

Dam Dissent: Protest Methods and Results in India's Narmada River Valley

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Abstract

The Narmada River, India's fifth largest, runs west through the middle of the subcontinent emptying into the Arabian Sea. The river is not only important economically for fishing and transport it has long been valued as sacred to Hindus of the nation. Along the banks of the river live peasant farmers and adivasi, forest dwellers who still live in tribes and obtain their livelihood from the rich forests growing along the Narmada. In 1979, the Indian government under the leadership of Prime Minister Indira Gandhi, finalized plans to build a series of dams along the Narmada. Studies projected that these dams would provide greater irrigation for parched farmlands, hydroelectric power, and increased amounts of drinking water. The largest dam, the Sardar Sarovar, became a point of contention. The people dwelling in the areas joined with grassroots organizations to fight the dam and "save the Narmada." They used non-violent protest methods, court legislation, and international opinion. Their protests in the Narmada resulted in landmark studies on dams and their effects on individuals and societies and how the international community discussed and viewed large dam projects

The Narmada River, India's fifth largest, flows for over 800 miles through the middle of the country before emptying into the Arabian Sea (figure 2). The residents of the Narmada River Valley have historically been farmers and adivasi. Adivasi is the term for forest dwellers or people who subsist on the natural products of India's lush forest areas. The farmers of the region generally own small farms on lands traditionally held. Some make a subsistence living while others have grown into a prosperous middle class. In 1979, the central Indian government and the state governments of Gujarat, Madhya Pradesh (MP), and Maharashtra formulated a plan for a series of dams along the Narmada River. The largest of these dams, the Sardar Sarovar, gained international notoriety beginning in the 1980s as Narmada Valley Residents and non-governmental organizations (NGOs) worked to halt construction of the dam. They contested the right of the government to displace local residents in the name of the "greater good."¹ Local residents used non-violent protests, the court system, and international opinion in an attempt to stop the construction of the Sardar Sarovar dam.

It took decades for a dam on the Narmada to go from a concept to a planned reality.

The British had planned irrigation works on the Narmada as early as 1901. The first British Irrigation Committee had recommended a barrage, a small dam, at the town of Bharuch at the mouth of the Narmada River.² The British did not act on the recommendation of its Irrigation Committee and the Narmada remained un-dammed. The first technical studies along the Narmada, conducted by the British in the 1940s, found sixteen sites conducive to hydroelectric dams.³ But by the end of the 1940s, Britain had to switch focus from colonial growth to rebuilding her mainland following the devastation of World War II. Once India gained independence, Prime Minister Jawaharial Nehru personally promoted large dam projects, claiming they would be the the new temples of modern India. The new Indian government considered a dam on the Narmada, but the three states that would be affected by the dam—Gujarat, Madhya Pradesh (MP), and Maharashtra—could not agree on how they would divide the costs and benefits of a large dam. This deadlock lasted from 1961 to 1969. In 1969, Prime Minister Indira Gandhi established the Narmada Water Disputes Tribunal (NWDT) to settle the dispute.⁴ It took this tribunal until 1979, a full decade, to reach an agreement ratified by all three states.

In this agreement, the NWDT defined several key terms related to the building of the dam. Though they may seem obvious or unnecessary, the definition of these terms decided who would be entitled to compensation due to removal. The three most important terms were *land*, *oustee*, and *family*, and they were defined as follows:

1 Nguyen Thi Dieu, "The State versus Indigenous Peoples: The Impact of Hydraulic Projects on Indigenous Peoples of Asia," *Journal of World History* 7 (Spring 1996): 114.

2 Friends of the Narmada, *The Sardar Sarovar: A Brief Introduction*. <http://www.narmada.org/nvdp.dams/index.html> (accessed August 21, 2011).

3 John R. Wood, "India's Narmada River Dams: *Sardar Sarovar* under Siege," *Asian Survey* 33 (October 1993): 972.

4 Friends of the Narmada, *The Sardar Sarovar*.

1(1) : “Land” The expression “land” shall have the same meaning as defined in the Land Acquisition Act, 1894 (hereinafter referred to as the Act) which states “the expression ‘land’ includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth.”

1(2) : “Oustee” An ‘oustee’ shall mean any person who since at least one year prior to the date of publication of the notification under Section 4 of the 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.

1(3) : “Family” (i) A family shall include husband, wife and minor children and other persons dependent on the head of the family, e.g., widowed mother. (ii) Every major son will be treated as a separate family.⁵

The Tribunal’s definition of land meant that residents without titles to their land would still be eligible for compensation if the dam would displace them. The term *oustee* further defined who was entitled to land compensation by establishing the amount of time a person had to live on the land in question to be eligible for benefits. This was a broad definition that covered a variety of work conducted on the land. The definition of *family* established what constituted a household and specified that major sons, the firstborn sons, would also receive their own property. Though this may seem uncontroversial, there is no specification for female land owners or land operators who do not have a male head of household. Though it was uncommon for a woman to own or operate her own land, it was not impossible, and the terms of the Tribunal’s ruling made it difficult for women to obtain land rights.⁶

The NWDT also established how expenses would be shared among the three states. The Tribunal declared that the state of Gujarat would pay the bulk of resettlement expenses for MP and Maharashtra. The planned dam project would divert a large portion of the Narmada River from the states of MP and Maharashtra into Gujarat. One of the objectives of the dam planners was to provide better irrigation for agriculture in Gujarat. Though many of the irrigation benefits would be gained by Gujarat, most of the displacement would take place in MP and to a lesser extent Maharashtra. Of the 245 villages that the dam would submerge or partially submerge, 193 were in MP, 33 in Maharashtra, and 19 in Gujarat.⁷ Because of this imbalance, the NWDT ordered the state of Gujarat to pay the bulk of resettlement expenses for MP and Maharashtra.

