

# Displacement with State Subterfuge

## Case Study of Indira Sagar Pariyojana

*In the years following independence, mega dams were seen as popular and potent emblems of reconstruction and regeneration of a new nation. In more recent decades, however, the intrepid and often epic struggles of project affected people have not only succeeded in raising grave doubts about the net public benefits of mega dams, they have also led to an incremental, even if grudging and still highly inadequate acknowledgement under public policy and law, of the rights of the affected peoples. But as implementation of these projects bears out, even these few and hard won rights have been substantially denied in practice by state administrations. This article will illustrate this by examining the role of government officials and state agencies and the experience of displacement in Madhya Pradesh's Indira Sagar Pariyojana.*

**HARSH MANDER**

When I am on a boat in the middle of the reservoir and I know that hundreds of feet below me, directly below me, at that very point, lie my village and my home and my fields, all of which are lost forever, it is then that my chest rips apart and I cannot bear the pain....<sup>1</sup>

### I Introduction

The involuntary displacement of populations by mega-projects invariably takes an enormous toll and leads to intense human suffering. In the early decades after the end of colonialism, the visibility, scale and sweep of mega dams made them popular potent emblems of the reconstruction and regeneration of the battered economies of long-suppressed post-colonial nations, and they therefore became a major priority for policy-makers in countries like India. In this period, the state was in the main utterly indifferent even in terms of stated public policy and law, to the travails, the destinies or even the basic human rights of literally millions of forgotten displaced people.

In more recent decades, the intrepid and sometimes epic struggles of project affected people have not only succeeded in raising grave doubts about the net public benefits of mega dams; they have also led to an incremental, even if grudging and still highly inadequate acknowledgement, under public policy and law, of the rights of projected affected people (PAPs). However, the experience of the implementation of these projects has consistently been that even these few and hard-won rights have been substantially denied in practice by state administrations. Public and project authorities tend to actively deprive large populations of vulnerable and dispossessed PAPs of their scant legal rights and equal protection of the due process of the law, and of even their rights to life and livelihood under the Article 21 of the Indian Constitution. This results not just from passive official neglect; it frequently involves active callousness, even cruelty and subterfuge, by state authorities. The cumulative outcome of such active hostility of state administrations to vulnerable ousted populations is that the afflictions of the involuntarily displaced people have been greatly compounded by their elected governments. Instead of minimising their distress, state actions typically

add a great deal of avoidable suffering to the already heavy burden of unavoidable distress caused by involuntary resettlement. This is a sombre indictment of the fibre of governance itself.

This article will illustrate this by examining the role of government officials and agencies and the experience of displacement in the state of Madhya Pradesh, which has witnessed considerable dam building and displacement, especially along the major perennial river, the Narmada, and its tributaries. It will consider specifically the recent case study of the Indira Sagar Pariyojana or Project (ISP), which when completed will have the largest impoundment among all mega dams in the country.<sup>2</sup>

### II Brief History

The Narmada is the largest perennial river in peninsular India that does not have its source in the glaciers. It gracefully traverses through 1,312 kilometres in the states of Madhya Pradesh, Maharashtra and Gujarat. Many rich and ancient cultures and traditions have thrived around its banks and been nourished by its waters. The ISP is the largest of 30 large dams that are planned as part of the Narmada Valley Development Plan, along with 135 medium and 3,000 small dams on the Narmada river and its tributaries. These dams, if constructed according to current official plans, will transform the river into a series of large artificial lakes.<sup>3</sup> The ISP is planned as the mother dam of all down-stream projects including the Sardar Sarovar Project in Gujarat.

The height at the dam site of the ISP (earlier known as "Narmada Sagar") at Punasa, in Khandwa district in western Madhya Pradesh, was determined under the Narmada Waters Disputes Tribunal Award in 1979 at 262.13 metres. Its construction was commenced by the state government only in 1987, through the Narmada Valley Development Authority (NVDA), an agency of the Madhya Pradesh state government after the environmental clearance to the project was given in the wake of considerable doubts and opposition both within and outside government, on the condition of strict monitoring of its rehabilitation and environmental aspects. The project has subsequently been entrusted in May 2000 (due to

resource constraints) to the Narmada Hydro-Electric Development Corporation (NHDC for short), a joint venture company of National Hydro-Electric Power Corporation (NHPC) and the state government<sup>4</sup> registered under the Companies Act, 1956. The government of Madhya Pradesh is the minority shareholder in the project, whereas the NHPC is the majority shareholder with 51 per cent of the equity.

The dam is expected to provide irrigation and power benefits, as well as provide regulated releases for the Sardar Sarovar dam downstream in Gujarat. Therefore, although the project is in Madhya Pradesh, the Award has directed that Gujarat must pay 17.63 per cent of the costs of the project. After completion, the project will have an installed capacity of 1000 MW of power, but firm power based on actual hydrological flows will be 223.5 MW.

The Indira Sagar Project is expected to irrigate 1.23 lakh hectares of land and inundate 91,378 hectares<sup>5</sup> of land. Of this submergence, around 45 per cent<sup>6</sup> are deciduous forests. The Detailed Project Report of 1982 estimates that the dam will affect 249-255 villages<sup>7</sup> as well Harsud town.<sup>8</sup> The dam is expected by the state government to displace 30,739 families and 80,572 people, all located within the state of Madhya Pradesh,<sup>9</sup> based on the 1981 census. However, as pointed out in a report of October 2004 Independent People's Commission,<sup>10</sup> 30,739 families would approximate an average of 1,75,212 people rather than 80,572, at an average of 5.7 members to each household.<sup>11</sup> "As per the official records, about 16 per cent of the displaced are adivasis, and almost 80 per cent of the total population are cultivators, with 20 per cent engaged in other occupations. The number of displaced does not correspond with the number of project affected. If the records were to reflect, without prejudice, all people, landed and landless, who are displaced and adversely impacted by the dam, the number of project affected people would be greater."<sup>12</sup>

The construction at the time of writing (September 2005) has been completed to the height of concrete crest level of 245.13 metres. On closure of newly installed 20 spillway gates of the height of 17 metres, the Full Reservoir Level (FRL) will be 262.13 metres and a Maximum Water Level of 263.35 metres. As per the NCA,<sup>13</sup> the additional submergence that would have taken place in the monsoon of 2005 due to the increase of the dam from 245 metres to 262 metres would have been an additional 62,400 hectares of land. Thus almost 70 per cent of total impoundment of 91,000 hectares would have ensued due to the closure of the gates. NHDC proposed to close the newly fixed gates during the monsoon season of 2005, to increase the water storage in this way to Full Reservoir Level capacity, but this was halted by the high court of Madhya Pradesh in its landmark judgment<sup>14</sup> of July 27, 2005, in response to a petition filed by the Narmada Bachao Andolan, because of grave lapses in rehabilitation of PAPs.

The petitioners<sup>15</sup> had approached the high court of Madhya Pradesh in Jabalpur to intervene urgently to prevent what they described as "a huge tragedy" from occurring, of the additional submergence of thousands of families in 91 villages by the Indira Sagar Project, if the gates were closed and the reservoir filled to FRL in the monsoon of 2005. A total of 249 villages were identified for submergence in the Indira Sagar. The petitioners stated that about 168 villages have gradually submerged as the dam height reached 245.13 metres. The remaining 91 villages are expected to submerge fully or

partially when the Full Reservoir Level (262.13 metres) is reached. The 91 villages are situated at levels ranging from 260 to 278 metres.

