4.1 Introduction

In this chapter, an attempt is made to explore the happenings during the political process of placement following displacement. This may enable a better understanding of legitimation and delegitimation processes. The four major tangible factors that feed the dispute between the Gujarat government and NBA are the following: displacement without the promised rehabilitation, environmental destruction without amelioration, skewed economic benefit sharing and subdued projection of losses incurred and the possibility to achieve the goals with better socio-political and technological alternatives. The legitimizing and delegitimizing arguments primarily revolved around these factors.

For the purpose of this study we shall now focus on the most disputed realm, that of Placement (Read: Rehabilitation) following Displacement. We shall discuss the issues that emerged while resettling the affected households in the Resettlement sites. The discussion will centre on the key disputes in placement including non-compliance of land based rehabilitation and cash compensation, especially in the State of Madhya Pradesh.

4.2 Placement in Perspective

In an independent study conducted and reported by Fernandes and Paranjpye, 1977 (Sangvai, 2002:33) the total number of individuals displaced in India due to large dams from 1950 to 1990 is 164 lakhs, out of which only 41 lakhs (25%) is resettled. Among them, the number of tribals is 63.21 lakhs (38.54%) but among the displaced tribals, those who are resettled are merely 15.81 lakhs (25% of the total tribals displaced). Arundhati Roy refers that, in India, out of the total displaced people, more than 60% are tribals while tribals constitute only 8% of the total Indian population. (Roy, 1999a) In another study conducted by Nalin Negi and Sujata Ganguly for the University of Bielefeld, Germany (2011) around 50
million people have been displaced in India due to development projects in over 50 years. Of these, dams, mines, industrial development and others account for over 21 million development-induced IDP (Salve, 2014). See Table 4.1 below.

Table 4.1
Displaced Populations in India

<table>
<thead>
<tr>
<th>Category</th>
<th>Nos in Million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dams</td>
<td>16.4</td>
</tr>
<tr>
<td>Mines</td>
<td>2.55</td>
</tr>
<tr>
<td>Industrial development</td>
<td>1.25</td>
</tr>
<tr>
<td>Wildlife &amp; sanctuaries</td>
<td>0.6</td>
</tr>
<tr>
<td>Others</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>21.3</strong></td>
</tr>
</tbody>
</table>

Source: Salve, 2014

Development induced displacement is a phenomenon that has been thoroughly discussed in academic circles. The process of displacement and the legal and ethical imperatives demanding placement of the affected households can be thought of as discursive and non-discursive practices that have many facets. As seen in the previous chapter, the inter-State dispute between the riparian States which continued throughout the 1960s and 1970s resulted in a legal document known as NWDTA that clearly spelt out the path to be trodden from then on. It was an unprecedented path to be attempted by the governments. On the other hand,

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1 Internally Displaced People
the process of implementing the NWDTA from 1979 till date provides many insights into the possibilities and limitations of human induced displacement and human efforts at compensating the losses incurred.

The efforts of the State governments, resistance by NBA, the SC intervention and the political party interceptions together bring forth a complex process that needs an altogether different language to narrate what is happening. To begin with, let us see some actual scenarios that happen in the process of implementing or not implementing the legal imperatives.

4.3 The Tribunal’s Directives regarding Rehabilitation

The NWDTA (1979) gave clear stipulations regarding the rules, regulations and requirements by which rehabilitation of the PAFs needs to be carried out. It is to be noted that, in India, prior to the SSP, Resettlement of the development project displaced was treated on an individual basis or at the level of households. No measures were taken towards ‘community’ rehabilitation of an entire village. Cash Compensation for land was given to the oustees according to the Land Acquisition Act (LAA), 1894.3

With the SSP, there came an opportunity to work out a detailed rehabilitation plan that will ensure better living conditions in relation to what they had earlier and better hopes for the younger generations of displaced families. Merely providing compensation for the land was not sufficient for the resettlement of adivasi communities since they were not properly equipped with the means and the know-how of dealing with changed social, economic and cultural milieu. Rehabilitation called for careful participatory planning as tribal development formed an integral part of the issues that the Project was faced with.

