

NELCO
NELCO Legal Scholarship Repository

New York University Public Law and Legal Theory
Working Papers

New York University School of Law

12-17-2008

The Story of Narmada Bachao Andolan: Human Rights in the Global Economy and the Struggle Against the World Bank

Smita Narula
NYU School of Law, smita.narula@nyu.edu

Follow this and additional works at: http://lsr.nellco.org/nyu_plltwp

 Part of the [Civil Rights and Discrimination Commons](#), [Constitutional Law Commons](#), [Economics Commons](#), [Environmental Law Commons](#), [Human Rights Law Commons](#), [International Law Commons](#), [Law and Society Commons](#), [Social Welfare Law Commons](#), [Water Law Commons](#), and the [Women Commons](#)

Recommended Citation

Narula, Smita, "The Story of Narmada Bachao Andolan: Human Rights in the Global Economy and the Struggle Against the World Bank" (2008). *New York University Public Law and Legal Theory Working Papers*. Paper 106.
http://lsr.nellco.org/nyu_plltwp/106

This Article is brought to you for free and open access by the New York University School of Law at NELCO Legal Scholarship Repository. It has been accepted for inclusion in New York University Public Law and Legal Theory Working Papers by an authorized administrator of NELCO Legal Scholarship Repository. For more information, please contact tracy.thompson@nellco.org.

Part Four

Globalization, Foreign Policy and the Economy

*

10

The Story of Narmada Bachao Andolan: Human Rights in the Global Economy and the Struggle Against the World Bank

Smita Narula*

India's first Prime Minister, Jawaharlal Nehru, once called dams the "temples of modern India."¹ His quixotic analogy is often invoked to support the view that building large dams is essential to meeting India's myriad development needs.² Though he later retracted his statement and called large dams "a disease of gigantism" that India must abandon,³ the drive to build large dams for the sake of building large dams continues to blind the government to their human and environmental costs. Nowhere has this rung more true than along the banks of the Narmada River.

The Narmada River traverses three of India's northwestern states: Gujarat, Madhya Pradesh, and Maharashtra. In 1978, the Indian government sought the World Bank's assistance to build a complex of dams along the river as part of the Narmada Valley Development Project ("Narmada Project"). The Narmada Project envisioned the creation of thirty large dams, 135 medium dams, and 3,000 small dams.⁴ The Indian

*Work on this Chapter was supported by the Filomen D'Agostino Research Fund at New York University School of Law. The author thanks Jane Pek, Tara Mikkilineni, Jonathan Horne, Dennis Hermreck, and Nishanth Chari for their invaluable research assistance.

1. Jawaharlal Nehru, Prime Minister of India, Speech at the Opening of the Nangal Canal (July 8, 1954).

2. Balakrishnan Rajagopal, *The Role of Law in Counter-hegemonic Globalization and Global Legal Pluralism: Lessons from the Narmada Valley Struggle in India*, 18 LEIDEN J. INT'L L. 345, 355 (2005).

3. Jawaharlal Nehru, Prime Minister of India, Address at the 29th Annual Meeting of the Central Bureau of Irrigation and Power (Nov. 17, 1958).

4. Supriya Garikipati, *Consulting the Development-Displaced Regarding Their Settlement: Is There a Way?*, 18 J. REFUGEE STUD. 340, 341 (2005).

government promised that the dams would help provide potable water for almost forty million people, irrigation for over six million hectares of land, and hydroelectric power for the entire region.⁵ Central to the claim that the dams were essential for India's economic development was the assertion that these benefits, which would purportedly accrue to millions of people living in the Narmada River valley, outweighed any potential human or environmental costs. The narrative of the "common good" has been emblematic of the government's stance throughout the many controversies generated by the project and reflects the dominance of a "balancing" or "cost-benefit" approach to development over an approach that puts human rights at the center of the debate.⁶

The Sardar Sarovar Project ("SSP") in the state of Gujarat includes the most controversial large dam. The government claimed that the Sardar Sarovar dam alone would irrigate almost 1.8 million hectares of land in Gujarat and an additional 73,000 hectares in the dry neighboring state of Rajasthan, in addition to providing potable water to over 8,000 Gujarati villages and 135 urban centers.⁷ The ostensible benefits, however, would come at a high cost, including the displacement of tens of thousands of individuals and considerable environmental damage. Despite these foreseeable consequences, and in the absence of consultation with indigenous communities that would experience the environmental impact and involuntary displacement, in 1985 the World Bank agreed to finance the Sardar Sarovar dam to the tune of \$450 million, approximately 10% of the total cost of the project.⁸

In response, local opponents, environmental activists, and professionals from the academic, scientific, and cultural worlds founded a cluster of non-governmental organizations ("NGOs"). These NGOs gained strength in the late 1980s when they allied to form the Narmada Bachao Andolan ("NBA"), or the Save Narmada Movement. Led by the legendary activist Medha Patkar, the NBA employed creative means of resistance to mobilize opposition to the Sardar Sarovar Project. On the national front, the NBA opposed the dam and proposed various development alternatives, including decentralized methods of water harvesting. Internationally, the NBA led the charge to demand World Bank accountability for its involvement in a project that threatened to harm millions. Their campaign led to the creation of a Bank commission in 1991 to

5. Rajagopal, *supra* note 2, at 358.

6. See Benedict Kingsbury & Doreen Lustig, *Displacement and Relocation from Protected Areas: International Law Perspectives on Rights, Risks and Resistance*, 4 CONSERVATION AND SOC'Y 404, 411 (2006).

7. Rajagopal, *supra* note 2, at 358.

8. HUMAN RIGHTS WATCH & NATURAL RES. DEF. COUNCIL, DEFENDING THE EARTH: ABUSES OF HUMAN RIGHTS AND THE ENVIRONMENT 24 (1992), available at <http://www.hrw.org/reports/pdfs/general/general2926.pdf> [hereinafter HUMAN RIGHTS WATCH].

independently review the project, which ultimately recommended the Bank's withdrawal.

Citing human rights concerns that reached far beyond the Sardar Sarovar dam, and focusing on the participation of those most directly affected, the review concluded that "unless a project can be carried out in accordance with existing norms of human rights—norms espoused and endorsed by the Bank and many borrower countries—the project ought not to proceed."⁹ The Bank ceased to support the project the following year. Furthermore, the controversy surrounding the dam led directly to the creation of the World Bank Inspection Panel in 1993. It was a milestone for the human rights movement and the first mechanism established to enable local groups to challenge World Bank projects.

Prior to the Panel's creation, local groups had no formal way of challenging development schemes conceived and financed in faraway national and international capitals where their voices were seldom heard. Fifteen years after its creation, and despite its mixed record, the Panel represents a major milestone in integrating international human rights norms into the practice of development aid.

However, the Bank's withdrawal may have been a pyrrhic victory for the Narmada campaign. Though a triumphant symbol of the power of mass mobilization, the withdrawal reduced the Indian government's accountability to the outside world. It also removed a body that had the obligation and ability to hold the project to a higher set of standards than the Indian government would have adhered to on its own. Ironically and unwittingly, the NBA's transformative impact on the World Bank helped others find their forum even as it lost its own. The Narmada struggle remains unceasing and increasingly urgent.

The Narmada Valley Dam Project

The idea of building dams in the Narmada river basin predates independent India. In 1946, India's Central Waterways, Irrigation, and Navigation Commission constituted a committee to study the feasibility of such a project.¹⁰ Fifteen years later, Prime Minister Nehru inaugurated the Narmada Valley Development Project. The Narmada Project's costs have been both human and environmental though the foremost issue remains the displacement of the Narmada basin's inhabitants.¹¹

9. BRADFORD MORSE ET AL., *SARDAR SAROVAR: THE REPORT OF THE INDEPENDENT REVIEW* 358 (1992).

10. Rajagopal, *supra* note 2, at 356.

11. See Balakrishnan Rajagopal, *From Resistance to Renewal: The Third World, Social Movements, and the Expansion of International Institutions*, 41 *HARV. INT'L L.J.* 529, 566 (2000).

The Narmada basin is almost 100,000 square kilometers in size and is home to twenty-one million people.¹² The Sardar Sarovar dam's impounding of water in a 455-foot-high reservoir would ultimately submerge 37,000 hectares of land in Gujarat, Maharashtra, and Madhya Pradesh, and divert 9.5 million acre feet of water into a canal and irrigation system.¹³ According to unofficial estimates, the Sardar Sarovar dam alone has displaced 320,000 people.¹⁴ Added to these human costs is the considerable environmental damage to a valley teeming with plant and animal life.¹⁵ Tellingly, the Indian government has not reported official statistics on the number of displaced individuals,¹⁶ reflecting a level of disregard for the seriousness of the problem that continues to date.

Narmada Water Disputes Tribunal

The Narmada Water Disputes Tribunal ("Narmada Tribunal") was set up in 1969 to resolve the river water sharing dispute between Madhya Pradesh, Gujarat, and Maharashtra. Additionally, the Narmada Tribunal aimed to set out conditions regarding the resettlement and rehabilitation of those displaced by the dams.¹⁷ Chaired by then-sitting Supreme Court Justice V. Ramaswami, the Tribunal was assisted by technical experts. Notably absent from this team of experts were any sociologists, anthropologists or environmental engineers.¹⁸

In 1978, the Narmada Tribunal approved the Narmada Project and final planning and work commenced.¹⁹ With regard to the treatment of the displaced population, the Narmada Tribunal mandated that the state

12. Armin Rosencranz & Kathleen D. Yurchak, *Progress on the Environmental Front: The Regulation of Industry and Development in India*, 19 HASTINGS INT'L & COMP. L. REV. 489, 512 (1996).

13. *Id.* at 513. In addition, it was estimated that the canal and irrigation system would adversely affect 140,000 farmers and thousands of additional individuals who live downstream. *Id.* at 513-14. Rajagopal argues that the SSP dam "would alone potentially affect 25-40 million people, whereas the canal to be built would have displaced 68,000 households." Rajagopal, *supra* note 11, at 566.