5 Final Order and Decision of the Tribunal. (N.p.: n.p, 1979). http://nca.gov.in/forms_pdf/nwdt_finalorder.pdf (accessed June 7, 2011).

6 World Commission on Dams, *Dams and Development: A New Framework for Decision Making* (London: Earthscan Publications, 2000), 115.

7 Ahmad, Afroz. “The Narmada Water Resource Project, India: Implementing Sustainable Development,” *Ambio* 28 (August 1999): 400.

Those displaced by the dam waters had the option of moving to Gujarat and receiving irrigable lands and a house site, or they could be rehabilitated in their home state; this was a groundbreaking ruling, different from many dam resettlement procedures not only in developing countries but also developed. It established, at least theoretically, that those displaced by the dam were entitled to “land for land.”⁸ The land given to the oustees by the states was to be comparable to the land they were losing, and the residents had to be able to make a living as they had on their previous lands. Gujarat was also responsible for providing cash money to the families for rehabilitation costs and grant-in-aid. These moneys could total as high as Rs. 1200 (roughly \$30 USD) for each family according to the Tribunal’s statement.⁹ This ruling was the equivalent of an unfunded mandate. It charged the states with the task of finding places and moneys to compensate those to be affected by the dam. While the central government placed this aspect of dam building on the states, the central government worked on bureaucratic issues and finding funding for the project.

Dam building requires extensive examination of the lands to be flooded, the possible problems arising from a large dam, and the extent of the environmental impacts. The World Bank demands that a country undertake these environmental examinations internally before they agree financially to support a project. In 1983, the Indian government filed for clearance from their Department of Environment to build the Narmada dam. This filing necessitated the Department of Environment investigate the dam, the effects of the dam, and make an impartial ruling on its viability. India’s Department of Environment performs many functions similar to the EPA in the United States. On this occasion, before the Indian government received internal clearance, the World Bank in March of 1985 approved the project and guaranteed World Bank support and funding for the project.¹⁰

While the central and state governments were beginning the dam building work, small, unorganized protests were beginning among the residents of the Narmada Valley. One of the earliest grassroots activist groups in the Narmada Valley was the Arch Vahini. Established in the early 1980s, they worked in primary health activities in the Mangrol village of Gujarat. Their main goal in these activities was to promote awareness to lessen death and disease from avoidable causes and to improve quality of life among the rural people of Gujarat. Members of the Arch Vahini have seen poor resettlement practices during and after the building of another Gujarat dam, the Ukai. Particularly the adivasi (tribals) of the regions have been negatively impacted due to a lack of understanding of their rights and how to demand them in court. The goal of the Arch Vahini for the Narmada residents was to begin resettlement work before construction of the dam and ensure that the residents obtained adequate resettlement lands.

In many ways, The Arch Vahini group divided the Narmada struggle into two phases. The first was from 1980-1987 and involved a protracted battle for a fair Rehabilitation

8 Wood, “India’s Narmada River Dams,” 974-75.

9 Ibid.

10 Agricultural Operations Department, *Project Completion Report- Narmada River Development (Gujarat) Sardar Sarovar Dam and Power Project* (N.p.: World Bank, 1995), xviii.

and Resettlement (R&R) policy for the affected tribals of the project.¹¹ The Arch Vahini protested the inadequate agricultural lands given to many of the oustees, their inability to live on those lands, and the small sum given to them for their submerged lands. They argued that this was not in accordance with the Tribunal's ruling. There were added difficulties because many of those displaced had no title to their lands and were considered encroachers, thus not entitling them to compensation. This was also not in accordance with the Tribunal's ruling, which demanded only that individuals work or use the land for a year or more. Without titles, however, it was difficult to prove use of land in a court of law. Through court appeals, protests, and demonstrations by the soon-to-be-displaced, the Government of Gujarat finally changed their award policy to provide a minimum of five acres for all categories of families.¹² The second phase from 1988-1997 involved overseeing proper implementation of the promises made by the Government.