The petitioners further painstakingly and sensitively documented the widespread and flagrant violations by the state government and the project authorities, of legal rights of PAPs derived from directions of the Narmada Waters Disputes Tribunal Award (NWDTA), the Supreme Court and various other sources. These included the conditions of the environmental clearance given to the Project, conditions stipulated by the Planning Commission's approval given to the Project, provisions of the rehabilitation policy of the government of Madhya Pradesh, conditions of the memorandum of understanding executed between the government of Madhya Pradesh and the NHPC, sections of the Land Acquisition Act (LAA), 1894 and fundamental and other constitutional rights guaranteed under Articles 21 and 300 A of the Indian Constitution.

They pointed out that in 2004 and in the previous years, oustee families from Harsud and other villages have also been similarly forced to leave their villages, many times with the use of police, special armed forces and bulldozers, the severing of life supplies such as electricity, drinking water and schools and the fait accompli of the rising waters. Among the illegal and unconstitutional actions of the Madhya Pradesh government and the NHDC alleged by the petitioners were proposed illegal evictions and submergence without legal land acquisition and the prescribed standards of rehabilitation and resettlement. We shall examine these allegations of wanton state violations of the legal rights of PAPs in detail in subsequent sections and find how most of these are ratified not just by independent citizen investigations<sup>16</sup>, but also by the official Grievance Redressal Authority (GRA) and the high court itself.

### III

#### Existing Legal Rights of Displaced People

The limited legal rights of PAPs derive firstly from the colonial LAA. The major problems with the LAA, a 19th century colonial law incongruous in democratic polity, from a justice and human rights perspective, stem from the principle of "eminent domain" of the state that underlies the entire architecture of the act. The act assumes sovereignty of the state over all resources. The act does not significantly defend the rights of the PAP, but rather

**Table 1: Summary of Proposed Costs and Benefits of Indira Sagar Project**

S No	Costs	Indira Sagar
1	Dam construction	Rs 1,400 crore (1981 price level)
2	Loss of forest	Rs 320 crore
3	Environment cost of loss of forests	Rs 30,923 crore
4	Catchment area development	Rs 300 crore
5	Command area development	Rs 243.7 crore
6	Loss of mineral reserves	-
7	Diversion of 42 km railway line	-
8	Population affected	1,29,396 (1981 Census)
9	Land submerged	91,378 ha
	Benefits	
10	Area irrigated	1,23,000 ha
	Net cultural land	1,40,960 ha
11	Power generations	223.5 MW (firm power) 1,000 MW (Installed capacity)

Source: Extract from the Judgment of the Honourable Supreme Court dated October 18, 2000 (quoted in the Writ Petition No 3022, 2005, filed by NBA vs NHDC and others).

facilitates the state acting in alleged “public interest”. “Public interest” is usually not defined and cannot be challenged legally once declared by the state. The law as it exists presumes that displacement is inevitable and at best compensates the deemed monetary value of property to which the PAP holds legal rights. The law does not compensate loss of livelihood, loss of shelter, loss of habitat, loss of cultural resources, loss of access to natural resources, and loss of access to basic amenities. The act has an “emergency” clause without adequate checks and balances that leaves it open to widespread misuse. The acquired property is usually undervalued because the valuation is based on past sale deeds, which in turn are typically undervalued to evade payment of registration levies. The LAA is restricted to prescribing processes for involuntary acquisition, valuation and taking possession of private property by public authorities.

But even this limited colonial law does grant some rights to the PAP. There is firstly the implied right to information about the land intended for acquisition and the nature of the “public purpose” involved (LAA sec 4 (1), sec 6 (1) and (2)). There is also implied the right of informed challenge of (a) the quantity of land to be acquired; and (b) the specific locations of the land to be acquired (LAA sec 5 A). It also extends to landowners the right to monetary compensation of the “true area and value” of the land at the date of the publication of the notification under Sec 4 (1) of LAA, adjudicated by due process of law by a disinterested government authority and its just apportionment between interested parties in the land.

Further rights to the PAPs of mega-projects on the Narmada river were created by the award of the Narmada Water Disputes Tribunal (known as NWDTA), constituted in November 1969 by the government of India to adjudicate inter-state water disputes. In 1979, the tribunal gave its Award. The memorandum of understanding signed between the NHPC<sup>17</sup> and the government of Madhya Pradesh for the construction of the ISP lays down that the NHDC must comply with provisions of the NWDTA, conditions stated by the ministry of environment and forest (MoEF), conditions of the approval of the planning commission, and the rehabilitation policy of the Madhya Pradesh government for the oustees of the Narmada projects. The MoU states in this regard that “(t)he joint venture would comply with the provisions of the NWDTA and the directions of the Narmada Control Authority (NCA), its various subgroups and the Review Committee of the Narmada Control Authority (RCNCA)...The joint venture would comply with the conditionalities imposed by the planning commission/MoEF/ministry of social justice and empowerment in respect of the clearances issued to the projects by various agencies of the GoI”.

The NWDTA prescribes firstly the right of rehabilitation, in terms of allocation of irrigable lands and developed house sites, of all impacted families to be completed at least one year prior to submergence before each successive stage (Clauses IV (2) (iv) and IV (6)(i) of the Chapter XI of the NWDTA). The tribunal award also directed allocation of irrigated land for the rehabilitation for landowning families that lose more than 25 per cent of their lands (Clause IV (7) read with IV (1) and rights to grant in aid, developed house-sites and civic amenities in the relocation sites. Clause IV (3) of the NWDTA that stipulates that the oustees should be rehabilitated with certain minimum community and civic infrastructure and grants, in addition to the provision of irrigated agricultural lands where eligible.

The entitlement of “land for land” is explicit and unambiguous under the award. Clause IV (7) of the NWDTA elaborates the precise nature of this rehabilitation that the state must ensure in terms of “allotment of agricultural lands” that “every displaced family from whom more than 25 per cent of its landholding 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”.

Clause IV (6)(ii) of the NWDTA strictly requires that land acquisition and compensation and rehabilitation and resettlement must precede submergence at any cost, laying down that “in no event” may any areas be submerged “unless all payment 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”.

The obligation of the Madhya Pradesh government and the project authorities (NHDC) to rehabilitate the oustees in all respects in advance, sometimes clarifying a minimum period of six months to a year before submergence, is also reiterated in numerous judgments and rulings of the Supreme Court and high courts. The Supreme Court<sup>18</sup> prescribed in 1990 that “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.”

Once again in 2002, the Supreme Court<sup>19</sup> directed that “raising of the height (of the dam) will be only *pari passu* with the implementation of the relief and rehabilitation”. Less than two years later, the same court<sup>20</sup> observed that, “(i)n terms of NWDTA, the irrigable lands and house sites were required to be made available to the PAFs one year in advance of the submergence and requisite amenities were also to be provided. Further, the notices for vacation of the lands are to be given after the completion of the R and R of the PAFs on or before December 31, i.e., six months before actual submergence (likely on July 1, of the next year). In terms of these stipulations, “raising of the dam which would cause submergence would not be permitted unless rehabilitation is carried out”. It goes on to state that “Sub-Clause IV (6) (ii) of Clause XI of the award states that no kind of submergence in the states of Madhya Pradesh and Maharashtra shall be permitted unless arrangements are made for rehabilitation of the oustees in terms of the directions contained therein.” Thus, complete resettlement and rehabilitation of oustees was a condition set as a precedent before submergence.