14. See Friends of River Narmada, available at <http://www.narmada.org/sardarsarovar.html>.

15. See Rajagopal, *supra* note 11, at 566.

16. See Internal Displacement Monitoring Center, available at [http://www.internaldisplacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/017EF48C508340A1802570B8005A7175?OpenDocument](http://www.internaldisplacement.org/idmc/website/countries.nsf/(httpEnvelopes)/017EF48C508340A1802570B8005A7175?OpenDocument).

17. Rosencranz & Yurchak, *supra* note 12, at 512-13. The Narmada Tribunal was established under India's Interstate Water Disputes Act of 1956. *Id.*

18. Rajagopal, *supra* note 2, at 356.

19. Rosencranz & Yurchak, *supra* note 12, at 512-13.

of Gujarat, as the primary beneficiary of the project, provide “land for land” to those displaced by the Sardar Sarovar dam.²⁰ While the Narmada Tribunal’s Final Order aimed to alleviate displacement, commentators have critiqued both the judgment and its implementation by the government of Gujarat. The judgment, for instance, only guaranteed compensation for legal landowners even though many dam-affected villages kept poor land records.²¹ In addition, many displaced persons were tribal community members who lacked formal land ownership rights under Indian law.²² A more general indictment suggested that “the [Narmada] Tribunal was itself a creature of politics that was incapable, *ab initio*, of delivering justice.”²³ First, the Narmada Tribunal focused on the interstate dispute between riparian states and insufficiently considered the affected communities themselves.²⁴ Second, political deal-making between the states limited the Narmada Tribunal’s terms of reference, including consideration of whether alternatives existed to achieve the project’s objectives.²⁵

In December 1979, the Narmada Tribunal’s final award came into effect,²⁶ and in 1987 construction began on the Sardar Sarovar dam.²⁷ Problems soon emerged with Gujarat’s resettlement policy,²⁸ which formally sought to award each eligible family settling there at least five irrigable acres, housing, and various entitlements to facilities.²⁹ In reality, there was not enough land available for distribution; amenities were substandard; and settlers had difficulty integrating with host communities.³⁰ As a result, though 196 families had accepted the resettlement

20. Garikipati, *supra* note 4, at 341–42; John R. Wood, *India’s Narmada River Dams: Sardar Sarovar under Siege*, 33 *ASIAN SURV.* 968, 975 (1993). Specifically, the Narmada Tribunal guaranteed every displaced family five acres of irrigable land at least one year prior to submergence, required that villages be resettled as units, qualified adult male children of affected families for individual rehabilitation as distinct from their families, and emphasized timely and appropriate resettlement. Komala Ramachandra, *Sardar Sarovar: An Experience Retained?*, 19 *HARV. HUM. RTS. J.* 275, 276 (2006).

21. Garikipati, *supra* note 4, at 342.

22. Rajagopal, *supra* note 2, at 357–58.

23. *Id.* at 356.

24. *Id.*

25. *Id.* at 357. Rajagopal adds a third point: that the act granting the Narmada Tribunal jurisdiction lacked any appeals process by which an ordinary court might examine its conformity to evolving legal standards—although this did not in fact prevent the Indian Supreme Court from subsequently admitting petitions from the NBA. *Id.*

26. *Id.* at 356.

27. Garikipati, *supra* note 4, at 341.

28. Chittaroopa Palit, *Monsoon Risings: Mega-Dam Resistance in the Narmada Valley*, 21 *NEW LEFT REV.* 81, 84 (2003), available at <http://www.newleftreview.org/A2450>.

29. Garikipati, *supra* note 4, at 342.

30. *Id.* According to Paramjit Judge, following pressure from NGOs and community leaders, the government bought land in areas preferred by those displaced by the project.

offer, many settlers ended up returning to their homes, which were already partially submerged.³¹

***The World Bank's Involvement in the
Sardar Sarovar Dam Project***

Although the Bank had long been interested in financing the Sardar Sarovar dam, it could not do so before the Narmada Tribunal's Final Order. Once the order was issued, the Bank quickly stepped in.³² Working closely with Indian officials, Bank staffers spent a number of years reconfiguring the Sardar Sarovar dam in order to minimize its negative side effects while maximizing its financial and technical viability.³³ Between 1979 and 1983, the Bank prepared the first-stage project. The appraisal of this phase that soon followed³⁴ notably did not include an assessment of social or environmental issues.³⁵

In 1985 the Bank lent the three state governments a total of \$200 million and gave them \$250 million in credits to finance the Sardar Sarovar dam.³⁶ The Bank's involvement transnationalized the projects at multiple levels. First, it indicated international approval, bringing in several other foreign actors.³⁷ Second, it internationalized resistance to the project. Third, the Bank's internal policies provided a standard against which to judge the project's performance with regard to involuntary resettlement.³⁸ Despite the benefits of transnationalization, the

Even so, a host of problems remained, such as relocation stress, the end of descent group collectivity, kinship zone enlargement, land encumbrance, host village hostility, and bureaucratic indifference. Paramjit Judge, *Response to Dams and Displacement in Two Indian States*, 37 *ASIAN SURV.* 846, 847 (1997).

31. Garikipati, *supra* note 4, at 342.

32. CATHERINE CAUFIELD, *MASTERS OF ILLUSION: THE WORLD BANK AND THE POVERTY OF NATIONS* 11 (1997). India initially approached the Bank for funding for the SSP in 1978. Rajagopal, *supra* note 11, at 568.

33. CAUFIELD, *supra* note 32, at 11.

34. Rajagopal, *supra* note 11, at 568.

35. CAUFIELD, *supra* note 32, at 11.

36. The governments then requested \$350 million more to complete the canal and \$90 million for the Narmada Basin Development Project. Rosencranz & Yurchak, *supra* note 12, at 514; Stephanie C. Guyett, *Environment and Lending: Lessons of the World Bank, Hope for the European Bank for Reconstruction and Development*, 24 *N.Y.U. J. INT'L L. & POL.* 889, 906-07 (1992).

37. Rajagopal, *supra* note 2, at 360. These actors included the Japanese Organization for Economic Co-operation and Development, which would fund turbines provided by the Sumitomo and Hitachi corporations; Kreditanstalt für Wiederaufbau of Germany to support the development of fisheries; Canadian International Development Agency, which would conduct environmental impact studies; and Official Development Assistance of the U.K. for studies on downstream impact and environmental plans. *Id.*

38. *Id.* at 360-361.

Bank ignored shortcomings in the approval process³⁹ to the point of violating its own policies concerning resettlement and environmental degradation.⁴⁰

Tension Emerges between the World Bank's Policies and its Support of the Dam

The Bank's role in the construction of the Sardar Sarovar dam must be viewed against the backdrop of various human rights-related policies adopted by the Bank in the 1980s and 1990s. The World Bank's Operational Policies and Directives developed in response to external and internal pressure to establish environmental and human rights guidelines for its lending practices.⁴¹ The Bank's first general resettlement policy, adopted in 1980, provided that "upon resettlement, displaced persons should regain at least their previous standard of living."⁴² Two years later the Bank adopted a resettlement policy specifically addressing "tribal" populations and requiring that customary usage of tribal land be respected and that tribal community members only be displaced when the borrowing country can effectively safeguard their integrity and well-being.⁴³

In 1990, the Bank issued Directive 4.30 on involuntary resettlement, followed a year later by Directive 4.20 on the resettlement of indigenous peoples. These Directives, which were the result of a decade of policy deliberation, established the highest standards of any development aid or lending organization for responding to the consequences of involuntary resettlement.⁴⁴

Under the Bank's policies on involuntary resettlement, the Bank must finalize resettlement plans prior to the loan's approval. In addition,

39. See Guyett, *supra* note 36, at 906–07.

40. CAUFIELD, *supra* note 32, at 12.

41. Guyett, *supra* note 36, at 895–909.

42. World Bank Operational Manual Statement No. 2.33: Social Issues Associated with Involuntary Settlement in Bank-Financed Projects, *reprinted in* SARDAR SAROVAR, THE REPORT OF THE INDEPENDENT REVIEW 23 (1992), *quoted in* Thomas R. Berger, *The World Bank's Independent Review of India's Sardar Sarovar Projects*, 9 AM. U. J. INT'L L. & POL'Y 33, 40 (1993) (internal quotation marks omitted).

43. The policy, entitled Operational Manual Statement 2.34, was later replaced by Directive 4.20 to substitute "tribal" with "indigenous," which was further modified to "indigenous peoples" under Operational Policy 4.10 in 2005. See Legal Note on Indigenous Peoples, World Bank, *available at* <http://siteresources.worldbank.org/INT/INDPEOPLE/Publications/20571167/Legal%20Note.pdf>; *see also* Operational Policy 4.10, World Bank, *available at* <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20553653~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

44. Operational Manual Statement No. 2.33, *supra* note 42, at 41.

credit agreements with the Indian states required resettlement plans that conform to these policies. Nevertheless, a comprehensive plan for the resettlement of affected individuals had not been formulated even six years after the loan's approval.⁴⁵ Although the Bank attempted to address this violation by imposing deadlines on the state governments to produce these plans, these deadlines were not enforced.⁴⁶ Nor did the Bank address the vast and foreseeable ecological consequences of the Sardar Sarovar dam; the Bank approved the project even though the Indian Ministry of Environment and Forests would not consent to the project without completed environmental impact studies, which were never performed.⁴⁷

The Narmada Bachao Andolan Movement

Since the early 1980s, the Narmada Project has faced mounting opposition from a variety of sources. Protest groups formed in all three affected states and included or were supported by individuals facing displacement, students, social activists, Indian environmental NGOs, international NGOs, and transnational networks.⁴⁸ In Gujarat, nineteen villages, whose submersion the Sardar Sarovar dam ensured, formed the Chhatra Yuva Sangharsh Vahini, a youth protest group.⁴⁹ The group engaged in protests and initiated court actions, ultimately forcing the government of Gujarat to offer a more generous resettlement package. The group's belief that Gujarat's water needs made the dam project necessary guided its decision to focus on rehabilitation efforts and to ensure that the government adhered to its promises.⁵⁰

In contrast, groups in Madhya Pradesh and Maharashtra opposed the dams altogether. Two such groups, the Narmada Ghati Navnirman Samiti in Madhya Pradesh and the Narmada Ghati Dharangrashtra Samiti in Maharashtra, subsequently merged to form the Narmada Bachao Andolan in 1989.⁵¹ Under the leadership of the principal figure

45. *Environmental, Social and Economic Concerns Related to the World Bank Financed Sardar Sarovar Dam and Power Project and Sardar Sarovar Water Delivery and Drainage Project*, Memorandum from the Environmental Defense Fund to Barber Conable, president of the World Bank (Mar. 1991) (on file with author). See also Guyett, *supra* note 36, at 906–907.