Gujarat's policies are particularly liberal and have been fairly well implemented; resettlement in Maharashtra and MP has been more contentious. Individuals who choose to remain in their home states of Maharashtra or MP have the right to do so. Gujarat is responsible, due to the terms of the Tribunal, to pay for rehabilitation of those who do not want to migrate to Gujarat. The states, Maharashtra and MP, pay for the resettlement and Gujarat repays those states. This requires the states to have available funds for relocation upfront. Due to the higher amount of people displaced in MP, this amounts to considerable expenditures and could explain some of the difficulties this state has had with their resettlement policies. Maharashtra, despite having relatively few oustees, is not as wealthy as the state of Gujarat, which could account for some of their difficulty in relocation. Another problem with resettlement has been the growing number of people the dam will displace. When the government first planned the dam in 1979 the displacement of project affected families was estimated to be 6,147. The current estimate (as of 2001) is 41,000.¹³ This massive change in the amount of displaced persons makes relocation and rehabilitation (R&R) an ever-changing variable and changes the amount of funds and lands needed by each state. Despite these difficulties, Gujarat continues to have the most attractive and well-implemented relocation policies.

The World Bank posited that the discrepancies in relocation policies and implementation were due to the different functions of the Non-Governmental Organizations (NGOs) of the states. According to the World Bank, "In Gujarat, nongovernmental organizations have been usefully involved in the R&R program, but in the other two states, confrontation persists between project authorities and local NGOs." They also remark, "Madhya Pradesh's rehabilitation grant to landless families and adult sons is less attractive than those of the

11 Arch: Action Research in Community Health and Development. *Resettlement and Rehabilitation of the Narmada Dam Ousteers*. <http://archvahini.org/about/history-of-arch/resettlement-and-rehabilitation-of-the-narmada-dam-oustees> (accessed September 15, 2011.) See also Ashok Swain, "Democratic Consolidation? Environmental Movements in India," *Asian Survey* 31 (September 1997): 825.

12 Arch, *Resettlement and Rehabilitation*.

13 Phillippe Cullet, "Human Rights and Displacement: The Indian Supreme Court Decision on Sardar Sarovar in International Perspective," *International and Comparative Law Quarterly* 50 (October 2001): 974.

other states, and its capacity to implement the R&R program is weaker.”¹⁴ This does not explain why more people do not avail themselves of Gujarat’s more attractive offer. It may be due to tradition; many families have lived on their lands for centuries and want to be rehabilitated as closely to their traditional lands as possible. Many individuals may not be aware of the differing opportunities provided by each state or may not be fully aware of their rights of relocation. The individuals in Gujarat may be more aware of their rights than individuals in the other states. This, according to the World Bank, is largely due to the different work performed by the NGOs. If the Maharashtra and MP NGOs focused on relocation from their inceptions rather than protesting the dam as whole, the people of those states would have better relocation policies and better policing of their implementation.

NGOs in the Narmada Valley have taken a variety of forms and not all of the NGOs and their work cannot be covered in this paper; there is one NGO in the Narmada Valley, the Narmada Bachao Andolan (NBA), that has gained more national and international interest and provides a case study of the more the radicalized work of NGOs in the Valley. The work of the NBA is in sharp contrast to that of the Arch Vahini. As pointed out by the World Bank, the methods of the Arch Vahini have involved working with the authorities as much as possible. They are not protesting the dam, and their only protest activities were to enforce proper R&R. Unlike the Arch Vahini, NBA has protested the dam in its entirety. Their protests were not confined to the national arena but encompassed the international arena, seeking to turn the tide of public opinion against the project and the Indian government for its strong stance in favor of the dam. The protests of the NBA centered on the Sardar Sarovar dam, one of the largest concrete gravity dams in the world with a current planned height of 163 meters (approx. 534 feet) and length of 1210 meters (approx. 3,969 feet). Its location is near Navagam, Gujarat, and it is here the NBA took their stand.

Unlike the Arch Vahini and any number of NGOs in the Narmada Valley, NBA came to be associated with one person— its leader, Madha Patkar. Patkar was born in 1954 in Mumbai, Maharashtra. Patkar’s views were, in many ways, shaped by her parents; her father was a freedom fighter, and her mother was part of the organization “Swadar,” designed to aid suffering women. Her father’s work as a freedom fighter gave her an example of the hard work needed to effect change. Her mother’s work apparently gave Patkar an interest in social work and the ills affecting her society. She earned her M.A. in social work from Tata Institute of Social Sciences.¹⁵ She worked first in the slums of Bombay before coming to work in rural areas. As her work consumed more of her time, she had to choose between her marriage and her work. In 1983, she divorced her husband and, in an interview conducted by journalist Jacques Leslie, she claimed she was “married to her work.”¹⁶ She first came to the Narmada Valley in 1985 to conduct a study of dam displacement and how it affected

14 Independent Evaluation Group, *Learning from Narmada*, <http://Inweb90.worldbank.org/oed/oeddoelib.nsf/Doc> (accessed August 5, 2011).

15 Veethi: The Face of India, *Medha Patkar Profile*, http://www.veethi.com/people/medha_patkar-profile-16-38.html (accessed October 3, 2011).

16 Jacques Leslie, *Deep Water: The Epic Struggles over Dams, Displaced People, and the Environment* (New York: Picador, 2005), 37.

the individuals displaced and relocated. As she worked among the people of the Narmada, she lost her desire merely to study and recount the difficulties of dam relocation and rehabilitation. She decided to take an active role in the Valley and help the people protest the dam rather than negotiate relocation. Her name became synonymous with the NBA and the struggle against the Sardar Sarovar.