The NWDTA has a number of landmark features as far as the directives for resettlement and rehabilitation is concerned. It must be acknowledged that these directives of the NWDTA about the entitlements and linkages reflected its keen

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2 This section is based on information and details taken from NBA (2000)
3 For 66 years after political independence, Government of India followed the Land Acquisition Act 1894 created by the British Colonial government to acquire land. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 finally replaced it.
concern for, and, clarity about how livelihoods must be restored to the affected people. It tried to ensure that they may not be displaced without sufficient support to build their lives elsewhere. One may infer from these directives that people’s right to life, livelihood and dignity are constitutionally mandated and it cannot be taken away from them for the sake of development projects.

The NWDT Award has made significant improvements over the practices existed till then which is evident from the following directives.

Regarding entitlements the Tribunal ruled that

- Land-for-land as the basis of the rehabilitation, as against mere cash compensation under the Land Acquisition Act [NWDTA XI IV (7)]
- Right to be rehabilitated on irrigable lands in the command or irrigable lands in their own states with irrigation provided at the cost of the government [NWDTA XI IV (2)(iv)]
- Affected PAFs can choose between Gujarat and their home states with regards R&R. [NWDTA XI IV (2) (I)]
- Villages must be relocated as a community and asked for the setting up of “rehabilitation villages” along with all the amenities necessary for a village [NWDTA XI IV (1) & IV (2)(iv)]
- Provision for rehabilitation must be well in advance of project construction, in fact it said that within two years of the Tribunal Award (by 1981), lands required for those to be affected below FRL 350 ft must be acquired and be made available according to the choice of the oustees [NWDTA XI IV (2) (i)]
- Master plan of resettlement be ready in the early stages of the project (even though the words master plan were not used), including identification of the land, setting up of “rehabilitation villages” etc. within 2-3 yrs since declaration of the Award i.e. by 1981-82 (NBA, 2001)

The Award allowed for the choice of resettlement to the displaced families among the States of MP, Gujarat and Maharashtra. MP government was not committed to land based rehabilitation. Government figures shows that out of the officially claimed number of 52,013 (refer F.N.11) total reservoir-affected families, only 11049 (21.24%) have signed documents for resettlement in Gujarat so far (see Table 4.3, Sec. 4.4.3). This indicates that almost 72.55% of the PAFs await land-based rehabilitation (mostly MP PAFs) according to NWDT stipulations since Gujarat and Maharashtra covers only approximately 27.44% of the total number of PAFs affected by reservoir.
To continue with how NWDT at least provided better provisions, we may now see the linkages between submergence, displacement and rehabilitation. The NWDTA ruled that

1. Irrigable lands must be made available for the rehabilitation one year in advance [NWDTA XI IV (2)(iv)]
2. It stipulates that “in no event should any areas of M.P. and Maharashtra be submerged unless all arrangements are made for the rehabilitation of the oustees and intimated to them” [NWDTA XI IV (6)(ii)]
3. In Writ Petition No. 1201 of 1990 B.D.Sharma vs. Union of India and Ors., the Supreme Court has ruled that rehabilitation has to be completed six months prior to submergence in all respects (NBA, 2001)

The purpose of making agricultural lands one year prior to submergence was that the displaced families could go and cultivate these lands while still living in the valley. This would help them to get accustomed to the local requirements in the new place and also food provisions will be available even as they move to the new sites. This was to enable a smooth transition. But since sub minor and field channel works are not completed even now, the legitimacy of rehabilitation in command area stands nullified to a great extend. Field visits during monsoons in the reservoir affected regions showed that even in 2013, repeated submergence of lands belonging to those who are not yet resettled happen. This may be because either they are considered as ‘encroachers’ or as mentioned earlier, they are already resettled on paper, but stills lives in the original villages.