46. *Id.* at 907.

47. *Id.* at 906–07.

48. Benedict Kingsbury, "Indigenous Peoples" in *International Law: A Constructivist Approach to the Asian Controversy*, 92 AM. J. INT'L L. 414, 444 (1998). See also, Ashok Swain, *Democratic Consolidation? Environmental Movements in India*, 37 ASIAN SURV. 818, 825 (1997).

49. Wood, *supra* note 20, at 977.

50. *Id.*

51. *Id.*

associated with the movement, Medha Patkar, the NBA initially sought to verify the claims regarding the benefits that would flow from the construction of the dams. In the process, it focused on securing access to documents from the government and the World Bank to ensure greater transparency.⁵²

The NBA's Methods

The success of the NBA campaign resulted from its innovative strategies of resistance that operated simultaneously at the grassroots, national, and international level. As such, the campaign's significance as a social movement extends far beyond India's national borders.⁵³ Balakrishnan Rajagopal—a leading scholar on development and social movements and a long-time observer and researcher of the Narmada struggle—notes that globally, the NBA is “regarded as one of the signature public contestations of the twentieth century that redefined the terms of development, democracy and accountability.”⁵⁴

While the NBA originally employed “Gandhian methods” such as peaceful marches and protests,⁵⁵ after a high-profile hunger fast in 1991 failed, the NBA announced a “noncooperation movement” in the Narmada valley. This movement campaigned against the payment of taxes and sought to deny entry to the villages to all government officials, except teachers and doctors.⁵⁶ The NBA subsequently began to consider litigation as an additional option for a variety of reasons. Their tactics up to this point had frequently drawn violent reactions from the government.⁵⁷ In addition, other disadvantaged groups had successfully moved the Supreme Court,⁵⁸ inspiring the NBA to do the same.

The NBA's Leadership

The NBA, a broad-based participatory movement, flourished under the leadership of visionary environmental champions. One of India's

52. Rajagopal, *supra* note 2, at 364.

53. *Id.*

54. Email interview with Balakrishnan Rajagopal, Ford Assoc. Professor of Law and Dev., M.I.T. (June 18, 2008). Rajagopal is author of *INTERNATIONAL LAW FROM BELOW: DEVELOPMENT, SOCIAL MOVEMENTS AND THIRD WORLD RESISTANCE* (2003), and co-editor of *RESHAPING JUSTICE: INTERNATIONAL LAW AND THE THIRD WORLD* (Richard Falk, Balakrishnan Rajagopal, & Jacqueline Stevens eds., 2008).

55. Jayanth K. Krishnan, *Lawyering for a Cause and Experiences from Abroad*, 94 CAL. L. REV. 575, 610 (2006).

56. Wood, *supra* note 20, at 978.

57. Krishnan, *supra* note 55, at 610.

58. *Id.*

most vibrant and best known living activists, Medha Patkar (or Medha *didi* (big sister) as she is called) has led the Narmada movement for over two decades. Her uncompromising stance against government apathy toward the human and social costs of dam construction and her ongoing efforts to ensure that transparency and accountability remain hallmark features of development projects have helped fashion the NBA into one of the most dynamic social movements of our time. A “veteran of several fasts [and] monsoon satyagrahas [civil disobedience] on the banks of the rising Narmada,”⁵⁹ she has endured police beatings and jail terms in her quest to secure the right to life and the right to livelihood for the over twenty million people whose lives would be adversely affected by the Narmada Project.

Medha Patkar’s stance on the Narmada issue is emblematic of her broader political philosophy. According to Patkar:

When the state has, under the principle of eminent domain, full right to resources, the state is expected to act in favour of the most disadvantaged communities and use the resources in such a way that the common good would be really achieved, of course, within the value frame work [sic] of equality and justice. . . . [Instead,] the state is using its power, its laws, ways and means, its police force, a physical brutal force, to take away the resources. . . . That is like a privatized state, which is privatized by those small elite sections, and this is being done more and more and more brutally and crudely, in the new context of globalization and liberalization. . . .⁶⁰

Other women have also played central roles in the campaign. The NBA’s struggle against the Maheshwar Dam in Madhya Pradesh state,⁶¹ for instance, has been led by the Narmada Shakti Dal, a separate women’s organization within the NBA that was set up on March 8, 1988—International Women’s Day—and is comprised of female villagers from Maheshwar.⁶²

Alongside Medha Patkar, social activist Baba Amte provided moral leadership to the cause to preserve the Narmada River. Though renowned for his work against leprosy, beginning in the early 1980s he

59. South Asian Women’s Network: Who’s Who: Medha Patkar, available at <http://www.sawnet.org/whoswho/?Patkar+Medha>.

60. Interview by Venu Govindu with Medha Patkar, in Domkhedi, India (Aug. 7, 1999), *The Face of the Narmada*, available at <http://www.indiatogether.org/interviews/view-mpatkar.htm>.

61. See generally, Friends of River Narmada, *The Maheshwar Dam: A Brief Introduction*, available at <http://www.narmada.org/maheshwar.html>.

62. Public Hearing by National Commission of Women Regarding Ongoing Struggle Against the Maheshwar Project, available at <http://www.sandelman.ottawa.on.ca/lists/html/dam-l/2000/msg01517.htm>.

involved himself in the struggle against mega dams. Amte first achieved national prominence for his work on dams with the publication of *Cry O Beloved Narmada* in 1989, an elegiac booklet that made the case for a dam-free Narmada.⁶³ At the end of 1989, Baba Amte moved to the banks of the Narmada, stating that “[t]he struggle for a New India is taking place in the Narmada valley. Today the Narmada valley has become the arena for a new imagination and creativity, for a society in which there must be sufficiency for all before there is superfluity for some.”⁶⁴

The NBA has continually sought to encourage people-centered and environmentally sound alternatives to mega dams,⁶⁵ even as critics target opponents of the dams as “eco-romantic activists.”⁶⁶ The NBA has, for instance, identified decentralized methods of water harvesting as a viable alternative in Gujarat that could be achieved for a fraction of the over \$4 billion price tag attached to the Sardar Sarovar dam alone.⁶⁷ According to Indian environmental historian Mahesh Rangarajan, Gujarat’s political clout and the framing of the issue as one of “water versus displacement” made it difficult for the NBA to make much headway on the issue.⁶⁸ Still, the NBA attempted to expose contradictions and fallacies in governmental claims about the benefits of dam construction. For instance, contrary to the Gujarat government’s assertion that the Sardar Sarovar dam would satisfy the water needs of the arid regions of Kutch and Saurashtra in northern Gujarat, the NBA found that water would reach only 1.5% of Kutch’s total cultivable area, and only 7% of that of Saurashtra. Most would serve the politically influential, already water-rich central Gujarat.⁶⁹ Before the NBA forced them to do so, the government had never performed a proper cost-benefit analysis. This review led the government to admit that it had both exaggerated benefits and underes-

63. Narmada Bachao!, available at http://mss.niya.org/people/baba8_amte.php.

64. *Id.*

65. Z Magazine Online, Interview by Robert Jensen with Medha Patkar (Apr. 1, 2004), available at <http://www.zmag.org/zmag/viewArticle/13856>.

66. Jay Narayan Vyas, *Water and Energy for Development in Gujarat with Special Focus on the Sardar Sarovar Project*, 17 INT’L J. OF WATER RES. DEV. 37, 51 (2001). See also Jay Narayan Vyas, *Large Dams and Sustainable Development: A Case Study of the Sardar Sarovar Project, India*, 17 INT’L J. OF WATER RES. DEV. 601, 605 (2007); B. G. Verghese, *Sardar Sarovar Project Revalidated by Supreme Court*, 17 INT’L J. OF WATER RES. DEV. 79, 79 (2001).

67. Palit, *supra* note 28.

68. Email interview with Mahesh Rangarajan, Professor of Modern Indian History, University of Delhi (June 14, 2008). Rangarajan has authored and edited numerous books on conservation and the environment. He is, for example, editor of ENVIRONMENTAL ISSUES IN INDIA: A READER (Mahesh Rangarajan ed., 2007), and co-editor of BATTLES OVER NATURE, SCIENCE AND THE POLITICS OF CONSERVATION (Vasant Kabir Saberwal & Mahesh Rangarajan eds., 2003).

69. Palit, *supra* note 28.

timated costs. The NBA pushed the government to admit, for example, that the Sardar Sarovar Project would displace over 100,000 people and affect over 900,000 more, contrary to its initial estimate that only 7,000 families would be affected.⁷⁰

Direct Action

Together, Patkar and Amte led a number of high-profile protests,⁷¹ only some of which met with success due to the repressive tactics mounted by the government in response. In September 1989, Amte led⁷² a 60,000-person anti-dam NBA rally in Harsud—a town of 20,000 people in Madhya Pradesh that faced submersion.⁷³ In May 1990, a massive NBA five-day *dharna* (sit-in) at then-Prime Minister V. P. Singh's residence in New Delhi forced the Prime Minister to agree to "reconsider" the project.⁷⁴ In December 1990, Amte, along with 5,000 protestors, began the *Narmada Jan Vikas Sangharsh Yatra* (Narmada people's progress struggle march), marching over a hundred kilometers from Amte's headquarters near Barwani in Madhya Pradesh to Ferkuva on the Madhya Pradesh–Gujarat border. The government reacted by deploying the Gujarati police force and by bussing in thousands of government-supported pro-dam demonstrators from urban centers in Gujarat.⁷⁵

Following the government's announcement that rising waters from the dam would begin to submerge villages, domestic protest intensified and with it the resulting backlash from the state. On January 5, 1991, Amte began a "*dharna* [sit-in] unto death." Two days later, seven other activists were led by Patkar on a separate hunger strike that lasted twenty-one days before the NBA called off both protests given that no compromise could be reached. While many observers considered the annulment of Amte's and Patkar's protests a sign of the Gujarat government's victory, NBA protesters subsequently declared that they would refuse to move even if this meant being drowned by waters from the Sardar Sarovar reservoir.⁷⁶

70. Interview by Govindu, *supra* note 60.

71. CAUFIELD, *supra* note 32, at 15.

72. Wood, *supra* note 20, at 977.

73. *Id.*; see CAUFIELD, *supra* note 32, at 14. In January 1990, a 5,000-strong march forced the closure of the Narmada Valley Development Authority offices. *Id.* Two months later, another large-scale protest in Madhya Pradesh blocked the Delhi–Bombay highway bridge for two days. Wood, *supra* note 20, at 978.