The NBA was actually the conglomeration of several NGOs under the leadership of. Before the formation of the NBA, Patkar first founded the Narmada Dharangrast Samiti (Committee for Narmada Dam-Affected People).¹⁷ In Maharashtra, villagers formed the Narmada Ghati Dharangrastha Samiti (translation unknown) to protest the building of the dam. The people and activists of MP and Maharashtra tried to work against the dam builders and anyone associated with them rather than working in cooperation as in Gujarat.¹⁸ By 1988, the Narmada Dharangrast Samiti and their allies, including but not limited to Narmada Ghati Dharangrastha Samiti, announced their total, non-violent resistance to the dam.¹⁹ The Narmada Dharangrast Samiti grew to include those soon to be affected by the dam—environmentalists, human rights leaders, religious leaders, and adivasi. It also included individuals evicted as early as the 1960s before the dam project was agreed upon by the states. In preparation for the dam project, the government built a town for the dam workers and those who would work on ancillary canal networks. Farmers in the area had been displaced, but because their displacement occurred before the Tribunal's award to displaced families, they had never been compensated for their lost land and livelihood.²⁰ In 1989, the Narmada Dharangrast Samiti and the Narmada Ghati Dharangrastha Samiti joined together to form the Narmada Bachao Andolan (Save the Narmada Movement).²¹

Even before the final formation of the NBA, Patkar was working vigorously outside of India to raise awareness and censure of the Sardar Sarovar dam project. She traveled to Washington, D.C. in 1987 and 1989 seeking allies in the fight against the dam. She testified at a congressional subcommittee meeting hearing on World Bank performance. Her speech apparently garnered some support for her cause, prompting some Congress members to write to the World Bank requesting that it suspend their support of the project.²² While in the U.S., Patkar also gained the backing of the Environmental Defense Fund (EDF). The EDF is a non-profit environmental advocacy group that attempts to mitigate environmental destruction and degradation. The EDF attempted to bring the Narmada case to the attention of the World Bank in an effort to keep the World

17 McCully, "A History of the Narmada Bachao Andolan."

18 Smita Narula, "The Story of Narmada Bachao Andolan: Human Rights in the Global Economy and the Struggle Against the World Bank," *New York University Public Law and Legal Theory Working Papers*, 106 (December 2007): 358.

19 Denis Goulet, "Global Governance, Dam Conflicts, and Participation," *Human Rights Quarterly* 27 (August 2005): 884.

20 Cullet, "Human Rights and Displacement," 974.

21 Narula, "The Story of Narmada Bachao Andolan," 358.

22 McCully, "A History of the Narmada Bachao Andolan."

Bank from monetarily supporting the Narmada project. Lori Udall of the EDF agreed with Patkar's stance and disagreed with the Sardar Sarovar. She helped to organize an international network of activists in North America, Europe, Japan, and Australia that would communicate with one another and organize dam resistance within their respective countries.²³ Though many activists throughout the world joined in censure of the Sardar Sarovar and large dam projects in general, it did not noticeably detract from large dam support, nor did it halt funding to the Sardar Sarovar project.

In an effort to halt international funding to the Narmada Valley Project, Patkar met with World Bank executives in 1989; though she did not succeed in halting funding of the project at the time, she did present a new aspect of the Narmada Valley dam project that would have lasting effects. Patkar attempted to show the members of the World Bank the destruction that would result from the dam, whereas government reports generally show the positive aspects of large development plans. One director commented, "When I hear what NGOs say about this project and then what the operations staff say . . . it sounds like they are talking about two different projects."²⁴ This has been one of the problems within the dam debate. The results have very positive effects for a variety of people. Through Patkar, the NBA attempted to show the negative side of development by presenting the plight of real people that are more than just numbers on a page.

Patkar's work against the Sardar Sarovar did not end with her World Bank meeting or her successes in the United States as she continued to seek supporters and actively oppose international funding for the dam. In 1990, Patkar and the NBA organized a symposium in Tokyo in order to sway public opinion in Japan away from the Sardar Sarovar project. The symposium consisted of Indian NGOs, Japanese NGOs, academics, and members of government, receiving national press coverage. Activists also met privately with government officials. The Japanese government had actively supported the building of the Sardar Sarovar. They had agreed to lend 200 million to the government for the dam's turbines, provided the turbines came from a Japanese manufacturer. The NBA was successful here as in the U.S., and following the symposium, the Japanese government rescinded its offer of financial support for the dam. This was the first time a Japanese aid loan had been withdrawn due to environmental and human rights reasons.²⁵

While the NBA had considerable success in the international arena, they were still actively protesting dam building within the Narmada Valley. Utilizing Gandhian non-violence tactics, Patkar and NBA launched a series of eye-catching, government-irritating, journalist-attracting protests in the Valley they hoped to save. In this way, they hoped to rally national sentiment against the dam project, which would cause more people to put more pressure on the government to cease dam building plans along the Narmada.