4.3.1 Circumventing NWDTA Stipulations

According to NWDTA, the SSP required a Master Plan for Rehabilitation in all the three States of Madhya Pradesh, Maharashtra and Gujarat. Till date such a Master Plan is not prepared although it was required to be ready by 1981. The Ministry of Environment and Forests in their conditional clearance of the project in 1987 and the Five Member Group (FMG) in their reports in 1994-1995 pointed this out. The so-called plan\textsuperscript{5} prepared by the authorities in 1989 is no master plan for

\textsuperscript{4} Only 35\% of the Total network of SSP Canal System is built even after 36 years since its inception in 1979. 65\% of canals, mostly sub-minor and field channels, government claims, may be completed by 2015 (PTI, 2015)

\textsuperscript{5} Refer FN 26, Chapter Three
many reasons. First of all, it has no mention of the total number of families affected by the Sardar Sarovar Project. There are two issues here. As discussed earlier, one is that the total number of reservoir affected kept rising every year. The other is that the project will affect thousands of households due to dam colony, canal network, Shoolpaneshwar sanctuary, compensatory afforestation, catchment area treatment and downstream fisher people who are not recognized as project affected. Their issues will be discussed in section 4.5 of this chapter.

One of the means deployed by the Gujarat government to claim ‘legitimacy’ while by-passing NWDT stipulations, was through issuing government resolutions (GRs). Two GRs were passed, which to a great extent, softened the NWDT stipulations regarding community rehabilitation and that of providing irrigable land. The First GR altered the NWDTA stipulation that when relocated, the entire village should be placed together. Government decided that this was not practical as huge chunks of cultivable lands cannot be made available at one place. Since each community and family gets affected differently as the height of the dam rises, their relocation takes place at different times. For example, a village like Manibeli has several hamlets. Some households in a few hamlets got submerged or affected at the dam height of 80 meters. So before submergence happens in the monsoon due to flood waters, those households have to be relocated as per NWDT stipulations. But some other households in the same hamlet remain there who were at a higher plane where they will be affected only when the dam reaches 121 meters. Those families, who were related to those who were shifted at 80 meters, may have to go to another vasavat since there was no master plan to envisage reserve plots and lands in the first vasavat for those who came later. Due to this complication and due to lack of availability of one big site per village, community resettlement plan was abandoned and households were resettled where it was bureaucratically convenient. It is interesting to look at the language that

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6 The Government of Gujarat issued two Government Resolutions between 1995 and 2000, in order to overcome the problem of implementing Community-based Rehabilitation and rejection of non-cultivable lands by PAFs. Through these resolutions, government legitimized the dispersed resettlement of villages and made the poor quality lands legitimate with a certificate from the Agricultural university.
government uses to reclaim the legitimacy of rehabilitation even though community rehabilitation was abandoned.

Considerable rehabilitation has already taken place in a successful manner for communities from MP, Maharashtra and Gujarat. Communities from each of the three states have, by and large, been given their own new independent sites (vasavats), so that people from the same submerged village have the option of resettling collectively.

After concerted efforts to resettle communities, SSPA reflected on the progress that has been made, and has now devised a multi-pronged approach to make the resettled communities self-sufficient and self-reliant. The new interventions were considered after detailed studies of reports, the ground reality, and success in the already existing initiatives of a similar kind. (SSPA, 2006)

The ways in which Gujarat government sustains the legitimacy of the Rehabilitation process for justifying damming and development is a theme that will keep recurring in our discussion.

Coming back, the second GR states that if the Agricultural University certifies that a plot of land is suitable for cultivation, then such petitions that raises complaints against unsuitable lands should be verified and closed, irrespective of whether the PAFs agree or not. In reality, what happened was that the certificates of the Agricultural university claims each land as productive, but with the disclaimer that necessary inputs in terms of land improvement and use of fertilizers and pesticides should be provided. This violates the NWDTA in letter and spirit as it stipulates that the PAFs should be given cultivable lands with irrigation facility so that the cost of production is kept at an affordable level. Through such measured GRs, the government was able to ‘manage’ the complaints and shy off its responsibility of providing cultivable lands, while raising the dam height to 400 feet (121.92 meters), showing that they have provided ‘suitable’ lands, certified by the Agricultural University.7

The field observations and feedbacks from resettled PAFs narrate the claims of excellent rehabilitation in a different light. As mentioned earlier, there are certain specific amenities promised to be provided for the PAFs who have

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7 Primary evidence of land related issues gathered during the pre-doctoral field studies conducted in Gujarat resettlement sites during 2002 October to 2005 September is given as Annexure 4. The data provided was gathered and submitted to GRA Gujarat at the Ahmedabad Office during February 2004.
come to Gujarat. In *vasavats*, where irrigation channels and good lands are available, people are better off. But in the *vasavats* where these are not available, the situation is not encouraging. Those who were relatively socially powerful received the Promised Land and amenities, but those who were not did not get what was promised.