74. *Id.* This led to a robust response from the Gujarat Chief Minister, who led an equally large pro-dam demonstration in Delhi shortly thereafter, followed by a massive 100,000-person march in Bombay. *Id.*

75. *Id.*

76. *Id.*

The NBA's slogans—such as *Vikas Chahiye, vinash nahin!* (“We want development, not destruction”)⁷⁷ and *Koi nahi hatega, bandh nahi banega!* (“No one will move, the dam will not be built”)⁷⁸—directly challenged the project's purported benefits and defied the conventional wisdom that the tribal community members would simply cede to government plans. Staying true to their words, during numerous monsoon *satyagrahas* (acts of civil disobedience) hundreds of individuals refused to budge as rising water entered their fields and their homes. According to one NBA activist:

[S]atyagraha is . . . a way of bearing witness to what the state is doing to the people. It affirms the existence of the Valley inhabitants and shows our solidarity. It makes a moral point, contrasting the violence of the development project with the determination of those who stand in its path. In most of the monsoon *satyagrahas* where the waters have actually flooded the houses . . . police have physically dragged people out of the areas being inundated, in an attempt to rob the agitation of its symbolic power.⁷⁹

A less common and much criticized practice—including from within the NBA—is the practice of *jal samarpan* (sacrifice by drowning), wherein protestors prepare to give their lives to the cause. Manibeli, a village in Maharashtra near the Gujarat border, was among the first to be flooded and was therefore the site of numerous demonstrations and concomitant police abuse.⁸⁰ During a *satyagraha* launched at Manibeli in 1992, the inhabitants of the valley declared their readiness for *jal samarpan*. As waters rose, the affected people of the lower hamlets stood knee-deep, refusing to move.⁸¹ The state reacted with force, undertaking a number of arrests, beatings and detentions in Maharashtra and Madhya Pradesh between 1992 and 1993.⁸² The image of Valley inhabitants, standing motionless and defiant in the face of rising waters ready to sacrifice their lives, is perhaps the most haunting of the movement.

On occasion, direct action proved effective, as when the NBA's new *satyagraha* at Manibeli in 1993 forced a federal government review of the project.⁸³ It was, however, unable to bring about any meaningful change—the panel appointed by the government to review the project

77. Rajagopal, *supra* note 2, at 365–366.

78. *Id.* at 366.

79. Palit, *supra* note 28.

80. HUMAN RIGHTS WATCH, *supra* note 8, at 25.

81. Rajagopal, *supra* note 2, at 367–68.

82. *Id.*

83. *Id.* at 368.

had no power to revisit the project's viability and state police forces continued their repression of the villages in Maharashtra and Gujarat.⁸⁴

International Interventions and Coalition Building

Large-scale protests at home were complemented by international interventions abroad. Lori Udall, then with the Environmental Defense Fund, led the international campaign against the Sardar Sarovar dam and implemented a “multi-pronged strategy of public pressure, organizing, media outreach, and lobbying.”⁸⁵ In 1987, Patkar met with World Bank officials in Washington, D.C. and questioned their 1985 loan agreement in light of the fact that the Indian Ministry of Environment and Forests had not granted environmental clearance to the project, as required by Indian law.⁸⁶ In 1989, Udall worked with a U.S. Congressional Committee that held an oversight hearing on Sardar Sarovar at which Patkar testified, detailing the dams' social and environmental impact.⁸⁷

In addition to working with the Environmental Defense Fund, the NBA partnered with numerous other human rights, environmental, and solidarity organizations overseas.⁸⁸ A Narmada International Action Committee—consisting of NGOs from India, the United States, Canada, Europe, Australia, and Japan—lobbied against the Narmada Project in several investing countries,⁸⁹ which helped focus international and national attention on the Narmada issue. Most notably, the Japanese branch of the international NGO Friends of the Earth conducted a field visit in Narmada pursuant to which it held the first International Narmada Symposium in Tokyo. The Symposium, greeted with great fanfare by the press, led—within weeks—to the withdrawal of Japan's Overseas Economic Cooperation Fund from the Narmada Project. Soon

84. *Id.*

85. Email interview with Lori Udall, Senior Advisor, Bank Info. Ctr. (June 24, 2008). Udall's efforts included lobbying executive directors at the World Bank, the U.S. Congress and Treasury, meeting with affected individuals in the Narmada Valley, and writing and submitting reports to the Bank's U.S. executive director, Bank management, and Congress. Udall additionally lobbied the Japanese government and went on a speaking tour in Japan. For more on Japan, see *infra* text accompanying notes 89–90. Additionally, she networked with activists in all of the Bank's major shareholder countries who in turn lobbied their own governments. Udall worked with the Environmental Defense Fund from 1985 to 1994 and was Washington Director of the International Rivers Network from 1994 to 1997. Since 2000, she has managed her own international consulting business. *Id.*

86. Rajagopal, *supra* note 2, at 364.

87. Udall interview, *supra* note 85; Rajagopal, *supra* note 2, at 364–65.

88. See, e.g., Friends of River Narmada, available at <http://www.narmada.org> and International Rivers Network, available at <http://www.irn.org/index.php?id=basics/about.html>.

89. Rajagopal, *supra* note 2, at 365.

thereafter, Japanese Diet members began pressuring the World Bank president to stop financing the Sardar Sarovar dam.⁹⁰ Japan's withdrawal from the project bolstered the case of the environmental activist groups supporting the struggle against the Narmada Project, and pressure mounted on the World Bank to cease its support.

As protests intensified, so too did the backlash from the state; international human rights NGOs began documenting abuses against NBA activists. A June 1992 report by Human Rights Watch noted increases in arbitrary arrests, illegal detentions, beatings, and other forms of physical abuse of NBA activists.⁹¹ That same month, the findings of the report were featured as one of nine country studies in a joint report issued by Human Rights Watch and the Natural Resources Defense Council entitled *Defending the Earth: Abuses of Human Rights and the Environment*.⁹² The report was issued at the time of the Earth Summit in Rio de Janeiro, as its authors hoped that it would help focus attention on causal relationships between human rights and environmental abuses and foster greater collaboration and exchanges between human rights and environmental advocates.⁹³

The Environmental Defense Fund and the Bank Information Center, both U.S.-based NGOs, led the formation of the Narmada International Human Rights Panel, which garnered the support of forty-two environmental and human rights NGOs representing sixteen countries. The Panel, funded in part by the World Bank until 1993 and assisted by the NBA, sought "to document ongoing violations of political, economic, social and cultural rights of the people of the Narmada Valley."⁹⁴ An interim report issued by the Panel in October 1992 also detailed rights violations in the Narmada Valley, which was followed in 1993 by a report of the U.S.-based Lawyers Committee for Human Rights (now Human Rights First).⁹⁵

The World Bank Withdraws

In response to a tide of mounting pressure, the World Bank announced in June 1991 that it would commission a team of independent

90. *Id.*

91. See generally ASIA WATCH, BEFORE THE DELUGE: HUMAN RIGHTS ABUSES AT INDIA'S NARMADA DAM (1992).

92. HUMAN RIGHTS WATCH, *supra* note 8.

93. *Id.* at iii.

94. Narmada International Human Rights Panel, THE NARMADA SARDAR SAROVAR PROJECT, MASS ARRESTS AND EXCESSIVE USE OF POLICE FORCE AGAINST ACTIVISTS IN CENTRAL INDIA 28 (1993), available at <http://www.narmada.org/sardar-sarovar/hrreport9310.html>.

95. LAWYERS COMMITTEE FOR HUMAN RIGHTS, UNACCEPTABLE MEANS: INDIA'S SARDAR SAROVAR PROJECT AND VIOLATIONS OF HUMAN RIGHTS, OCTOBER 1992 THROUGH FEBRUARY 1993 (1993).

experts, known as the Morse Commission, to reexamine the Sardar Sarovar Project.⁹⁶ The Commission's independent review had two aims: to assess steps taken to resettle those affected by the Sardar Sarovar dam, and to assess the efficacy of measures aimed at diminishing the project's environmental impact.⁹⁷ It was chaired by Bradford Morse, the former head of the UN Development Programme, and Thomas Berger, a former British Columbia Supreme Court judge, neither of whom had ever been Bank employees.⁹⁸ The Commission had unprecedented responsibilities. According to Berger, "[a]n international aid organization [had] never before established an investigatory body with a mandate as sweeping."⁹⁹ To carry out this mandate, the Commission visited sixty-five villages throughout the Narmada valley, met frequently with both Indian governmental officials and NGOs, including the NBA, and received full informational and financial support from the Bank.¹⁰⁰

Though the Bank's president set out the Commission's terms of reference, the Commission retained its full independence and editorial control over the final report.¹⁰¹ The 357-page report, issued on June 18, 1992, documented the Bank's disregard for its own involuntary resettlement and environmental assessment policies. The report also found that the Bank had tolerated violations of these policies by its borrower and recorded in great detail the resulting environmental and human rights consequences.¹⁰² In one notable passage, the report clearly accused the Bank:

We think the Sardar Sarovar Projects as they stand are flawed, that resettlement and rehabilitation of all those displaced by the Projects is not possible under prevailing circumstances, and that environmental impacts of the Projects have not been properly considered or adequately addressed. Moreover we believe that the Bank shares responsibility with the borrower for the situation that has developed. . . . We have decided that it would be irresponsible for us to patch together a series of recommendations on implementation when the flaws in the Projects are as obvious as they seem to us. As a result, we think that the wisest course would be for the Bank to

96. Rosencranz & Yurchak, *supra* note 12, at 515.

97. Berger, *supra* note 42, at 34.

98. *Id.* at 33, 37.