Over the years, the NBA staged hundreds of protests in the Narmada Valley, neighboring states, and even the capitol of Delhi. It would be tedious and nearly impossible

23 Ibid.

24 Ibid.

25 Ibid.

to relate them all, but many of the protests resembled one another in tactics and goals and relating just a few of them presents a fairly clear picture of dam protests in India. One such protest was termed the “Long March” by protesters. On December 25, 1990, the NBA staged a march from the Narmada Valley in the heart of MP to the proposed dam sight 150 miles away in Gujarat. This time, their goal was not to end the dam permanently but to force the government to suspend the dam project pending an independent—rather than a government—review of the dam’s goals and effects.²⁶ This was not only a stall tactic designed to give the NBA more time to launch more permanent injunctions against the dam, it also gave the NBA a short-term, unifying aim. The march, however, never made it to the dam sight. At the shared border between MP and Gujarat, the protesters found police and a pro-dam, counter-rally blocking the road into the state. This was a rare confrontation—an intranational border incident is uncommon, particularly in democratic India.²⁷ The members of the NBA tried many methods to end the counter-rally and march to the dam sight. Some sat and stayed, hoping the pro-dam activists would grow tired of the protest and leave. Others repeatedly attempted to cross the state line linking arms and walking. When met by Gujarati police, they would react only with passive resistance, only to be forced back across the MP border. Still others, Patkar included, lay down on mattresses along the Gujarati border and threatened a hunger fast until the government agreed to an independent review of the dam project. The fast lasted three weeks; Patkar’s kidneys began to fail, and at the advice of doctors and the urging of other activists, the fast ended. Neither the Gujarat officials nor the Indian government had given into any of the NBA’s demands.

Despite the intractability experienced by the NBA in India, their protests, their networking, and their indefatigable stance gained them support, or at least acknowledgement from the international community. Facing pressure from activists groups in the United States, Japan, Australia and other nations, the World Bank decided to commission an independent review of the project. This was the World Bank’s response to a number of criticisms of the World Bank’s involvement with the Sardar Sarovar project. Due largely to the work of Patkar and the NBA, many in the international community questioned the World Bank’s oversight of human rights during the project, how far they ensured R&R for the residents, and the viability of the dam as a whole. This independent review was the first time in the Bank’s forty-five year history that it had asked outsiders to evaluate one of its projects.²⁸ The final report came out in 1992.

In June of 1992, Bradford Morse and Thomas R. Berger submitted the results of their unprecedented *Report of the Independent Review* of the Sardar Sarovar; it included a number of criticisms of the Bank and India’s commitment to human rights and welfare. The study found, “The Bank and India failed to carry out adequate assessment of human impacts.”²⁹

26 Cullet, “Human Rights and Displacement,” 975.

27 Leslie, *Deep Water*, 50.

28 Ibid.

29 Bradford Morse and Thomas R. Berger, “Sardar Sarovar: Report of the Independent Review,” in *The Sardar Sarovar Dam Project: Selected Documents*, ed. Cullet, 345.

These included several distinct oversights. There was a failure on the part of the states to include those displaced by canal and irrigation projects as “oustees” with entitlement to R&R. This left a significant number of Indian residents—numbering in the thousands—without land, homes, or work. Also, R&R and displacement appraisals, under Bank policy, should have been established before the Bank entered into the loan agreement in 1985. A problem that continued to plague resettlement was that encroachers—those without clear title to their lands—and their sons were not slated for adequate R&R. Once again, this left a significant portion of the population homeless and jobless because of a clear method to prove ownership. While Gujarat had improved its R&R policies considerably, they were not retroactive to include those displaced in 1960-61 to make way for dam construction and construction crews. Additionally, MP and Maharashtra had not improved their R&R policies, and at least 60% of tribal oustees engaged in cultivation in MP; Maharashtra still would not receive adequate compensation. The *Review* also showed that the numbers of those affected by the dam were much higher than originally estimated. For example, in 1979, the estimated number of displaced families in Maharashtra was 450. By 1988, the estimated figure was 2000; when the report was released in 1992, the estimate was at 3000.³⁰ The costs of rehabilitating this growing number of displaced people had not been adequately factored into the cost-benefit analysis that showed a dam’s viability.

The *Review* also denounced environmental planning for the Sardar Sarovar, mentioning a number of oversights that needed to be rectified before the dam project continued. The *Review* stated, “The history of the environmental aspects of the Sardar Sarovar is a history of non-compliance.”³¹ The review mentioned several specific breaches of the World Bank’s environmental policies. In 1983, India’s Ministry of Environment and Forests did not give environmental clearance for the dam. According to the Bank’s own statutes, they would not commit funds to a project until that country received internal approval from its own environmental department. However, in 1985, before India received internal consent, the Bank approved funds for the project. In 1987, the Indian Ministry of Environment and Forests gave the plan clearance with the understanding that “instead of environmental impact studies being done before approval of the Projects, there were to be done . . . concurrently with construction—an approach that we believe undermines the very basis for environmental planning.”³² Another aspect of Bank protocol demanded that the Indian government create an environmental “work plan” by December 1985. The Bank later extended this date to 1989. According to the *Review*, this work plan was still unavailable in 1992.³³ The *Review* also found “significant discrepancies” that indicated the dam would not perform as indicated; their report indicated that quality of forests in the regions would decline. This would result in more loss of livelihood, particularly for adivasi who depended on the forests for survival. The report also stated that downstream ecological implications

30 *Ibid.*, 332-39.