The same obligation of displacement only after rehabilitation is fully accomplished is reiterated in the conditions of the environmental clearance given by the MoEF to the Indira Sagar Project (along with the Sardar Sarovar Project) on June 24, 1987 which states that “the catchment area treatment programme and the rehabilitation plans be so drawn as to be completed ahead of reservoir filling”.<sup>21</sup>

Similar objectives underlie the conditions of the approval accorded by the Planning Commission to the ISP. The clearance letter<sup>22</sup> stated the conditions of the clearance included that “(t)he State shall comply with the conditions as laid down in the OM No 3-87/80 –IA dated June 24, 1987 and letter No 8/646/84-FC dated October 7, 1987 both issued by the MoEF while according the environmental clearance and the approval for

diversion of forest lands respectively for this project and ensure completion of rehabilitation and resettlement plan in scheduled time with close monitoring as per requirements of Department of Environment and Forest”.

The Madhya Pradesh government is one of the few state governments that have also passed its own rehabilitation policy (MP R and R), which is progressive and both affirms and extends these rights, as summarised in Table 2.

The rights of PAPs that cumulatively accrue from all these sources are still grossly inadequate, whether from a broader perspective of human rights or in terms of international standards for internally displaced persons and efforts are underway at the time of writing, to press for extensive amendment to the LAA as well as the promulgation of a just, humane and judiciable national rehabilitation policy. However, these rights that exist are still a great and important advance on the situation that prevailed in the first three decades after independence, when virtually no significant rights of PAPs were acknowledged beyond what is provided in the colonial LAA. But as this paper will attempt to establish, the experience of the displacement in the case of the ISP, has been that the state administration has through a variety of devices and even subterfuge, actively denied people even the limited rights that accrued from these variety of sources. This has unconscionably caused enormous avoidable suffering of affected populations and amounts to a tragic and shameful failure of just, humane and accountable governance.

In subsequent sections, we will examine variously legal rights of PAPs that have been systematically withheld or diluted by the Madhya Pradesh government and project authorities in the context of the ISP.

#### IV Transfer of ‘Eminent Domain’ to Interested Party

Article 300A of the Constitution lays down that “no person be deprived of his property save by authority of law”. As we have already observed, this “due process” of law, in the context of mega-dams like ISP, is laid down mainly in the Land Acquisition Act, 1894. The act is founded on the principle of the “eminent domain” of the state, that makes the state the ultimate owner of all properties within its jurisdiction. This right of “eminent domain” of the state is exercised under the LAA only by a collector of the district or any government officer specially appointed to perform these functions. Section 3(c) of the LAA 1894 defines “collector” as: “Collector of a district and includes a Deputy Commissioner and any officer specially appointed by the (Appropriate government) to perform the functions of a collector under this act.” The collector, acting under the LAA, is expected to exercise independent quasi-judicial power, protecting on the one hand the legal rights of the person(s) from whom the land is being acquired, while securing the officially claimed “public interest” of the acquisition.

In the case of the ISP, the state government of Madhya Pradesh has, in an astounding innovation, both surrendered and abdicated its rights and duties of such independent adjudication, to a party that is admittedly directly interested in the acquisition. This is the NHDC, a corporate entity registered under the Companies Act, 1956, a joint venture of the NHPC and the state government of Madhya Pradesh. Whereas the notifications for the acquisition of the lands and properties of Harsud town and the various

villages under acquisition in the Indira Sagar area under sections 4 and 6 of the LAA, 1894 were issued by the district collector, the discharge of the subsequent functions of the “collector” under sections 5A, 9, 11 and 11A, 12 and 18 of the LAA, 1894 was undertaken by officials working under the NHDC – the company for which the land was being acquired.

Leading human rights advocate Prashant Bhushan, in a legal notice<sup>23</sup> to the secretary, MoEF, government of India, is of the view, the right of “eminent domain” of the state being a sovereign right is not alienable nor can it be transferred. Hence no person who is not working under the state government can be given the status of a collector and allowed to perform the functions of the “collector of a district” to acquire lands under the principle of “eminent domain”, even if he/she works with a government controlled corporation or company. Similar legal objections have been raised in the petition pending, at the time of writing, in the high court.

However, the strict legal position apart, it appears a violation of common sense justice that the state government abandons its duties to fix fair rates of compensation as is required by law and the Constitution, in favour of a party interested in maximising its profit by paying the minimum (or better still no) compensation. To do so reflects a harrowing indifference on the part of state government officials to protect the rights of ordinary citizens, and an eagerness to clear even small “hindrances” created by the LAA such as those guarantees to more (and timely assessment and disbursement) of monetary compensation to affected people.

#### V Delayed Notifications and Token Information under LAA, 1894

The LAA, 1894 requires a public notification under section 4, to inform people about the state’s intention to acquire land for what it claims to be a “public purpose” and there is implicit within this the entitlement to enable the people affected to challenge this intention with informed objections.

The first problem universally encountered in the case of the ISP, is the inordinate delay by several years, even decades, in legally notifying affected people about the intention to acquire their land. The notification is typically issued only months before the physical displacement is planned. For instance, the Grievance Redressal Authority<sup>24</sup> affirms the following:

**Table 2: Details of MP Rehabilitation Policy**

Updating of land records prior to acquisition	(MP R and R clause 2.1)
Right to improved or at least a similar standard of living to that before they were displaced, bring within a reasonable time after displacement	(MP R and R clause 1(a))
Allotment of irrigated agricultural lands to PAPs	(MP R and R clauses 3, 4 and 5)
Right to grants-in-aid	(MP R and R clauses 5.4 and 6.9)
Right to assistance during relocation	(MP R and R clause 1 (b), 6.3)
Right to developed house-sites	MP R and R clause 7,8
Right to civic amenities	MP R and R clause 10
Appeal and Grievance Redressal Mechanisms	(MP R and R clause 12) Appeal to collectors; Supreme Court (give reference) set up the Grievance Redressal Authority

Harsud town was slated to come under partial submergence at the dam height of 245.13 metres (afflux level). Harsud town consists of six urban conglomerations namely – (i) Harsud Circular, (ii) Mohi Raiyyat, (iii) Harsud Mal, (iv) Ankiya, (v) Bharadi, and (vi) Mohimal. The decision to raise the height of the dam to the level of 245.13 metres (crest level of the dam) was taken in a meeting presided over by the chief secretary on May 19, 2003 whereas the final awards under section 12 of the LAA were passed in respect of different conglomerations of Harsud as follows:

Harsud Circular	May 20, 2004
Mohi Raiyat	April 22, 2004
Harsud Mal	April 29, 2004
Ankiya	April 20, 2004
Bharadi	February 20, 2004
Mohimal	April 26, 2004 <sup>25</sup>

Even the high court observes,<sup>26</sup> with consternation and dismay, in relation to the 91 villages slated by government for submergence in the monsoon of 2005, that section 4 notification in regard to these 91 villages were issued as late as between March and October 2003.