99. *Id.* at 37.

100. *Id.* at 37-39.

101. *Id.* at 37.

102. Dana L. Clark, *The World Bank and Human Rights: The Need for Greater Accountability*, 15 HARV. HUM. RTS. J. 205, 217 (2002).

step back from the Projects and consider them afresh. The failure of the Bank's incremental strategy should be acknowledged.¹⁰³

Despite the Commission's unequivocal condemnation, the Bank was quick to reassure the Indian government that it would continue support to the Narmada projects.¹⁰⁴ A World Bank team traveled to India to assess the resettlement and environmental issues for the World Bank's executive board and dismissed the Morse Commission's environmental and health warnings. However, the team affirmed the report's concern for the displaced and urged the Bank to push the Indian government on compensation packages for the resettled.¹⁰⁵ Such a conclusion presented the Bank with a difficult decision—it had already invested a great deal of money into the Sardar Sarovar Project, and withdrawing altogether would prevent it from being able to influence policies towards the displaced and the environment, as the Gujarat government had privately indicated that construction of the dam would go forward with or without the Bank's aid.¹⁰⁶ On the other hand, several of the Bank's donor countries were unhappy with the developing image of the Bank as a human rights violator, and a significant number of directors became vocally opposed to continued funding of the project.¹⁰⁷

Ultimately, on the strength of a compromise brokered by the Western European directors,¹⁰⁸ the Bank narrowly voted in October 1992 to continue funding the Sardar Sarovar Project,¹⁰⁹ but also gave India six months to comply with certain environmental and rehabilitative "benchmarks."¹¹⁰ Moreover, in February 1993 the Bank's directors proposed to establish an internal inspection mechanism for ongoing projects.¹¹¹ And in March 1993, in a "face-saving formula" for the World Bank,¹¹² the government of India announced that it was cancelling the remaining \$170 million Bank loan—what many regarded as an admission that the government could not meet the new "benchmark" conditions demanded in return for continued assistance.¹¹³ In September that same year, the

103. MORSE ET AL., *supra* note 9, at xii, xxv.

104. Wood, *supra* note 20, at 981–82.

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. Rosencranz & Yurchak, *supra* note 12, at 515.

110. Wood, *supra* note 20, at 982.

111. Sabine Schlemmer-Schulte, *The Impact of Civil Society on the World Bank, the International Monetary Fund and the World Trade Organization: The Case of the World Bank*, 7 ILSA J. INT'L & COMP. L. 399, 414 (2001).

112. Rajagopal, *supra* note 2, at 366–367.

113. Rosencranz & Yurchak, *supra* note 12, at 515.

Bank adopted a resolution authorizing the creation of an Inspection Panel.

The Broader Impact of the NBA on the World Bank

The NBA's success in compelling action from the World Bank depended on its ability to force the Bank to acknowledge the Indian government's disregard for the Narmada Project's consequences.¹¹⁴ Nationally, amidst increasing consciousness about environmental issues among India's urban middle classes and rural lower classes, Narmada became a symbol of the debate over the place of the most vulnerable members of Indian society in the country's political and economic order.¹¹⁵ Internationally, the Narmada Project was seen as an effective hook for campaigning against the social and environmental impact of Bank projects.¹¹⁶

The controversy generated by the Sardar Sarovar dam represented a "historical watershed for the World Bank and an important landmark in the struggle for accountability."¹¹⁷ In addition to establishing an independent commission to review a Bank-funded project, a first in the Bank's history,¹¹⁸ the Bank subsequently established a quasi-independent Inspection Panel that would allow those affected by Bank policies to complain about violations.¹¹⁹ The Inspection Panel was "the first forum in which private actors [could] hold an international organization directly accountable for the consequences of its failure to follow its own rules and procedures"¹²⁰ and was the first institution to legally recognize the relationship between international organizations and non-state actors.¹²¹ The Bank's procedures were opened to the public, its guidelines on funding were rewritten, and its currently funded projects were reexamined.¹²² The Sardar Sarovar Project experience also had a more general transformative effect on the Bank in bringing environmental concerns

114. Guyett, *supra* note 36, at 906.

115. Rajagopal, *supra* note 11, at 566.

116. *Id.* at 567.

117. Clark, *supra* note 102, at 216.

118. Andres Rigo Sureda, *Informality and Effectiveness in the Operation of the International Bank for Reconstruction and Development*, 6 J. INT'L ECON. L. 565, 586 (2003).

119. Clark, *supra* note 102, at 217.

120. *Id.*; Daniel B. Bradlow, *International Organizations and Private Complaints: The Case of the World Bank Inspection Panel*, 34 VA. J. INT'L L. 553, 555 (1994).

121. *Id.* at 553.

122. Rosencranz & Yurchak, *supra* note 12, at 514.

into mainstream development discourse and in compelling the Bank to see NGOs as partners in development.¹²³

The World Bank Inspection Panel

The Bank's Executive Board faced increasing pressure to authorize the creation of the Inspection Panel because of "[e]vidence of mismanagement and poor governance from both internal and external reviews [which] galvanized criticism of the Bank's accountability failures."¹²⁴ A report by former Bank vice president, Willi Wapenhans, critiqued what it deemed the Bank's sweeping "culture of approval."¹²⁵ The Wapenhans report claimed that the Bank did not impose 78% of its negotiated loan conditions and that by the Bank's own criteria over one-third of its projects were unsatisfactory.¹²⁶ Non-governmental groups and member countries who were sizeable lenders to the Bank also levied general criticisms against the Bank.¹²⁷ Its reluctance to suspend loans to India in the wake of the independent review fueled further criticism¹²⁸ and brought the Bank under even greater pressure to respond. The World Bank Inspection Panel was established as a direct response to these criticisms and various NGO proposals.¹²⁹

According to Udall, who helped spearhead the creation of the Inspection Panel, the NBA "was the main coalition behind the grassroots movement opposing the dams. Because the crisis around Narmada was at the forefront of the battle for more public accountability at the Bank . . . without Narmada and the Morse Commission . . . we would not have an inspection panel."¹³⁰

123. Rajagopal, *supra* note 11, at 565.

124. Clark, *supra* note 102, at 217.

125. *Id.* at 216–17.

126. Kristine J. Dunkerton, *The World Bank Panel and Its Effect on Lending Accountability to Citizens of Borrowing Nations*, 5 U. BALT. J. ENVTL. L. 226, 235 (1995).

127. Schlemmer-Schulte, *supra* note 111, at 413.

128. *See* Sureda, *supra* note 118, at 586.

129. *See* Schlemmer-Schulte, *supra* note 111, at 414.

130. Udall interview, *supra* note 85. Referring to her work spearheading the creation of the Panel, Udall notes that after the Morse Commission submitted its report, "we called on the Bank to establish a 'Permanent Appeals Mechanism' so that adversely affected people could appeal to have projects investigated. We drafted a resolution and circulated it in Congress and among the Board of Executive Directors and legal counsel at the Bank. We worked with [U.S. Representative] Barney Frank's committee to pressure the Bank to establish this accountability mechanism." *Id.* After the United States Congress required an independent oversight system as a condition of payment, the Bank finally authorized the creation of the Inspection Panel. Dunkerton, *supra* note 126, at 236. For a brief history of the creation of the Panel, *see* LORI UDALL, BANK INFO. CTR., *THE WORLD BANK INSPECTION PANEL: A THREE YEAR REVIEW* 5–15 (1997). *See also* DEMANDING ACCOUNTABILITY: CIVIL SOCIETY CLAIMS AND THE WORLD BANK INSPECTION PANEL 258–266 (Dana Clark, Jonathan Fox, Kay Treakle eds., 2003).

The Structure and Processes of the Inspection Panel

The Inspection Panel was established in September 1993 to “provid[e] people directly and adversely affected by a Bank-financed project with an independent forum through which they can request the Bank to act in accordance with its own policies and procedures.”¹³¹ The Inspection Panel consists of three members, appointed by the Board for non-renewable five-year terms.¹³² It is a forum of last resort, which requires affected individuals to exhaust local remedies prior to filing a claim.¹³³ The claim itself must allege that the actions or omissions of the Bank, and not the borrower, have caused or may cause material harm in violation of the Bank’s policy.¹³⁴

After the Panel is satisfied that the claim fits within its jurisdiction, Bank Management prepares a response to the allegations. The merits of the response are then assessed by the Panel, which then issues a recommendation to the Board of Directors on whether the claims merit further investigation. Preliminary investigation often involves an on-site visit to the country in which the project is based. After this, and subject to the board’s approval, the Panel investigates the claim. Finally, the Panel prepares a report on its findings, which it sends to both the Board of Directors and the Bank Management.¹³⁵

After this point, the matter is largely out of the Panel’s hands. The Board first attempts to resolve any conflicts that may arise between the Panel’s reports and the response of Bank staff, pursuant to which the Bank Management recommends actions to be taken in response to the Panel’s findings. The Board subsequently investigates whether the problems identified by the Panel need to be remedied and what steps might be taken in order to do so. While some investigations have led to outright cancellation of Bank involvement, the overall record is mixed.¹³⁶

131. World Bank Inspection Panel Operating Procedures, Introduction, Purpose, available at <http://www.worldbank.org/inspectionpanel> (follow “Policies and Procedures” to “Panel Operating Procedures”).

132. *Id.*

133. Clark, *supra* note 102, at 218.

134. *Id.*

135. See World Bank Inspection Panel Operating Procedure, IV, V, and VII, available at <http://www.worldbank.org/inspectionpanel> (follow “Policies and Procedures” to “Panel Operating Procedures”).