31 *Ibid.*, 341.

32 *Ibid.*

33 *Ibid.*

had not been considered, meaning that the results of the dam had only been considered at the dam sight, and changes in flora and fauna downstream of the dam had not been factored. And while the government and the World Bank had factored in provision of drinking water as a benefit, they could find no plans for providing drinking water. Water-logging and salinity would also be problematic; too much water in certain growing areas and too much salt in the soil could severely inhibit farmers' ability to grow traditional crops. Finally, the threat of malaria due to the stagnant water inherent in a dam project would be considerable.³⁴ All of these stated criticisms are fairly ubiquitous in dam projects, and many times planners still reason that the benefits outweigh the costs. Bradford and Morse's criticisms are not that these consequences may happen, but that they had been insufficiently considered with little to no effort to mitigate these negative effects.

The report criticized a significant portion of the Bank and Indian government's actions and recommended a reevaluation of the project. It stated:

[The Review] was critical of the Bank's and the Borrower's performance, especially with respect to R&R and environmental planning. The IR (Independent Review) pointed out that the Bank had not followed its own guidelines, and recommended that the Bank 'step back' from the project rather than continue with financing of its planned implementation.³⁵

The report accused India and the World Bank of wanting to "get on with the job"³⁶ and said that the Bank's actions suggested that the demands of engineering carry far more weight in the Bank than the needs of the people to be affected or of the environment. The Bank's incremental strategy . . . strengthen[s] this impression. Readiness to bear with non-compliance thereafter confirms it.³⁷

The World Bank admitted in its Sardar Sarovar report that there had, indeed, been difficulties in planning and management. "In brief, the Bank did not follow its own R&R guidelines (OMS 2.33 of 1980 and OMS 2.34 of 1982) designed to ensure appropriate treatment of landed and landless PAFs." Due to this report, the World Bank requested that India halt construction of the dam until they could properly evaluate relocation and rehabilitation and ways to reduce environmental.

The reaction of the Indian government to the *Review* admitted to no such difficulties and verged on hostility. Mr. Madhav Chitale, Secretary of the Ministry of Water Resources wrote to Mr. Heinz Vergin of the World Bank, "At the outset, I must mention the IR have clearly overstepped their Terms of Reference and have commented on several issues which were not within their jurisdiction." Chitale found it unfortunate that "distorted versions of environmental and rehabilitation scenarios have appeared in the report."³⁸

34 Ibid., 348-49.

35 Agricultural Operations Department, *Project Completion Report*, 1. The World Bank conducts a completion report when a fiscal relationship ends even if the recipient nation cancels a loan.

36 Morse, "Sardar Sarovar," 349.

37 Ibid., 351.

38 Mr. Chitale, "Letter from Mr. Chitale, Secretary, Ministry of Water Resources to Mr. Vergin, World Bank Concerning the Morse Report, 1992," in *The Sardar Sarovar Dam Project*, ed. Cullet, 353-54.

Chitale reaffirmed India's commitment to R&R in accordance with the NWDT. His final point in the letter guaranteed that the Narmada Development Projects would indeed bring development—"the basic human right of individuals . . . There is, therefore, no question of any violation of the human rights when such projects are undertaken or implemented."³⁹ Government indignation in India did not end there. The Government of Gujarat defended R&R and planning of the Sardar Sarovar project, emphasizing their cooperation with the authors of the report and their expectation of a "constructive review." However, they found the report "highly disappointing." They claimed the report failed to refer to the applicable tables that showed adequate water supply upon dam completion. They were also indignant that, in their opinion, the reviewers had ignored India's leading social science organizations' detailed reports of tribals and their socio-economic structures. They accused reviewers of imposing colonial and British views of the "noble savage" on tribal people.⁴⁰ They denounced the *Independent Review* as "intellectual bankruptcy parading as arrogance."⁴¹

In response to the IR, the government of India conducted its own review of the Sardar Sarovar released in 1994. Though it did find some problems with the project and recommended stepping up environmental research, the report saw no reason to cease building the Sardar Sarovar.⁴² India did not agree with the World Bank or the *Independent Review* to the advisability of "stepping back" from the Sardar Sarovar project. Gujarat officials stated that World Bank aid represented only 10% of the total cost of Sardar Sarovar, and that if it were withdrawn, construction would continue.⁴³ The central Indian Government took this view, and in March 1993, the GOI (Government of India) decided to cancel the balance of its loan for the project but reaffirmed its commitment to sound environmental and R&R practices.⁴⁴ With this decision, there was little recourse outside of marshaling internal opinion and the courts to halt construction of the dam.