### 4.4 Displacement in Perspective

Since the beginning of the project, one would expect an estimate of the number of PAFs that is closer to field realities, acknowledgement and granting of their traditional and customary rights, submergence impact on their properties and based on all these, comprehensive assessment of agricultural land required complete rehabilitation. This having been done would have, led to the ‘Master Plan on Resettlement and Rehabilitation’, mentioned earlier. This was exactly what was stipulated by the NWDTA. Such a plan was expected to be completed by 1981 to ascertain who wanted to choose one’s own State for land based rehabilitation and who wanted to go to Gujarat for resettlement. It was the responsibility of Gujarat to rehabilitate the displaced from MP and Maharashtra and the PAFs of MP and Maharashtra technically had the choice of whether to be resettled in one’s own State or Gujarat. But MP and Maharashtra encouraged their PAFs to accept resettlement in Gujarat since they did not offer land based rehabilitation in their own States. Therefore the notion of choice turned out to be hollow. Since Gujarat wanted the dam, they were keen to finish off with the issue. As we shall see later, it is intense struggle and questioning that finally led Maharashtra and Madhya Pradesh taking up some initiatives towards fulfilling their responsibilities. If the legitimacy of the development model represented by the dam was not questioned, it is left to our imagination as to what would have happened to the displaced communities. It is also true that too much is not left for imagination as there is a history of displacement without rehabilitation in this country.

As mentioned earlier, in the case of SSP, there are primarily two categories of displaced. The reservoir affected PAFs are eligible for land based rehabilitation i.e. the NWDTA has recognized only the reservoir affected. The villages affected by dam appurtenant works and ancillary projects are not recognized in the same
way. This study addresses such disparities to see how far these factors have influenced the legitimacy of the claims of rehabilitation that is contested by those who resist the process of compulsory displacement. For the purpose of method, we may first address the issue of recognized PAFs.

4.4.1 The Project Reservoir Affected Families – Numerical Contest

Out of the 244 Sardar Sarovar Dam reservoir affected villages, 192 villages are in Madhya Pradesh, 33 in Maharashtra and 19 in Gujarat. (SSCAC, 2015 March (Updated)) Out of these, three villages submerge permanently in Gujarat and one in MP. The other villages are partially affected i.e. only certain hamlets, houses or agricultural lands come under permanent submergence. There are also regions that submerge during monsoon floods or ones in a hundred years flood\(^8\). The houses or agricultural lands of more than 52013 families\(^9\) may be affected (when the dam reaches full height) due to complete or partial submergence, depending on the rainfall and release of water from the upstream dams. Given an average of five members per family, the total number of people affected by SSP reservoir alone will come to 2, 60,070.

4.4.2 History of Underestimation – Question of Credibility

It is important to note that even the NWDTA substantially underestimated the total number of affected people. In 1979, they estimated the total reservoir affected households in all the three States to be 6147. To quote Sanjay Sangvai

The NWDT gave the number as 6147 families (39,700 people), Gujarat and the Planning Commission documents claimed 6700 families; the World Bank’s 1987 mission placed the total at 12,000 families, and later at 27,000. By 1994, the governments estimated that at least 41,500 families from 245 villages would be affected by the reservoir alone, as per

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\(^8\) Once in a Hundred years flood is the flood that may occur during the maximum rainfall year within a period of hundred years. This is one of the criteria to assess submergence areas of dam reservoirs.