The implication is that the prolonged delay in the issue of even the “initial” legal notice to persons from whom land is to be acquired, thereby reduces this notice and the legal opportunities that this is intended under the law to extend to affected people, to a completely empty and meaningless formality. At a stage when the mega-project is nearing completion, a legal notification that “allows” people whose lands and homes are slated for imminent submergence to make informed challenges to the public purpose of the intended land acquisition, is less than an eyewash. It openly deprives people of these limited rights. It is important to note that it was well known to state and project authorities which villages are slated for submergence decades earlier and if state authorities wished to enable people to secure their (admittedly limited) rights intended under the LAA, initial notification must be issued before the decisions related to construction are actually taken. As the People’s Commission observes, “This formalistic and instrumental adherence to the bare letter of the law becomes farcical and obstructs the citizen’s right to information, decision-making and informed dissent. While the construction of the dam and acquisition of land have continued apace for decades, the people are formally notified under the provisions of the law only at the last minute, thereby compromising the notification procedure. This does not permit adequate time for due process whereby people may acquire requisite knowledge with which to challenge the state’s intention to acquire land in an empowered manner through informed objections. It also compromises the people’s right to give consent to their displacement or dissent its implementation. We also observed that in several villages that are marked for displacement subsequently, notices under section 4 of the LAA have not been issued.”<sup>27</sup>

Further, the legal requirement under the LAA that people are informed about the intended land acquisition is seen to have been met just by a notification in the official gazette and publication in newspapers that rural PAPs are unlikely to read: these papers do not reach these villages, and many are non-literate. If the state authorities wish to genuinely inform affected people about the intention, extent and details of the intended land acquisition, it has all the means at its disposal to take recourse to a number of well known and widely used modes of official communication to rural people, such as announcements

by the beating of drum, writings on the wall, pamphlets, notices on village panchayats and village meetings. However, this is rarely done.

## VI Delayed and Defective Surveys

The problems created by the inordinate delay in notification and token communication of acquisition details to PAPs, are compounded by delayed and defective surveys of affected people. We observed during the People’s Commission<sup>28</sup> (and officials agreed) that the official estimates of the degree of intended submergence are rarely based on actual site visits and surveys. They are done mainly on the basis of desk-top contour maps. At every site, people point out obvious incongruities in the survey of intended submergence, where lands and houses obviously located at lower levels are excluded from official estimates and those on higher lands are included. People live with uncertainty and anxiety about their future (“will we be submerged?”; “will we be compensated?”) for years, with no answers or resolution by state authorities. Typically, actual site surveys are undertaken only close to section 4 notification and sometimes not even then. Once again, the fears and worries about their futures could be easily resolved by a responsive administration, undertaking timely and transparent field surveys, involving the local people who may be affected. Instead, these surveys are mostly undertaken only at the eleventh hour and that too, also instrumentally so that legal requirements of land acquisition can be fulfilled.

A small sample of the kind of confusion created by faulty and delayed surveys when the catastrophe of submergence is imminent or even an accomplished fact for affected people is illustrated by the report of the GRA, after a field visit at the instance of the high court. The GRA states in its report:

During our visit to the affected villages another revealing situation came to our notice that the survey levels have not been properly taken and a few more villages (other than 91 villages) may also get affected at the Full Reservoir Level. Also in some villages where partial acquisition of houses has been done, the resurvey may necessitate acquisition of remaining houses as well since water spread may result in island formation, with no access to the outside world. This exercise may take some time as the process of land acquisition will have to be followed.<sup>29</sup>

The GRA report thus confirms that the FRL surveys of villages submerging between 245 metres and 262 metres were wrong and therefore compulsory acquisition of all lands under FRL was yet to take place, since the full extent of the lands and houses falling under submergence, was yet to be determined. The report also underlines the extent of the mistake in the FRL surveys such that several villages of the 91 villages which were to be submerged this year above 245 metres were submerged last year at 245 metre itself. Last year it was noticed that at the reservoir level of 245 metres the afflux and back water level was at 252 metres, which implied that a few villages out of the 91 villages were affected between 245 and 262.13 metres.<sup>30</sup>

Field and senior officials of the NHDC have also accepted before the GRA, mistakes made by the FRL surveys and asked for new villages/houses to be included at this late stage. This shocking and again completely avoidable confusion about the futures of the affected peoples is further enhanced by failure to update the land records. In all of rural India, but particularly in

tribal areas, land records showing land title are notorious for not being updated for years, even generations. This creates great insecurities and disputes even in normal times, but incrementally more so if the land is in danger of being acquired by the state, because compensation would be due only to those who are recorded as current land-owners. Once more, a responsive administration could easily prevent these problems by organising drives in affected areas to update records, but this again is rarely done.

These problems are not restricted only to the countryside. The ISP famously submerged also the town of Harsud. In the People's Commission, we found that land records were unreliable and incomplete not only in rural areas, but also in towns like Harsud. It notes that "(i)n August 1984, the Government of Madhya Pradesh issued a notification for acquisition of 1461 hectares of land in Harsud town for the ISP. This process continued and later lapsed without any formal cancellation. The legal requirements of Section 4 notification was met by re-issuing a notice for acquisition of land in Harsud as late as on August 6, 2001. On October 24, 2001, the superintendent of Land Records Abadi/Nazul Survey,<sup>31</sup> Harsud, wrote to the district collector in Khandwa district stating that the land records of Harsud were incomplete, and those that were available had not been verified, and those that had been physically verified were found to be flawed."

## VII Delayed Payment of Compensation

These completely avoidable delays in legally notifying affected people, and undertaking accurate surveys with updated records, result also in disbursements of monetary compensation barely months, even days, before submergence, causing untold and avoidable hardship to affected people. Delayed notification of the intent to acquire has led naturally to accumulated delays in fixing and payment of compensation. As has been confirmed again, with consternation and anguish, by both the high court and the statutory GRA, the bulk of the compensation was paid barely weeks before the date of compensation, sometimes not even then. The GRA in its report<sup>32</sup> dated November 4, 2004 on the directions of the high court, confirmed very grave, even precipitous delays in payment of compensation to PAP residents of Harsud.

The Narmada Bachao Andolan in a petition to the high court of Madhya Pradesh<sup>33</sup> stated under oath that in 2003, 85 villages had already been submerged and the villagers evicted by force, several like the villages of Baldi, Jamnia, Jabgaon with government bulldozers. In 2004, 32 villages and the town of Harsud were slated to be additionally submerged. Although the people living in these 32 villages and Harsud town should have been fully rehabilitated by December 31, 2003 as per the NWDTA and orders of the Supreme Court, this was not done. Compensation was distributed in these villages a few weeks before the

submergence deadline of June 30. In villages like Purni and Jhagdia Mal, distribution of compensation did not take place even by the deadline. The petitioners surveyed 90 of the 91 villages slated for submergence in the monsoon of 2005 and found the situation to be as in Table 3, most of which was subsequently accepted by the government and project authorities:

In other words, just a year before the villages were scheduled to be submerged (and would indeed have been submerged if official resolve was not blocked by civic action and judicial intervention), the compensation was not paid in 89 of the 90 villages for agricultural land, and in all 21 of villages in which abadi<sup>34</sup> lands were affected. Barely six weeks before submergence, still 38 and eight villages remained to be compensated respectively.

The GRA in its report<sup>35</sup> dated November 4, 2004 on the directions of the high court, confirmed the very late payment of the compensation for Harsud. It stated that : "The disbursement of compensation and other incidental packages to the project affected persons started subsequently, somewhere in the month of May 2004, leaving limited time to the affected people to vacate the town as the deadline set by the state government to vacate Harsud was fixed as June 30, 2004. This, to anyone's conjecture caused considerable inconvenience to the project affected people. To our knowledge, some people have yet to be paid compensation and receive other financial benefits".