136. Clark, *supra* note 102, at 218–219.

The Record of the Inspection Panel

The Inspection Panel has been subject to critique since its creation.¹³⁷ Perhaps the biggest concern is the Panel's "lack of independent oversight" in two key areas: the implementation of the remedial measures decided upon by the Board and the Bank Management's response plan.¹³⁸ When the Board decided to exclude the Panel from supervision of remedial measures, it failed to set up an alternative mechanism for ensuring that plans for bringing projects into compliance with Bank policies were successful.¹³⁹ The Bank appears to be responding to these criticisms; in a 2004 decision (Paraguay–Argentina: Reform Project for the Water and Telecommunications Sectors, SEGBA V Power Distribution Project) the Board granted the Panel power to oversee the implementation of its recommendations.¹⁴⁰

The Panel has also been criticized for its narrow focus on procedural issues. Since the Panel's mandate is limited to examination of the Bank's compliance with the Bank's operational guidelines, there is limited leeway for bringing in human rights concerns.¹⁴¹ The Panel's primary focus on shortcomings in the implementation of the Bank's own criteria in the projects that it funds also limits the participation of outside actors to procedural rather than substantive issues and renders advocacy efforts to being " 'reactive' rather than 'proactive' to policy choices."¹⁴²

Rajagopal sees the Panel as diminishing in importance, both because World Bank financing for infrastructure projects is less important for developing countries that have access to private capital or other sovereign funds¹⁴³ and because the Panel "shot itself in the foot by not being activist enough [to] win a constituency outside of the Bank for its legitimacy." At the same time, the Panel was "not entirely pliable in the

137. *Id.* at 217.

138. *See id.* at 219.

139. *Id.* Clark sees a number of problems with putting the Bank's Board of Directors in charge of remedial measures—first, the Board "is overwhelmed with information and quickly loses focus on past cases;" second, it "does not have a standing committee to track the implementation of action plans or to evaluate the effectiveness of remedial measures in Inspection Panel cases;" third, it "largely accepts Management's word on the status of a project without independently verifying the facts on the ground or surveying the opinions of claimants." *Id.* at 220.

140. Mariarita Circi, *The World Bank Inspection Panel: Is It Really Effective?*, 6 GLOBAL JURIST ADVANCES 1, 15 (2006).

141. James Thuo Gathii, *Good Governance as a Counter Insurgency Agenda to Oppositional and Transformative Social Projects in International Law*, 5 BUFF. HUM. RTS. L. REV. 107, 166 (1999).

142. *Id.* at 167–68.

143. Rajagopal adds that Bank funding increasingly supports institution-building and rule of law projects. Rajagopal interview, *supra* note 54.

hands of Bank management thereby losing the Bank's support as well."¹⁴⁴

Other commentators, however, have responded with guarded enthusiasm to the Panel's effect, noting that the Panel "play[s] a significant role in bringing local concerns and complaints to the attention of decision makers at the bank"¹⁴⁵ but also adding that in 2003, only eleven out of twenty-eight claims¹⁴⁶ (twenty-eight out of thirty-seven claims as of January 2006¹⁴⁷) had resulted in positive change. Interestingly, commentators note that the Panel's record appears to be improving: from 2000–2005, the Board approved nine inspections of seventeen recorded requests, whereas from 1993–1999 it only authorized four of eighteen.¹⁴⁸ In 2005–06 the Panel registered four new claims and investigated five, while in 2006–07 the Panel registered six new claims, completed two, and undertook three new investigations.¹⁴⁹ In its fifteen years of operation, and at this writing, the Panel had processed fifty-two claims. Those that met with positive outcomes for claimants included the following results: compensation for claimants; mitigation of environmental impacts; release of project information; improvements in resettlement packages for affected people; cessation of evictions; and project suspension, cancellation or redesign.¹⁵⁰

In her June 2008 testimony before the U.S. House of Representatives Committee on Financial Services, Udall underscored the impact of the Bank's Inspection Panel on other International Financial Institutions (IFIs). Since the Panel's establishment, a number of other IFIs have followed suit and have each set up accountability mechanisms to address complaints from adversely affected individuals.¹⁵¹ Udall, speaking

144. *Id.*

145. Kay Treakle et al., *Lessons Learned*, in DEMANDING ACCOUNTABILITY, *supra* note 130, at 247, 267 (2004).

146. *Id.* at 258.

147. *See generally* Circi, *supra* note 140, at 16–26.

148. *Id.* at 11.

149. The Inspection Panel, ANNUAL REPORT, JULY 1, 2006–JUNE 30, 2007 13 (2007).

150. DEMANDING ACCOUNTABILITY, *supra* note 130, at 258–266. An internal Bank study also suggests that the Panel has had a deterrent effect; risky infrastructure projects have been forestalled early in the process because of the Panel's existence. WORLD BANK, INFRASTRUCTURE AT THE CROSSROADS: LESSONS FOR 20 YEARS OF WORLD BANK EXPERIENCE 68–71 (2006), *cited in* Regarding the World Bank Inspection Panel: Update and Recommendations for Reform in the Context of the Fifteenth Replenishment of the International Development Association, Before the H. Comm. on Fin. Servs., 110th Cong. 2, at 4 (2008) (statement of Lori L. Udall, Senior Advisor, Bank Info. Ctr.).

151. Udall, *supra* note 150, at 4. The Asian Development Bank, the Inter-American Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, and the International Monetary Fund have all created accountability

on behalf of a number of NGOs, also offered recommendations for strengthening the Panel process.¹⁵² The recommendations focused, *inter alia*, on: providing stakeholders greater access to the Panel process; involving them in the design of project remedies; and increasing the authority of the Panel to monitor project compliance with remedies and conduct post-inspection follow ups.¹⁵³

NBA Developments Post-Bank Withdrawal

Ironically, the Bank's withdrawal from the Sardor Saravor Project in 1993 reduced the accountability of the Indian government to the outside world. Consequently, while the NBA's actions may have made the Bank more accountable, its withdrawal was a mixed blessing for the NBA.¹⁵⁴ Three important developments occurred in the wake of the Bank's withdrawal. First, the withdrawal itself greatly reduced the international dimension of the Narmada struggle.¹⁵⁵ Second, the NBA decided to pursue an additional avenue for change—appeal to the Supreme Court of India. Third, the government's continued construction raised the stakes of the struggle for both sides—more and more villages faced submergence, and the government's commitment to the Narmada Project deepened as the project progressed, and continues to this day.¹⁵⁶

The NBA and the Supreme Court

The NBA approached the Supreme Court of India in May 1994 out of a sense of urgency and following significant internal discussion.¹⁵⁷ The decision of Sardar Sarovar Narmada Nigam Ltd (“SSNL,” the corporation responsible for the Sardar Sarovar dam) to close the sluice gates of the dam meant water was rising in the valley.¹⁵⁸ Rajagopal characterizes

mechanisms. The Inter-American Development Bank has proposed an Independent Investigation Mechanism that is still awaiting approval by the IDB Board. *Id.*

152. Udall testified on behalf of the Bank Information Center, the Center for International Environmental Law, the Environmental Defense Fund, the International Accountability Project, the National Wildlife Federation, Oxfam America, and the World Wildlife Fund. *Id.* at 1.

153. *Id.* at 7–13.

154. See Rajagopal, *supra* note 2, at 386.

155. See *id.* at 371.

156. The Sardar Sarovar Narmada Nigam Limited (SSNL) stated in June 2008 that the entire project will be completed by 2009–10. See *Narmada dam to be completed by 2010*, THE PENINSULA, June 4, 2008, available at http://www.thepeninsulaqatar.com/Display_news.asp?section=World_News&subsection=India&month=June2008&file=World_News200806057732.xml.

157. Rajagopal, *supra* note 2, at 368.

158. *Id.*

the NBA's overall legal strategy as "schizophrenic" and notes that "its decision to avoid the Court until its back was against the wall in 1994 did not help, as Gujarat created a *fait accompli* with regard to the dam construction and then was able to argue that [it would] be too costly to reverse."¹⁵⁹

Ultimately, the NBA's decision to petition the Supreme Court may have been inspired by the Court's activist record; it had liberally interpreted the Constitution to allow social action groups to bring claims. In *Maneka Gandhi v. India*, the Court broadly interpreted Article 21's guarantees of the right to life, the right to personal liberty, and the right not to be deprived of either of these rights except by procedure established by law.¹⁶⁰ Namely, the Court saw these rights as including the right to livelihood, potable drinking water, fresh air, health care, and clean environment.¹⁶¹ This laid the foundation for the NBA to seek a similarly broad interpretation.

The NBA's lawyers began to push three novel legal arguments—one, that the project was an unconstitutional taking; 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.¹⁶² The NBA's petition to the Supreme Court called for a comprehensive review of the Sardar Sarovar Project and for a court order to stop all construction and displacement until the review's completion.¹⁶³ Initially it seemed as if the Court might grant the petition—it admitted the petition despite constitutional barriers; it ordered the government to release a previously conducted expert review of the project (the review had confirmed the negative findings of the Bank's Independent Review); it issued a stay on further construction of the dam; and it conducted numerous hearings on the matter.¹⁶⁴

In December 1994, the Narmada Control Authority formally suspended riverbed construction of the dam. The suspension resulted from several actions: direct action in the valley; the actions of the new Chief Minister of Madhya Pradesh who petitioned to lower the height of the dam from 136.5 to 130.8 meters in order to save 30,000 people and 6,500 hectares of land from submergence; and the proceedings of the Supreme Court.¹⁶⁵ In May 1995 the Court issued a stay on further construction of

159. Rajagopal interview, *supra* note 54.

160. INDIA CONST. art. 21, § 1.

161. A.I.R. 1978 S.C. 597.

162. Writ Petition No. 319 of 1994, *Narmada Bachao Andolan v. Union of India*.

163. Rajagopal, *supra* note 2, at 368.

164. *Id.* at 369–70.