Despite the Indian government's decision to remove their project from World Bank oversight, the NBA was still active in the international arena trying to raise awareness on big dams and their detrimental effects to people and the environment. They attended two conferences in 1997. The first, in Brazil, was the first international conference against big dams; the second was not an anti-dam conference but rather a multi-lateral conference organized by the World Bank that included businesses, NGOs, and dam builders. From this conference came the decision to organize the World Commission on Dams (WCD). The Commission included anti-dam and pro-dam members, and despite the bias individuals might bring, their joint goal was to undertake a massive research operation around the world

39 Ibid., 355.

40 The idea of the "noble savage" comes from British and American views that sentimentalized the lifestyle of native peoples and sought to preserve their lifestyles rather than assimilate them into the dominant culture.

41 Government of Gujarat, "Comment on the Report of the Independent Review Session on Sardar Sarovar Project, August 1992 (extracts)," in *The Sardar Sarovar Dam Project*, ed. Cullet, 356-357.

42 "Report of the Five Member Group, 1994," in *The Sardar Sarovar Dam Project*, ed. Cullet, 357-72.

43 Wood, "India's Narmada River Dams," 975.

44 Agricultural Operations Department, *Project Completion Report, Narmada River Development*, xix.

and report—with as little bias as possible—the actual results of such dams. The Commission selected Medha Patkar, leader of Narmada Bachao Andolan, to be a Commissioner.⁴⁵ This Commission owed its inception in part to the international furor created by the protests to the Sardar Sarovar dam project. This was part of the legacy left by the Narmada Valley anti-dam activists.

Despite growing NBA success in raising awareness internationally, the fight in their own country with their own government was progressing slowly at best and sometimes not progressing at all. Various individuals had launched petitions against states, attempting redress for poor R&R and violations to civil and constitutional rights. For this purpose, the government established a Grievance Redressal Authority, the sole purpose of which was to hear cases by oustees and future oustees and to decide their claims. While the NBA had succeeded in forcing the government to hear and acknowledge the indigenous people of the Narmada to a certain extent, they had failed in their ultimate goal—to stop the damming of the Narmada River.

With the withdrawal of the Indian government from World Bank involvement, the fight narrowed to the NBA, the states, and the government of India. While still pursuing the protest activities that had garnered so much international support, in 1994, having exhausted all other options without halting construction of the dam, the NBA turned to the court system. They launched a writ petition with the Supreme Court government of India. The NBA's lawyers used three novel legal arguments—one, that the project was unconstitutional; two, that it violated the equal protection clause of the Indian Constitution; and three, that the government had infringed on their right to reside and settle in any part of India.⁴⁶ They also charged that the dam was a threat to the environment. They once again demanded a comprehensive review that the government would acknowledge and by which it would abide.

This time, the NBA had support from within the government as Madhya Pradesh began battling with Gujarat and the central government over the proposed height of the dam. Neither the NBA nor MP wanted the dam height raised as it would displace more people and submerge more land in MP. The dam height had been set at eighty meters, but the dam planners were considering new plans for a higher dam. The new Chief Minister of Madhya Pradesh petitioned, on behalf of the state, that the Sardar height not be raised to avoid high displacement rates in the state and to save more land from inundation.⁴⁷ In 1995, the government agreed to maintain the Sarovar Height at eighty meters for the time being.⁴⁸ However, in 1999, the government reversed this interim measure and permitted

45 Narula, "The Story of Narmada Bachao Andolan," 375.

46 Ibid., 374.

47 Ibid., 375.

48 Supreme Court of India, "Narmada Bachao Andolan v. Union of India and Others, Writ Petition (Civil) No. (2) 319 of 1994, Order of 5 May 1995 (interim measures), in *The Sardar Sarovar Dam Project*, ed. Cullet, 127.

the dam to be raised to eighty-five meters, though it did not agree to the ninety meters requested by the state of Gujarat.⁴⁹

In 2000, the government responded with a final judgement to the 1994 NBA petition. The courts dismissed NBA's environmental concerns, claiming the NBA could have launched an environmental petition before the government gave final clearance. The NBA's failure to do so earlier showed, in the opinion of the court, that their petition was merely a stall tactic.⁵⁰ The Supreme Court did, however, provide a detailed history of the environmental clearances of the project, show early failures in planning and implementation, and illustrate current compliance with the Environmental Impact Agency of the Ministry and Environment.⁵¹ The judgement noted past failures on the part of the states adequately to rehabilitate oustees, claiming that through the new Grievance Redressal Authorities, the states were correcting their earlier shortcomings and that the concerns of the NBA were null. The Grievance Redressal Authority's sole purpose was to hear cases by oustees and future oustees and decide their claims. The judgement finally ordered a stay of construction above the original 80 meters pending environmental clearance by a committee and rehabilitation of affected individuals.⁵² The decision added that reassessment of dam-affected people had to be made every time the dam was raised by five meters. While the NBA had succeeded in forcing the government to hear and acknowledge the indigenous people of the Narmada to a certain extent, they had failed in their ultimate goal—stopping the damming of the Narmada. Dam construction at the original height of eighty meters continued unabated.

