people questioned the accuracy of the surveys.
- (b) The residents of Chikhaldia affected at dam height 95 m have been declared rehabilitated in the Action-Taken Report of the Madhya Pradesh government submitted to the NCA in March 2002. The field visit of the FFT determined that they had not been.
- (c) The FFT witnessed a meeting at Sirsi in Madhya Pradesh where the villagers were discussing whether their village would be affected by the project. Some of the residents of the village had seen a notice up at the tehsil office newly listing Sirsi as affected. There was confusion amongst the villagers because Sirsi is not one of the 193 villages declared by the government as affected by the Sardar Sarovar Project.
- (d) Tribals of Jalsindhi, Madhya Pradesh, said that one of the hamlets of the village, Sindhyabari falia, would be submerged but the government officials have refused to accept this. The tribals are unclear about the extent of submergence since the government has never conducted ground-level surveys to demarcate the submergence zone in their area.

- (e) The tribals of Bhitada, Alirajpur Tehsil, Madhya Pradesh complained that they were being offered only cash compensation since according to the government they were losing less than 25% of their land. They said that all this time they were told that they will be losing their houses and their lands too and this is reflected in the official gazette of submergence and the notices served to them occasionally. Many of them have even been offered land in Gujarat which they refused since they prefer to be rehabilitated in Madhya Pradesh. There is uncertainty and confusion about availability of land for their rehabilitation and about designation of cash compensation.
- (f) The Madhya Pradesh government is attempting to justify giving oustees cash compensation instead of land by altering the provisions of the NWDT Award. At the Rehabilitation and Resettlement Sub-Group26 meeting in August 2001, the Madhya Pradesh government proposed an amendment to the Award which would give the displaced family the option of obtaining the full cash compensation for purchasing land in a village of its choice³⁴. The reason the Madhya Pradesh government proposed this course of action is that there was a paucity of cultivable government land in the state and it was difficult to arrange more land for the oustees.
- (g) There is uncertainty about the availability of land in both Madhya Pradesh and Maharashtra. By not providing any agricultural land at the rehabilitation sites, attempting to give people cash compensation and differentiating between temporary and permanent submergence, the Madhya Pradesh government has indicated to the affected people that there is no land available for rehabilitation. The Madhya Pradesh Grievance Redressal Authority 's interim report in June 2000 indicates the same, "(It) is not disputed that so far no irrigable land has been allotted to any PAF who is entitled to allotment of such land... It was stated on behalf of the state that no irrigable land was available for allotment ...³⁵" Even the Maharashtra GRA in May 2002, said that as of date the government of Maharashtra does not have sufficient land to resettle oustees³⁶.

To protect the housing rights of the people to be displaced by a project, requires as a prerequisite

- genuine consultation with the affected people to obtain correct estimates of numbers to be affected;
- active participation of the affected people in identification of alternative land for rehabilitation;
- dissemination of timely information about date of evictions, entitlements and availability of alternative house or land;
- decisions by governments about actions that cause displacement, such as raising the height of the dam, to be based on realistic information about the number of people to be affected, the number of people still facing rehabilitation, and the capacity of the governments to provide appropriate rehabilitation;
- transparency in the decisions taken by the government, so that the affected people and others know that they are based on realistic information.

³⁴ To the Sub-clause IV (7) of Clause IX (the land for land provision) of the NWDT Award.

³⁵ To the Supreme Court on 30 June 2000 in writ petition Narmada Bachao Andolan Vs Union of India and others, Writ Petition (C) NO. 319 OF 1994.

³⁶ The interim report filed in the Supreme Court on 31 May 2002 in the Writ petition (Civil) No 328/2002.