165. *Id.* at 369.

the dam.¹⁶⁶ But both the Narmada Control Authority and Supreme Court orders to suspend riverbed construction on the dam were disregarded on the ground. In late 1995, the NBA's march on Delhi resulted in a halting of the construction work. Direct action had succeeded where the Narmada Control Authority and Supreme Court orders did not.¹⁶⁷

The suspension of construction between 1995 and 1999 allowed the NBA to focus on protecting the environment rather than opposing its destruction, both nationally and internationally.¹⁶⁸ On the national front, the NBA helped establish the National Alliance of Peoples' Movements ("NAPM")—a collective of likeminded organizations striving against injustice, exploitation and discrimination on the basis of ethnicity, caste and gender.¹⁶⁹ Among its major campaigns, the NAPM scrutinized the activities of multinationals in India, led an anti-nuclear movement, formed the People's Political Front to challenge politics' criminal and communal culture, and campaigned against slum demolitions in Mumbai.¹⁷⁰

Internationally, the NBA participated in two conferences in 1997 on issues relating to dams—the first, in Brazil, was the first international conference against large-scale dams; the second, organized by the World Conservation Union and the World Bank, brought together various peoples' movements and non-governmental groups alongside bilaterals and companies that built dams.¹⁷¹ The latter led the Bank to found its World Commission on Dams ("WCD") in 1998, an oversight group made up of both civil society actors and dam builders.¹⁷² Medha Patkar was selected to be a Commissioner of this body.¹⁷³

166. Order of 5 May, 1995, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c9501.pdf>.

167. Rajagopal, *supra* note 2, at 369–70.

168. *Id.*, at 371. According to Rajagopal, the NBA did so with a view to “re-claim[ing]” the international aspects of the struggle which “[t]he World Bank’s pullout from the project in 1993 had effectively removed.” *Id.*

169. See generally National Alliance of Peoples' Movements, available at <http://www.proxsa.org/politics/napm.html>.

170. See *id.*; Praful Bidwai, *Crisis India–Pakistan: No Nukes for Peace*, THE TIMES OF INDIA (Aug. 9, 2007), available at <http://www.indianet.nl/indpk207.html>; Kalpana Sharma, *Medha Patkar Forms Political Front*, THE HINDU, Mar. 18, 2004, available at <http://www.hinduonnet.com/2004/03/18/stories/20040318.03371400.htm>; *Activists Protest Slum Demolition*, THE TIMES OF INDIA, Dec. 27, 2007, available at http://timesofindia.indiatimes.com/Cities/Activists_protest_slum_demolition/rssarticleshow/2654080.cms.

171. Rajagopal, *supra* note 2, at 371.

172. *Id.*

173. See World Commission on Dams, available at http://www.dams.org/docs/overview/wcd_overview.pdf. The WCD disbanded after it released its final report in 2000. *Id.*

After 1997, the Court's approach to the Narmada Project shifted dramatically. Instead of undertaking a comprehensive review of the entire project, the Court decided in February 1999 to vacate the stay on construction work on the Sardar Sarovar dam¹⁷⁴ and to limit itself to the question of resettlement and rehabilitation.¹⁷⁵ In April 1999, Booker Prize winning author and activist Arundhati Roy penned her oft-cited essay, *The Greater Common Good*, in which she criticized the Supreme Court's decision.¹⁷⁶ Her essay lyrically rejected the theory that large-scale dams were good for development:

Big Dams are to a Nation's 'Development' what Nuclear Bombs are to its Military Arsenal. They're both weapons of mass destruction. They're both weapons Governments use to control their own people. Both Twentieth Century emblems that mark a point in time when human intelligence has outstripped its own instinct for survival. They're both malignant indications of civilisation turning upon itself. They represent the severing of the link, not just the link—the *understanding*—between human beings and the planet they live on. They scramble the intelligence that connects eggs to hens, milk to cows, food to forests, water to rivers, air to life and the earth to human existence.¹⁷⁷

Roy scathingly critiqued the government's rationale for the dam—that it would reorient resources so as to deliver the benefits of economic development to rich and poor alike and was therefore worth the marginal human and environmental costs of its implementation. Conversely, Roy's reasoning typified the perspective that human rights trump all other considerations;¹⁷⁸ a perspective that refuses to regard displacement as legitimately out-balanced by the competing public interests furthered by the Sardar Sarovar Project. As Roy wrote, "[r]esettling 200,000 people in order to take (or pretend to take) drinking water to forty million—there's something very wrong with the scale of operations here. This is Fascist maths. It strangles stories. Bludgeons details. And manages to blind perfectly reasonable people with its spurious, shining vision."¹⁷⁹ But even as Roy was caricatured by dam supporters as "anti-development" for espousing this view, she continued pointing out that

174. *Narmada Bachao Andolan v. Union of India*, A.I.R. 2000 S.C. 3751.

175. *Id.*

176. ARUNDHATI ROY, *THE GREATER COMMON GOOD* (1999), available at <http://www.narmada.org/gcg/gcg.html>.

177. *Id.*

178. See Kingsbury & Lustig, *supra* note 6, at 410–11.

179. Roy, *supra* note 176.

the alleged economic benefits of the dam never materialized—rendering the “common good” reasoning essentially meaningless.¹⁸⁰

Roy’s public criticism and activism in opposition to the construction project and the Court’s orders ultimately may have backfired. In June 1999, the Supreme Court contemplated trying the NBA for contempt of court for its media advocacy tactics and direct political action, as well as Roy’s writings.¹⁸¹ The Court ultimately found Roy guilty of contempt, but imposed a symbolic punishment of imprisonment for one day and a fine of Rs. 2,000.¹⁸² The case may have helped to cement the Court’s image as immoderate towards its critics.¹⁸³

The Supreme Court’s final order in 2000¹⁸⁴ authorized the construction of the dam to proceed up to ninety meters and, in a dramatic move, stated that the completion of the construction of the dam was a matter of priority.¹⁸⁵ Among the reasons offered for the Court’s about-face, despite auspicious beginnings, are the Court’s change in membership¹⁸⁶ and the ensuing pro-development and anti-traditional point of view adopted by the new Court that “delegitimiz[ed] the human suffering” of local populations and supported the government’s version of the facts.¹⁸⁷

The NBA’s response to the Court’s decision decried what it saw as the Court’s “complete and unjustified faith in the Government’s machinery and assurances.” In particular, the NBA was critical of the judgment’s placement of oversight authority in the Narmada Control Authority—a body the NBA argued had already proven itself as overly protective of government power and the status quo. According to the

180. *Id.*

181. Rajagopal, *supra* note 2, at 372–73.

182. *See* In Re: Arundhati Roy, A.I.R. 2002 S.C. 1375, ¶ 76.

183. Rajagopal, *supra* note 2, at 383.

184. *Andolan v. Union of India*, A.I.R. 2000 S.C. 3751.

185. *Id.* at ¶ 57–58. In addition, it ordered the “monitor[ing] and review[ing] of resettlement and rehabilitation programmes *pari passu* with the raising of the dam height” and required clearance by “the Relief and Rehabilitation Sub-group and the Environmental Sub-group” of the Narmada Control Authority. *Id.* at ¶¶ 205, 280. It additionally ordered the states concerned to “comply with the decisions of the [Narmada Control Authority],” particularly relating to “the acquisition of land for the purpose of relief and rehabilitation,” and dictated that the Narmada Control Authority “will within four weeks . . . draw up an action plan in relation to further construction and the relief and rehabilitation to be undertaken.” *Id.* at ¶ 280. Finally, the Court declared that if the Review Committee of the Narmada Control Authority is unable to decide any issue, “the Committee may refer the same to the Prime Minister whose decision, in respect thereof, shall be final and binding on all concerned.” *Id.* According to Rajagopal, this “seal of approval for the project [by the nation’s highest adjudicative tribunal], as well as [the Court’s] criticisms of the NBA, dealt major blows to the NBA’s legitimacy and moral capital.” Rajagopal, *supra* note 2, at 374.

186. Rajagopal, *supra* note 2, at 374.

187. *Id.* at 375.

NBA, the Court's ruling was yet another example of the government's fetish with large dams.¹⁸⁸

But the NBA did not give up on legal action altogether. When the Narmada Control Authority raised the maximum height of the Sardar Sarovar dam to ninety-five meters in 2002, the NBA filed a new petition, claiming that resettlement and rehabilitation on the ground was not in fact proceeding alongside dam construction.¹⁸⁹ The Court dismissed the petition, claiming that any person with a grievance must first address the independent Grievance Redressal Authority—an administrative body with enforcement powers that was set up in each of the affected states—and only after failing there could they access the Court.¹⁹⁰

In 2005, the Court consented to hear two interlocutory applications in the NBA's petition after twenty-seven villagers affected by submergence received a favorable judgment from the Grievance Redressal Authority of Madhya Pradesh that the state rebuffed.¹⁹¹ In directing Madhya Pradesh to procure and allot suitable land to the applicants as soon as possible, the Court emphasized two principles governing the dam's construction: first, that the "complete resettlement and rehabilitation of oustees was a condition precedent for submergence" and second, that "relief and rehabilitation measures must be undertaken as and when the height of the dam is further raised."¹⁹²

In 2006, the Court once again issued a judgment concerning the decision to raise the height of the Sardar Sarovar dam. The Court stressed that "all relief and rehabilitation measures have to be provided to the oustees in letter and spirit of the [Narmada Tribunal] Award and decisions of this Court,"¹⁹³ told the state governments to respond to allegations of failure of resettlement and rehabilitation, and gave the NBA time to file a rejoinder.¹⁹⁴ Meanwhile, the federal government

188. See Friends of River Narmada, The Order of the Supreme Court in the Narmada Case: Highlights, Comments, and Analysis, available at <http://www.narmada.org/sardar-sarovar/sc.ruling/nba.comments.html>.

189. See International Law Research Center, *Order of the Grievance Redressal Authority, Madhya Pradesh*, at ¶ 6, available at <http://www.ielrc.org/content/c0409.pdf> (saying the NBA filed petition because it was "[a]ggrieved" by Narmada Control Authority's decision to raise height of dam); Order of 9 September 2002, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c0202.pdf> (noting NBA's "content[ion] that land for land has not been given.").

190. Order of 9 September 2002, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c0202.pdf>.

191. *Narmada Bachao Andolan v. Union of India*, 4 S.C.C. 32, 3-4 (2005).

192. *Id.* at 12-13.