Forced to recognize that the government would build the dam regardless of any and all protest, the NBA launched a writ petition in 2002 asking for a stay of construction until proper environmental planning was completed and until all affected people were properly rehabilitated. The NBA claimed that the State of MP was still attempting to provide cash compensation rather than land to oustees and that oustees affected by the dam at ninety meters had not been resettled in MP. Per previous government decisions, the government must halt work on the dam above ninety meters until one year after their resettlement.⁵³ In its judgement, the Supreme Court opined that:

Displacement of the tribals and other persons would not per se result in violation of their fundamental or other rights; on their rehabilitation at new locations they would be better off than what they were; at the rehabilitation sites they will have more and better

49 Supreme Court of India, "*Narmada Bachao Andolan v. Union of India and Others*, Writ Petition (Civil) No 319 of 1994, Order of 18 February 1999," in *The Sardar Sarovar Dam Project*, ed. Cullet, 128-30.

50 Grievance Redressal Authority, "Madhya Pradesh (Sardar Sarovar Project), Case No. 234 of 2004, Order of 11 September 2004," in *The Sardar Sarovar Dam Project*, ed. Cullet, 272.

51 Supreme Court of India, "*Narmada Bachao Andolan v. Union of India*, Minority Judgement of Justice S.P. Bharucha, October 2000," in *The Sardar Sarovar Dam Project*, ed. Cullet, 236-241.

52 Ibid., 243.

53 Supreme Court of India, *Narmada Bachao Andolan- SC Verdict*, January 2005, <http://narmada.aidindia.org/docs/narmadaverdict.pdf> (accessed June 17, 2011), 2-3.

amenities than those they enjoyed in their hamlets; and the gradual assimilation in the mainstream of the society would lead to betterment and progress.⁵⁴

The decision did, however, note that the directions of the court had not been implemented in “letter and spirit,” prompting redressal before the courts. The court once again established the duties of the states to provide for those temporarily and permanently affected and for major sons. It noted the most non-compliance with the State of Madhya Pradesh and reiterated that if oustees chose to remain in MP, the state must properly rehabilitate them before dam completion. All other requests for rehabilitation, outside of special cases, should be referred to the Grievance Redressal Authority (GRA). Reiterating the responsibility of the states to its oustees, the Supreme Court declared the applicants “disposed of.”⁵⁵ The NBA did not agree.

Though the NBA did not consider the matter “disposed of” and continued to launch protests and court appeals, the government of India showed an ultimate and unshakeable commitment to the Sardar Sarovar. Though committed, at least on paper, to proper rehabilitation of displaced peoples, no amount of displacement would cause it to reconsider the dam project. In 2006, the projected dam height stood at 121.92 meters.⁵⁶ It was the government’s view that those affected by the dam—many of them adivasi—would be better able to assimilate into mainstream society. Centuries old community ties were broken as there were no guarantees from the government that it would relocate communities together.⁵⁷ And despite the stated commitment to rehabilitation, there were no studies on the state of the family upon resettlement or the lives of individual’s upon rehabilitation. The World Commission on Dams (WCD) reported that displacement often leads to higher rates of alcoholism and abuse of women and children.⁵⁸ Furthermore, since land allotment and rehabilitation packages were decided by state and central governments, women rarely received land in their own right. The WCD specifically stated, “In tribal communities in India, women do not have land rights and therefore they have not been compensated for the land they have lost as users. Instead women’s interests are seen as linked to the household and only men and major sons are given land.”⁵⁹ The Indian government, in the view of Sardar detractors, has not concerned itself with the rehabilitation of women, the societal effects of resettlement, or the lives and livelihoods of the people resettled.

The controversy surrounding the Narmada Valley project produced lasting change in dam building around the world; however, it did not stop the construction of the Sardar Sarovar dam. Residents of the three affected states worked tirelessly to promote their interests and secure their stability. NGOs like the Arch Vahini worked against

54 Ibid., 3.

55 Ibid., 3-21.

56 Narmada Control Authority, “Resettlement and Rehabilitation Sub-group: Minutes of the 63rd Meeting, Item No. LXIII-2 (345), 8 March 2006,” in *The Sardar Sarovar Dam Project*, ed. Cullet, 311.

57 Supreme Court of India, *Narmada Bachao Andolan- SC Verdict*, 20.

58 World Commission on Dams, *Dams and Development*, 115.

59 Ibid.

the government to gain adequate rehabilitation rights for the Gujarati people and then worked with the government to see that the rights were enforced. NGOs in Maharashtra and Madhya Pradesh worked to fight the construction of the dam, seeking to hold on to traditional land, traditional practices, and centuries-old communities. When this failed, they worked to ensure proper rehabilitation of dam-affected people using international opinion, protests, and the law to attain their ends. The work of Madhya Patkar and the Narmada Bachao Andolan raised awareness of dam-building activities in the developing world and changed many views on large-scale dam projects and the expectations placed on the World Bank and governments. Their work in the international arena prompted the World Bank to reconsider its stance on the Sardar Sarovar and prompted the first-ever, large-scale investigation of dam building in the form of the World Commission on dams. No matter how much resistance they met and the number of court cases lost, those fighting the Sardar Sarovar dam never ceased to fight for what they believed to be their rights in a democratic nation.

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