The NHDC and state government did not deny in their reply under oath to the high court, that by June 30, 2004, oustees of 90 out of the 91 villages slated to be submerged within a year by June 30, 2005 had not been paid any compensation for their lands and houses; nor that by December 31, 2004, with only six months remaining before the scheduled submergence on June 30, 2005, compensation was yet to be paid to the oustees of 73 out of 91 villages whose agricultural lands and houses built on agricultural lands would be submerged in the monsoon of 2005; nor even that even by April 15, 2005, oustees of 38 villages out of 91 villages were yet to be even paid compensation for their agricultural lands and houses, and that oustees of eight out of 21 villages where abadi lands and houses are in submergence were yet to be compensated for these houses, with barely two months to go to the planned submergence. As late as May 15, 2005, the project authorities admitted that they were yet to disburse 37 per cent of the amount awarded as compensation for lands and houses under Section 12 of the LAA to the oustees of 91 villages. Thus, the NHDC has itself admitted that a bare six weeks before the slated closure of the gates and impoundment of the reservoir at 262 metres, it has not even fully compensated the affected families and over one-thirds of the families yet remained to be compensated. It may be noted that what has been listed so far refers only to unconscionable delays in payment of cash compensation. Regarding the allotment of house-plots and agricultural lands, the NHDC has admitted that it has neither rehabilitated nor resettled a single affected family with agricultural land, and house plot on a site with fully developed civic

**Table 3: Status of Compensation in 91 Villages due to Submergence in Monsoon, 2005**

By June 30, 2004		By December 31, 2004		By April 15, 2005	
Agricultural lands and houses on agricultural lands	Houses on abadi lands	Agricultural lands and houses on agricultural lands	Houses on abadi lands	Agricultural lands and houses on agricultural lands	Houses on abadi lands
89/90	21/21	73/90	18/21	38/90	8/21

*Source:* Writ petition no 3022 by NBA in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.

amenities. However, we shall return to this in a subsequent session.

These delays in payment of compensation led the high court to observe sharply,<sup>36</sup> “It is not understandable, how the state government could have issued the notification dated December 31, 2004 asking the landholders and householders of the 91 villages to vacate when hardly 60 per cent of the awards had been passed on December 31, 2004 and less than 10 per cent of the compensation amount had been disbursed as on that date. To repeat, the passing of awards was completed only on April 30, 2005, the last date fixed for vacating the 91 villages, and brisk payment of compensation amount commenced only after April 30, 2005. When even the acquisition process was not complete and awards were not passed and compensation amount and other Rehabilitation Grants were not paid, obviously it is impossible for the landholders and householders of the 91 villages to shift from their villages and settle themselves elsewhere. Even if many have shifted, it is clearly out of fear of submergence.”<sup>37</sup>

The GRA in its report to high court<sup>38</sup> has also observed still further delays between the final award, and the actual physical disbursement of compensation. “We have noticed that large scale disbursement of compensation is in progress. However, the procedure adopted for disbursement leaves a certain time gap between the issuance of the cheques in respect of compensation, determined and its actual receipt by the oustees. The NHDC authorities issue cheques to the bank concerned for crediting the compensation amount in the account of an oustee and the latter withdraw this amount as per his/her convenience. It is noticed that sometimes the gap between the issuance of the cheques and actual receipt of the amount by the project affected person is approximately 15 days and in some cases even more. The delay in payment is also attributable to the fact that at one stage the project authorities had run out of funds as the ceiling fixed for R&R works had already been achieved. As a result the compensation disbursement was delayed by about a month or so till the issue was resolved and an additional amount of Rs 150 crore was released by the state government to make payment to the oustees. This delay was further compounded by the circular of the income tax department directing the project authorities to deduct tax, at source, relating to the payment of compensation made to an oustee in respect of house site and abadi plots, where the total amount exceeded Rs one lakh by way of compensation. Since these instructions were issued in the month of October/November 2004, it has given rise to resentment and anguish amongst the PAFs.”<sup>39</sup>

Disbursements have also been made in instalments, subject to the production of *sauda chittis* or “agreements to sell land” (described in more detail in a subsequent section), for which there is no provision under the law. Since money is paid in small quantities, it tends to be frittered away, and there are even less chances of the cultivator securing alternative agricultural land.

Once again, it needs to be emphasised that these delays in fixing and paying compensation are not problems with the law, as much they are with those charged with implementing the law. Ordinarily human empathy and compassion on the part of local officials would ensure that people to be displaced from their lands and homes, would at least receive the admittedly inadequate monetary compensation well in time, to enable them to take necessary steps to establish an alternative home and

livelihood. The casual neglect by official authorities to accomplish this is not just a breach of their onerous legal responsibilities, but bespeaks a lack of obvious humane response to prevent avoidable suffering.

## VIII Denial of Land-for-Land

Arguably the more significant new rights that accrued from the award to affected families, who lost more than 25 per cent of their agriculture landholdings, was the allocation of at least five acres (two hectares) of irrigated land. This was further reiterated by the Madhya Pradesh government’s rehabilitation policy 1987, and it made this provision mandatory for all affected dalit and adivasi dalit families.

The importance of this right is drawn from universal observations on the experience of PAPs, who were victims of past displacement, is that monetary compensation tends to be frittered away in conspicuous expenditure, repayment of past loans, and involuntary cuts for land revenue and income tax dues (as well as illegal bribes). Payment of monetary compensation also tends to push up land and dwelling house prices, pushing them out of reach of the PAPs. Non-farm livelihoods are difficult in rehabilitation sites, unless carefully planned by project authorities. The chances of affected farmers regaining comparable levels of livelihood and economic well-being after displacement is much greater if they are allotted irrigated agricultural lands.

Of all the denials of legal rights due to PAPs by the state (and NHPC) authorities, the one that involves what can only be described as official subterfuge and deceit, is the fact that not a single oustee of ISP has been allocated a single acre of irrigated land, a spectacular denial confirmed by both the GRA and the high court.<sup>40</sup>

The state government officials in personal communication as well as in their written response to the high court, take recourse to the following to defend their extraordinary (and total) denial of these rights. They claim that PAPs did not make any application to the project authorities for allocation of agriculture lands. They further claim that they have facilitated PAPs purchasing their agriculture lands through “*sauda chittis*” or agreements by other landowners to voluntarily sell the PAPs their agricultural lands. They argue also that the requirement to allocate agricultural land to PAPs is discretionary, not binding; and finally that the state government has a land bank of 1,000 acres, which no cultivator has chosen to access.

We shall attempt to establish that each of these grounds are specious, false and were actually fraudulent. Firstly, the award (and the MP rehabilitation policy) did not require the PAP to express their preference for agriculture land. In any case, such choice is possible only when full information is given to the PAPs, and they are given a genuinely free and informed choice. The high court itself observes “Insofar as the allotment of agricultural land, of a minimum of two hectares, it is submitted that no one has been given any land. In fact NHDC had not disclosed in the rehabilitation brochures issued by it, the fact that the PAFs are entitled to grant of minimum of two hectares of land and made it appear that what the oustees are entitled is only special rehabilitation grant, which in terms of benefit, is not even one-tenth of what would be gained by allotment of two hectares of the land. Similarly, NHDC in its brochures did not highlight that oustees were entitled to free sites, but stated that the oustees are entitled to Rs 20,000 as residential grant. This has resulted in

many of the oustees receiving special rehabilitation grant and rehabilitation grant instead of requiring allotment of land and site".<sup>41</sup> This is clearly a wilful and fraudulent withholding of information of the rights of PAPs that would be critical not only to their own survival, but that of their future generations.