193. Order of 17 April 2006, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c0604.pdf>.

194. *Id.*

constituted the Sardar Sarovar Project Relief & Rehabilitation Oversight Group “to report on the status of rehabilitation in the State of Madhya Pradesh of the Project Affected Families . . . to the Prime Minister through the Minister of Water Resources” by the end of June.¹⁹⁵ As a result, the Court refused to stop the height of the dam from being raised.¹⁹⁶

Reflecting its decision in 2000 to leave ultimate authority regarding the Narmada Project in the hands of political actors, the Court directed the Prime Minister, once in receipt of the Oversight Group report, to make a decision by July 6, 2006.¹⁹⁷ The Court’s July 10 order accepted the Prime Minister’s conclusion that since shortcomings in the relief and rehabilitation work could be remedied during the monsoon season, when construction on the dam would have to be stopped, “it would not be appropriate . . . to pass any direction or orders at this stage stopping the construction of the dam which is designed to serve [*sic*] larger public interest.”¹⁹⁸ The Court permitted the NBA and the government to file responses to the report and set a hearing for September.¹⁹⁹ The hearing ended up taking place on October 16, with the NBA arguing: first, that resettlement and rehabilitation had not in fact been completed during the monsoon season; and second, that there had been no monitoring of the rehabilitation group by the R & R Sub-group of the Narmada Control Authority.²⁰⁰ The NBA pointed out that the land in the land bank was uncultivable and non-irrigable and that thousands of project-affected families had yet to be rehabilitated.²⁰¹ The Court directed the federal and state governments to file responses and listed the matter for December 2006.²⁰²

On March 10, 2008, the Supreme Court finally heard the Sardar Sarovar case.²⁰³ Counsel on behalf of the farmers alleged that the Madhya Pradesh government’s policy of paying cash and creating fake

195. Order of 8 May 2006, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c0606.pdf>.

196. *Id.*

197. *Id.*

198. Order of 10 July 2006, *Narmada Bachao Andolan v. Union of India*, available at <http://www.ielrc.org/content/c0609.pdf>.

199. *Id.*

200. Narmada Bachao Andolan, Press Release, No Compliance on Rehabilitation; Dam Remains Stalled (Oct. 16, 2006), available at <http://www.narmada.org/nba-press-releases/october-2006/16Oct.html>.

201. *Id.*

202. *Id.*

203. See Narmada Bachao Andolan, Press Release, Supreme Court Hears the Sardar Sarovar Case (Mar. 10, 2008), available at <http://www.narmada.org/nba-press-releases/march-2008/March10.html>.

land registries was in violation of the Narmada Tribunal Award's directives and the constitutional right to life under Article 21.²⁰⁴ The Court directed the Madhya Pradesh government to file an affidavit response to the Narmada Control Authority's suggestions on relief compliance and allotted both parties eight weeks to file written arguments.²⁰⁵ At this writing, the government had yet to submit its counter-affidavit in what appears to be an effort to buy time.²⁰⁶ The NBA, for its part, continues to actively protest the Sardar Sarovar Project as well as other dams.

The Sardar Sarovar Project Today

Construction of the Sardar Sarovar dam proceeded uninterrupted after the suspension on construction was lifted in 1999.²⁰⁷ On December 31, 2006 Gujarat Chief Minister Narendra Modi announced the completion of the Sardar Sarovar dam and symbolically poured the last bucket of concrete. Construction was halted at 121.92 meters and experts associated with the project announced they would install only thirty gates of fifty feet [15.24 m] each within three years.²⁰⁸ As noted above, according to unofficial estimates, approximately 320,000 people have been displaced by the Sardar Sarovar dam and as many as one million may be affected due to related displacements by the canal system and other allied projects.²⁰⁹

The NBA has continued to engage in various forms of direct action even as it pursued its legal remedies. While the case stagnated in the Court system, NBA activists organized and participated in public meetings, rallies, marches, demonstrations, fasts, *dharnas*, and *satyagrahas*. These activities have had three overlapping aims: first, to call for rehabilitation work to take place at the same time as the raising of the dam as ordered by the Supreme Court; second, to demand the termination of the project altogether; and third, to protest the series of Supreme Court orders declining to suspend construction.²¹⁰ The struggle of the NBA has also fired the imagination of some of India's most

204. *Id.*

205. Order of March, 10, 2008, *Narmada Bachao Andolan v. Union of India and Ors.*

206. Email interview with Medha Patkar's representative (June 29, 2008).

207. Rajagopal, *supra* note 2, at 370.

208. See Work on Narmada Dam Complete, *THE TIMES OF INDIA* (Jan. 1, 2007), available at <http://timesofindia.indiatimes.com/articleshow/1002183.cms>.

209. The Sardar Sarovar Dam: A Brief Introduction, available at <http://www.narmada.org/sardarsarovar.html>.

210. See generally Narmada Bachao Andolan Press Releases, available at <http://www.narmada.org/nba-press-releases/>.

prominent citizens who have, along the way, acted as interlocutors for the movement.²¹¹

As for the movement's leaders, each won countless human rights awards in recognition of their contributions.²¹² In 2000, Amte returned to his community development project at Anandwan (Forest of Bliss) near Nagpur in Maharashtra,²¹³ where he passed away in February 2008 at the age of ninety-four. Upon his death, the Dalai Lama lamented, "[h]is demise is a great loss to all of us. I am an admirer of Baba Amte. . . . [H]is [compassion] shone through everything he did, including his work for creating greater awareness about the protection of our environment."²¹⁴ Patkar continues to protest against the Narmada Project.²¹⁵ While she has abandoned efforts to pressure the government to forsake the dam, she continues to fight for the rights of displaced persons in Madhya Pradesh to receive the compensation that the Narmada Tribunal determined they were owed.

Conclusion

According to one NBA partner, the campaign against the construction of dams on the Narmada River is "symbolic of a global struggle for social and environmental justice," while the NBA itself is a "symbol of hope for people's movements all over the world that are fighting for just, equitable, and participatory development."²¹⁶ Though the NBA has yet to achieve the goals for which it has so tirelessly fought, its victories in the face of seemingly insurmountable odds have earned it the reputation of

211. In April 2006, for instance, Bollywood leading man Aamir Khan, accompanied by other members of the film industry, sat with NBA protesters during their hunger strike in Delhi to demand that the height of the dam not be raised, and offered to discuss his concerns about the lack of rehabilitation of those displaced directly with the Prime Minister. Aamir lends support to Narmada campaign, *available at* <http://in.reidiff.com/cms/print.jsp?docpath=/news/2006/apr/14nba.htm>. *See also* text accompanying *supra* notes 176–183 for the activism of Arundhati Roy.

212. In 1991, Patkar and Amte received the Right Livelihood Award for their work with the NBA. *See* Right Livelihood Award Laureates, Medha Patkar and Baba Amte/Narmada Bachao Andolan (India) (1999), *available at* <http://www.rightlivelihood.org/recipient/narmada.htm>. Amongst other awards, Baba Amte also received the Templeton Prize for Religion in 1990 and the Gandhi Peace Prize in 1999. Patkar, amongst other honors, received the Human Rights Defender's Award from Amnesty International as well as the Goldman Environmental Prize.

213. Neeta Deshpande, *A Life of Conviction*, India Together (Oct. 24, 2006), *available at* <http://www.indiatogether.org/2006/oct/rvw-babaamte.htm>.

214. His Holiness the Dalai Lama mourns the demise of Baba Amte, TibetNet (Feb. 11, 2008), *available at* <http://www.phayul.com/news/article.aspx?id=19218&article=His+Holiness+the+Dalai+Lama+mourns+the+demise+of+Baba+Amte>.

215. *See, e.g.*, Narmada Bachao Andolan Press Release, Medha Patkar and Others Arrested While Seeking Appointment with UPA Chairperson Sonia Gandhi (June 19, 2006), *available at* <http://www.narmada.org/nba-press-releases/june-2006/June19.html>.

216. Friends of River Narmada, *available at* <http://www.narmada.org/about-us.html>.

being one of the most dynamic social movements of our time and one that the government continues to expend considerable resources to fight against. As noted by Medha Patkar upon her release from jail on August 6, 2007: “It’s obvious that the Government [of Madhya Pradesh] is all out to kill our right to land and also [our] right to agitate.”²¹⁷

According to Rangarajan, “the NBA put the issues of displacement on the agenda in India and at the global level.” Specifically, it forced consideration of the ecological viability and social impacts of large-scale projects. Rangarajan adds that while “there is little doubt that the NBA failed in its immediate objectives and the Sardar Sarovar dam got built, and built bigger” the movement “has left a strong legacy” which is evident in the manner in which issues initially raised by the NBA have surfaced in other anti-dam struggles.²¹⁸ Rajagopal agrees, noting that the NBA’s greatest domestic achievement was to “put the costs of the development agenda under the microscope” in a manner that “will continue to have a major impact on public culture.”²¹⁹

Ultimately, the Sardar Sarovar dam is symbolic of a larger struggle over the discourse of human rights and development in India. Even now, history repeats itself as the Indian government establishes “Special Economic Zones”—tax-free trade zones designed to attract foreign investment. While the Indian government argues that these zones will create jobs for India’s millions of unemployed, thousands of farmers whose land is being “acquired” for the purpose of developing the zones have risen up in protest.²²⁰ They challenge the assumption that they stand to directly benefit from the projects, and more fundamentally, that such human cost is a *sine qua non* of economic development. In the face of the resurgent rationale that the supposed “benefits” of the zones outweigh the costs of displacement,²²¹ the groundwork laid by movements such as the NBA has created an uncontestable space for the voices of India’s faceless and nameless displaced—voices that will continue to influence the course of India’s paramount task of achieving equitable development alongside economic growth.

217. Press Release, Fast by Medha Patkar Ends on Release from Jail: The Dharna Continues in Badwani for the 6th day (Aug. 5, 2007), available at <http://www.narmada.org/nba-press-releases/august-2007/Aug05.html>.

218. Rangarajan interview, *supra* note 68.

219. Rajagopal interview, *supra* note 54.

220. Sanjay Sangvai et al., *Farmers Rally Against Special Economic Zones*, THE SOUTH ASIAN (Oct. 1, 2006), available at http://www.thesouthasian.org/archives/2006/farmers_rally_against_special.html.

221. Karishma Vaswani, *Anger over India’s Special Economic Zones*, BBC NEWS (Oct. 18, 2006), available at <http://news.bbc.co.uk/2/hi/business/6054754.stm>.

In addition to ensuring greater transparency and accountability in World Bank projects, the NBA has contributed to an awareness of the need to approach environmental and human rights issues in tandem—a lesson long known to Indian activists and one that is increasingly apparent to actors on the international scene who urgently battle environmental degradation and its acute impact on marginalized populations.

*