It is significant that this subterfuge was pointed out by conscientious whistle blowers from within the central government, but their warnings were consistently ignored. The tour report of the director (rehabilitation), Narmada Control Authority of March 25 and 26, 1988, notes that the oustees were neither being informed about the land for land package nor was land being offered to any of the oustees as should be done have been done under the rehabilitation policy, that even the compensation being given was very low and this prevented the oustees from buying similar land elsewhere. Ten years later, on December 22 and 23, 1998 the joint secretary, ministry of environment and forests made a field visit to ascertain the status of compliance in respect of environmental clearance issued by the MoEF in June 1987 to the Narmada Sagar Project. In his report, he highlighted the details of the subterfuge by which state authorities were depriving people of this lifeline, and yet maintaining for the official record that they were indeed able to access agricultural land, as required under the terms of the award and rehabilitation policy.

The report noted that while "...the rehabilitation package provides land for land, (however), PAFs were paid cash compensation (and) land for land was not offered at all. The report found that "GOMP has offered compensation through a process called sauda chitthi under which 50 per cent is paid in cash and the PAF is asked to enter into a purchase agreement for the land of his choice anywhere in the state. On production of this agreement (sauda chitthi), the balance 50 per cent "is released... It was mentioned that many of the agreements to sell are fake. The PAFs have no option but to produce these agreements in order to obtain the balance compensation amount. Given the high price of land vis-a-vis compensation, it would not be possible for PAFs to purchase viable landholdings. This has led to fake agreements being produced. This is a serious matter requiring immediate attention in order to avoid alienation of land from PAFs and their consequent pauperisation."<sup>42</sup>

The state and project authorities persisted with the subterfuge as was verified by Angana Chatterji and the author as part of a People's Commission in October 2004.<sup>43</sup> Based on field observations and testimonies, we observed,

Initially, some of the oustees were offered plots of land, which were uniform in being of extremely poor quality. When prospective oustees refused to accept this land, they were informed primarily through verbal communication that the state did not have other and better land available, or any land, to offer them and that the state would issue cash compensation in lieu of land. The state continued with the performance of land showing for future oustees, so it might claim to have fulfilled the provisions of the rehabilitation policy. From the testimonies of the villagers, it is apparent that even this strategy was abandoned thereafter, following which cash compensation has been offered routinely and represented as the norm.<sup>44</sup>

The state authorities today claim that the provisions of "land for land" is not a binding right, because the 1987 Madhya Pradesh rehabilitation policy has been amended to state that this facility will be extended "as far as possible". However, as rightly pointed out by petitioners of Narmada Bachao Andolan in their petition to the high court; "the inclusion of the escape clause 'as far as

possible' in Sections 3.2(a), (b) and (c) of the rehabilitation policy is recent and was modified in July 2002, and was not present in the policy as given in the rehabilitation plan with which strict implementation had to be done as per MoEF and planning commission clearances. Nor was the escape clause present in the policy at the time of the signing of the MoU between GoMP and NHPC which states that the policy applicable to the project would be 'as already approved for these projects' – that is before May 16, 2000". Thus the escape clause of "as far as possible" is not valid. Nor does the claim of the state and project authorities that 1,000 hectares of land was indeed available for rehabilitation appear credible, because there is no record of oustees being informed or offered land out of this and nor did the officials submit any details of this land to the court. Moreover, even if it is assumed that 1,000 hectares were available although within a shroud of great secrecy, this is a tiny fraction of the amount of land actually required if the oustees were to be given land for land, as provided for in the award.<sup>45</sup>

It is also a brazen violation (and backdoor reversal) of the conditions of forest clearance of the MoEF given to the ISP by the MoEF on October 7, 1987, and upheld by the Planning Commission clearance on September 6, 1989, which stated "(t)he state government will also intimate details of the non-forest land identified for the rehabilitation of the oustees and draw up by December 15, 1987 a rehabilitation plan to the satisfaction of the government of India". In fulfilment of this condition, the resettlement and rehabilitation action plan of the NVDA for January 1994 for the oustees of the Narmada Sagar Project gives the details of land availability, required for the rehabilitation of the oustees. The plan states:

*The estimated land required for resettlement of these PAPs is as follows:*

Land for cultivation (for setting up the land owning oustees)	47,728 ha
Land for abadi and grazing	2044 ha
(Community land required for various common purposes and civic amenities)	
Total	44,772 ha

*The availability of land position is as under:*

(a) Government land available for resettlement	4600 ha
(b) Private land likely to be available for resettlement	40,172 ha
Total	44,772 ha <sup>46</sup>

It is remarkable that this open, persisting and spectacular violation of depriving every single ousted cultivator of their lifeline, even of their right to regain cultivable agriculture land, through the thinly disguised paper subterfuge of sauda chittis, has been sustained and permitted de facto, despite whistle blowers from within the system, indictment by civil society organisations and adverse judicial observations. This cumulative outcome of this collective official fraud is that destitution of affected PAPs and their future generations is foretold.

## IX

### Delays and Denials in Rehabilitation

Not only was fixing and disbursement of compensation was delayed, the scheme applied also to almost all other financial and non-financial elements of the rehabilitation package. The NHPC and the state government could not deny the observation of the Narmada Bachao Andolan<sup>47</sup> that by June 2004, for oustees of 90 out of 91 villages that were to be displaced in the monsoon a year later, the PAPs had not been paid the grants-in-aid. Neither

had resettlement sites been developed nor had house plots been allotted in sites with fully developed civic amenities. In their reply of May 18, 2005, to the high court, the project and state authorities admitted that “a bare six weeks before submergence that (as many as) 4,681 families are living in the submergence zone and are yet to be given their entitlements, including payment of compensation”, the actual numbers independently surveyed are much higher.

In their reply to the high court of May 18, 2005 barely six weeks before uprootment and submergence were planned, the public officials in effect admitted that only 189 eligible families, i.e., a mere 2 per cent of the total number of eligible families, were allotted house-sites in three resettlement colonies, Mahatpura, Sindkheda and Bijora Mais.

They admitted that at this late date, when submergence and the monsoons were imminent, only tenders were in progress for approach roads, electrification, and construction of primary school for the Mahatpura site, that work orders had recently been issued for construction of internal roads but work had not physically commenced; and that only the work of drilling of tube-wells has been done till date (the petitioners point out that even among these, only one of the three tube-wells yielded water). About the Sindkheda site, the authorities admitted that as of May 18, 2005, they had allotted only 23 plots, and had provided only two hand pumps. The project and state officials also admitted that for electrification, estimates were only then being sent for approval, and that work orders were then being issued for the construction of the primary school, and that no other amenity was in place. Regarding the Bijora Mafi site, they admitted that only the tasks of erecting hand pumps and tubewells has been completed, confirming that the site had no drainage, no electricity, no dispensary and no schoolteacher and no school building till date. They did not deny the claims of the petitioners that two out of four hand pumps were dry and did not yield water.

In the context of Harsud town, the GRA report of November 2004 to the high court confirms the failures to rehabilitate thousands of oustees, and the fact that the oustees of Harsud were forced to leave their houses and move out of Harsud in the monsoon of 2004 without any rehabilitation, and in many cases without compensation or the allotment of house plots all of which caused enormous distress and hardship to the oustee families. In this regard, the GRA report states

The disbursement of compensation and other incidental packages to the Project affected persons started subsequently, somewhere in the month of May 2004, leaving limited time to the affected people to vacate the town as the deadline set by the state government to vacate Harsud was fixed as June 30, 2004. This, to anyone's conjecture, caused considerable inconvenience to the project affected people. To our knowledge, some people have yet to be paid compensation and receive other financial benefits... We are of the view that most of the problems and inconvenience faced by the project affected persons and families of Harsud came about since sufficient time was not given to them to shift and settle before they were asked to vacate their regular dwellings.

The GRA report also confirms the makeshift nature or non-existence of many of the facilities in the resettlement site, even at the time of the GRA visit in November 2004. These include a permanent and reliable drinking water supply, sewage and sanitation systems and a levelled resettlement site, amenities that were required under the rehabilitation policy for the rehabilitation of a municipality town such as Harsud.

As members of the People's Commission,<sup>48</sup> Angana Chatterji and the author visited “New Harsud”, the resettlement colony to which the residents of the old town of Harsud, now submerged under water of ISP, were “re-settled”. Our field visit was made in August 2004, during the monsoon around six weeks after their forced relocation there.

It is important to note that as far back as 1989, state authorities had earmarked Chanera for the resettlement of the residents of Harsud, doomed to submergence in the Indira Sagar reservoir. For 15 years, hardly a stone was lifted to prepare it for its uprooted residents. Barely two months before public authorities chose to vacate Harsud, people were coerced to shift to the barren undeveloped wasteland in Chanera. We confirmed that the distribution of house plots commenced as late as June and July 2004, just weeks or days before or even after submergence.

We found that the resettlement site in Chanera resembled not a carefully planned township but a haphazardly assembled settlement for fugitives escaping a war-zone. On undulating rocky hillsides, white stones mark undersized house sites for relocated residents. Some are strewn on hill slopes, others in beds of streams. Authorities were deaf to pleas that houses cannot survive in these locations. People desperately built, only to find their walls and foundations washed away in the rains.

There was no drainage, sewerage or clean drinking water. Ousteers are forced to defecate in open fields, from where they are beaten back by the original residents. Children were unremittingly hungry and sick. In many homes, the walls are marked by old sarees, the roofs by plastic sheets, defenceless before the merciless monsoon deluge. Rents in Chanera were 10 times higher than in Harsud, and land four times more expensive. Unable to build homes in the monsoon rain, hapless families had hurriedly rented accommodation at sky-high rates, rapidly frittering away their meagre monetary compensation.

In all the resettlement sites that we visited, we found a common pattern. Buildings were constructed for health centres, primarily schools and agricultural service centres, but they were very rarely staffed or operational. During our<sup>49</sup> field visit to Chanera,<sup>50</sup> we found no supply of piped drinking water, electricity, internal roads, drainage, sewerage, markets, health care facilities, or cremation grounds.

During this visit, we were witness to the first death in the resettlement colony at Chanera, where the brutally uprooted residents of Harsud have been hastily and chaotically relocated. Prasad, a dalit landless worker, had stepped out of his makeshift hovel in pouring rain, and was electrocuted by a naked electrical wire carelessly strung on bamboo poles. His grieving relatives and neighbours found that there was nowhere he could be cremated, because the authorities had neglected to provide a cremation ground. They gathered angrily outside the offices of the NHDC. An official told them contemptuously, “You expect us to provide for you when you die. Next you will even expect us to be responsible for more of you when you breed”. In the end, Prasad's body was removed to the abandoned ghost city of Harsud, and amid its uneasy ruins, it was consigned to the flames.

Prasad's devastated young widow Saroj was unable to even conceive how she would raise her four small children. It was formidable enough when her husband was alive. In Harsud, he used to find regular work, sometimes on construction sites or else in farms. But after they were forcibly evicted, he joined more than 3,000 new daily wage workers, hopelessly searching for casual employment in a village with no factories and saturated

agriculture. They had no option except to eat into their compensation. But no one dared to ask what they would live on when that was over.

“Ai, muavze!” (Oh, compensation!), is how the original residents of Chanera mocked their unwelcome new neighbours. Even more humiliating was their nickname for their settlement, “Phokatvada” or “village where residents get everything free”. No name could be more inappropriate, because few are condemned to pay such a high cost to subsist in such misery.

## X Brutal Uprootment and Relocation

Despite such manifest, grave and almost universal failure of the state to secure for PAPs not just their legal rights but even their means for survival, the process of actual uprooting of people and relocation is unexplainably brutal and callous.

Firstly, there is no reason why forced uprooting is undertaken in almost all cases of mega dams including ISP, at a time when the monsoons and submergence are imminent. The result is that PAPs are rendered roofless typically in the midst of monsoon rains, causing very great misery and illness, especially to children. If compensation and rehabilitation are genuinely accomplished at least a year before submergence is slated, not as an act of charity, not even as evidence of responsible governance but as a fulfilment of their legal rights, affected families would have the option of consensually moving at their own pace, with dignity and according to their own planning, to developed colonies equipped with basic facilities and secured livelihood. It is shaming indictment of the quality of governance in Madhya Pradesh that this has not been experience of any PAP in the ISP, despite it being prerequisite both of the law and elementary human governance.

Instead of this, we have observed that although submergence is planned years in advance, and the probable period of the advent of the monsoon every year is well known as it has been over a millennia and more the state delays acquisition proceedings, compensation payment and rehabilitation to barely months, or even weeks, before submergence, and even these are often not accomplished to any satisfactory degree, as uprooting of people and their relocation is enforced, typically with brutality, to undeveloped alternative sites.

Instead of consensual displacement, it is not surprising that in these circumstances, virtually all uprootment by mega dams and similar mega-projects is involuntary and brutal. It is usually accompanied by the naked display of state force, police pickets in villages, or even flag marches by security personnel on horseback, the kind of display otherwise reserved for situations of grave internal strife like communal riots or insurrections. If this is not enough to terrorise the PAPs, batons and occasional police firing may actually be used. Batteries of policemen march through the streets, sometimes on horseback, to tame incipient resistance. More than 160 villages have already silently drowned in the Indira Sagar reservoir. The coercive brutality of their uprooting was even more naked than what was widely reported from the town of Harsud, because injustice in rural India is even more resolutely shielded from public view and conscience. We found<sup>51</sup> police pickets already camping at villages now marked for future submergence.

Typically houses are demolished by bulldozers. However in Harsud, public officials stuck upon a particularly cruel

innovation, in which residents were paid a monetary incentive to destroy their homes with their own hands. A woman confided to Angana Chatterji, “They stood there, the guards, and ordered me to tear down my home. It felt like my bones were breaking.”<sup>52</sup>

## XI Conclusion

The 148-year old graceful town of Harsud today eerily recalls images of the ruins of Bhuj and Latur after they were destroyed by earthquakes – walls collapsed, roofs caved in, the phantom streets strewn with rubble, memories and dreams. Only in Harsud, the destruction was wrought not by nature but a cruel and callous state.

Any forced displacement leaves a trail for generations of human suffering. We have already waited too long to challenge a development model that coercively extracts such profound sacrifices from powerless people only to augment the privileges of a few. Alternatives for irrigation and power do exist that do not exact such an enormous toll of human suffering, but they have few takers in positions of authority.

Public authorities charged with the responsibility of forcibly uprooting people, can never eliminate, but they can significantly reduce human suffering, if they share their agony, inform them of their rights, ensure they receive their full dues without harassment and corruption, and assist people to rebuild their homes and livelihoods well in advance of their uprootment.

Instead, in every large project in India, public servants treat ejected people as though they are enemies of the state, not innocent victims of unjust and oppressive development models and state policies. In one of the resettlement colonies, a woman broke down, “What we most cannot bear is to see our children hungry. I wish they had just given us all poison. It would have been better than this living death.” It was a cry that we heard echoed wherever we travelled. It was the voice of anguish of a hapless people uprooted, denied and deprived of their legal rights, rendered refugees in their own land, by an uncaring oppressive state.

## Epilogue

At the time of our visit,<sup>53</sup> barely six weeks after their brutal relocation to Chanera, the resettlement colony did appear at first like a land of the living dead. Yet we found that outside a hovel, someone had planted a young tulsi sapling. Elsewhere we noticed a young couple stealing moments together, away from the eyes of their elders. In many colonies, women spoke of their determination to fight. There are some things that even a hardened callous state can never crush. One of these is the human spirit. [77]

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## Notes

[I have nothing but the highest admiration and regard for the activists of the Narmada Bachao Andolan Chittarooma Palit, Alok Agarwal and several others, whose intervention in the high court of Madhya Pradesh and the GRA saved the oppressed people affected by the submergence of Indira Sagar Project, from even greater misfortune and injustice than what they were actually subjected to. Moved by the enormity of their suffering and the oppression by the state authorities, these activists have been tireless and

resolute in not just their organised resistance, but in collecting and analysing a mammoth mass of field information and official documents. It is their work primarily that has enabled the (limited) insights of this article. Likewise my gratitude and admiration is due also to Prasant Bhushan, who has long been steadfast in using his legal training in taking sides against injustice. My field visits were fruitful particularly because of the scholarship and sensitive observation of my colleague in the People's Commission, Angana Chatterji. To her also I owe a special debt of gratefulness. And above all I have been humbled, inspired and learnt greatly from wisdom and resilience of the affected people of the valley.]

- 1 Nanhe, an elderly tribal man, displaced by the Hasdeo Bango Project in Bilaspur, narrated in Mander's *Unheard Voices: Stories of Forgotten Lives*, Penguin, India, 2001.
- 2 See Mukesh Jat and Swathi Seshadri (2003), Jabgaon: 'Displacement without Rehabilitation: The Case Study of a Village to be Affected by the Indira Sagar Pariyojana' – Manthan Adhyayan Kendra, Barwani: Narmada Bachao Andolan (2004): Gigantic Human Tragedy Created by Indira Sagar Project Unfolds with the Monsoons, 20 Villages Submerged without Rehabilitation, press release, September 6, 2004, URL (consulted September 2004) <http://www.narmada.org/nba-press-releases/september-2004/Sep06.html>
- 3 Friends of the River Narmada (2004), see URL (consulted September 2004), <http://www.narmada.org/nvdp.dams/>
- 4 Brought into existence in terms of the memorandum of understanding dated May 16, 2000.
- 5 Hectare: A unit for measurement of land, one hectare equals 2.47 acres, and one acre equals 0.40 hectares.
- 6 40,332-41,444 hectares.
- 7 In Khandwa, Harda-Hoshangabad and Dewas districts of Madhya Pradesh.
- 8 The census records 55, 392 villages in Madhya Pradesh, 52,143 of which are populated. See Census of India (2004), total number of villages by states and union territories, government of India, New Delhi, URL (consulted October 2004), [http://www.censusindia.net/results/no\\_villages.html](http://www.censusindia.net/results/no_villages.html).
- 9 See 'Indira Sagar Project', Narmada Control Authority website, URL (consulted September 2004) [http://www.ncaindia.org/isp\\_index.htm](http://www.ncaindia.org/isp_index.htm). Also see, Narmada Bachao Andolan (2004), Gigantic Human Tragedy Created by Indira Sagar Project Unfolds with the Monsoons, 20 Villages Submerged without Rehabilitation. Press release, September 6, 2004, URL (consulted September 2004) <http://www.narmada.org/nba-press-releases/september-2004/Sep06.html>.
- 10 This People's Commission was appointed by the National Campaign for the People's Right to Information, comprising Angana P Chatterji and Harsh Mander, October 2004.
- 11 Each family unit with a separate kitchen is considered a "household". Therefore two such family units sharing the same physical space of a house are considered two separate households. For references to the 5.7 member average per family, see URL (consulted October 2004) [www.indianngos.com/factfile.htm](http://www.indianngos.com/factfile.htm)
- 12 Ibid, pp 26, 27.
- 13 Agenda notes for the 42nd meeting of the environmental subgroup of the Narmada Control Authority, dated March 2005.
- 14 In the writ petition No 3022 of 2005 filed by the Narmada Bachao Andolan vs NHDC and others.
- 15 Chittaroopa Palit and others on behalf of the Narmada Bachao Andolan, Khandwa.
- 16 Including report of October 2004, of the Independent People's Commission appointed by the National Campaign for the People's Right to Information, comprising Angana P Chatterji and Harsh Mander.
- 17 The NHPC has been entrusted with the construction of the project, with the state government of Madhya Pradesh, for details see next section.
- 18 WPC 1290/1990 B D Sharma vs Union of India.
- 19 WPC 319 of 1994, Narmada Bachao Andolan vs Union of India.
- 20 Writ petition (Civil) No 328 of 2002 dated March 15, 2005.
- 21 Clearance accorded to ISP by ministry of environment and forests, dated June 24, 1987.
- 22 Dated September 6, 1989, issued by the Planning Commission of India.
- 23 Legal notice from Prashant Bhushan, to secretary, ministry of environment

- and forests, GoI dated April 6, 2005.
- 24 Report of the GRA dated November 4, 2004 following their field visit, submitted at the express direction of the high court, Madhya Pradesh.
- 25 Ibid.
- 26 WP 3022/2005 Narmada Bachao Andolan vs NHDC and others; interim order July 27, 2005.
- 27 Report of October 2004, of the Independent People's Commission appointed by the National Campaign for the People's Right to Information, comprising Angana P Chatterji and Harsh Mander, p 34.
- 28 Ibid.
- 29 Report of the GRA dated November 4, 2004 following their field visit, submitted at the express direction of the high court, Madhya Pradesh
- 30 Ibid.
- 31 Abadi refers to residential lands.
- 32 Grievance Redressal Authority Report (June 15, 2005) in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 33 Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 34 Dwelling.
- 35 Grievance Redressal Authority Report (June 15, 2005), *ibid*.
- 36 Court order dated July 27, 2005 in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 37 Ibid, section 12.
- 38 Grievance Redressal Authority Report (June 15, 2005) in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 39 Grievance Redressal Authority Report (June 15, 2005), Section 12, *ibid*.
- 40 Court order dated July 27, 2005 in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur and Grievance Redressal Authority Report (June 15, 2005) in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 41 Court order dated July 27, 2005, *ibid*.
- 42 Writ petition, Section 5.63, Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 43 Angana P Chatterji and Harsh Mander (October 2004); report of the Independent People's Commission (October 2004), 'Without Land or Livelihood: Submergence and Rehabilitation in the Indira Sagar Dam', People's Commission appointed by National Campaign People's Right to Information, Samya-Centre for Equity Studies.
- 44 Ibid, pp 44, 45.
- 45 Writ petition, comments on the GRA report, Section 45, *ibid*.
- 46 Writ petition, Sections 5.58 and 5.59, Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 47 Reply to the objection filed by Respondent No 1 – NHDC against the grant of the interim prayer and reply on interim relief filed by respondents No 1, 5, 6, 7; in Narmada Bachao Andolan vs Narmada Hydro-Electric Development Corporation (NHDC) and others; writ petition, 3022 of 2005 in high court of Madhya Pradesh at Jabalpur.
- 48 Angana P Chatterji and Harsh Mander (October 2004); Report of the Independent People's Commission (October 2004), 'Without Land or Livelihood: Submergence and Rehabilitation in the Indira Sagar Dam, People's Commission appointed by National Campaign People's Right to Information, Samya-Centre for Equity Studies.
- 49 Ibid.
- 50 In August 2004.
- 51 Ibid.
- 52 Ibid, p 8.
- 53 Ibid, August 2004.