\(^9\) As already mentioned, there are serious disputes regarding the actual number of PAFs. The figure of 52014 is arrived after totalling the figures of Madhya Pradesh 43021, Maharashtra 4227 and Gujarat 4765 (NCA) which comes to 52013. (While stating that there are ‘43021 PAFs are in Madhya Pradesh alone’, NCA website also shows a reduced figure of 39369 in the same page. The Sardar Sarovar Construction Advisory Committee website gives a much reduced figure of 37757 for MP PAFs (SSCAC, 2015 March (Updated)) – These numbers may change after inclusion of PAFs to be declared by GRA/State Government including impact of backwater level. This may mean that the number of PAFs is bound to increase which means even now there is no legitimate figures of the total number of PAFs. This study considers the figure of 52013 as the total number of PAFs.

This disparity in data continues even now. The number of those who have a right to land based resettlement and also, those who deserve resettlement kept changing. For example, the latest data provided by government shows a reduced number of PAFs for MP submergence villages.

In table 4.2, the total number of MP PAFs is given as 37757. Hence the total number of PAFs has come down from 52013 to 46749. There is a reduction of 5264 PAFs i.e. 10.12%.

Table 4.2

<table>
<thead>
<tr>
<th>State</th>
<th>Total PAFs</th>
<th>PAFs resettled so far in</th>
<th>Total</th>
<th>Balance PAFs to be resettled</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Gujarati</td>
<td>Maharastrha</td>
<td>M.P.</td>
</tr>
<tr>
<td>Gujarat</td>
<td>4765</td>
<td>4765</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>4227</td>
<td>748</td>
<td>3228</td>
<td>0</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>37757</td>
<td>5524</td>
<td>0</td>
<td>32233</td>
</tr>
<tr>
<td>Total</td>
<td>46749</td>
<td>11037</td>
<td>3228</td>
<td>32233</td>
</tr>
</tbody>
</table>

Source: Sardar Sarovar Construction Advisory Committee (SSCAC)

As mentioned earlier, this study goes by the ‘estimate’ of 52013 PAFs as per the data given on NCA website (refer F.N.9). It is understandable that the data provided by NWDT in 1979 have limitations of accuracy due to lack of proper information supplied by the governments. But the fact that even now no one is certain about the actual numbers and underestimations and uncertainties about the numerical extent of PAFs raises serious issues.

Note that the figures of Madhya Pradesh PAFs given in this table are contradictory to the NCA website figures. So for the total number of PAFs in MP, this study followed the NCA website. Hence the total PAFs is taken as 52013 and not 46749. Refer FN 9. Also note that the figures of PAFs resettled in MP shown in the table includes those who have been given cash compensation and those who have been given ex-parte (without their consent) allotment of land and not land based compensation as per NWDTA stipulations.

NBA currently puts the total SSP reservoir affected families as high as 80,000 PAFs.
Legitimate questions are raised as to why the required surveys are still not completed? Who is benefitting from the failure of assessing the full magnitude of the displacement? Government’s claim of completed resettlement of affected people at each height of the dam thus stands delegitimized since what was put forward as legitimate numbers are changing in the light of fresh data. The disclaimer given below, taken from the NCA website is an evidence to show that even the NCA is not sure about the validity of the data that is provided by the State governments.

DATA AND INFORMATION REGARDING RESETTLEMENT OF PROJECT AFFECTED FAMILIES (PAFs) CONCERNING SARDAR SAROVAR PROJECT (SSP) ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY, AND ARE NOT INTENDED FOR ANY OTHER PURPOSE. NEITHER GOVERNMENT OF INDIA/STATE GOVERNMENTS NOR ANY OF THE DATA OR CONTENT PROVIDERS SHALL BE LIABLE FOR ANY ERRORS OR DELAYS IN THE CONTENT, OR FOR ANY ACTIONS TAKEN IN RELIANCE THEREON. BY ACCESSING THIS SITE, A USER AGREES NOT TO REDISTRIBUTE THE INFORMATION FOUND THEREIN. GOVERNMENT OF INDIA/STATE GOVERNMENTS SHALL NOT BE LIABLE FOR ANY DAMAGES OR COSTS OF ANY TYPE ARISING OUT OF OR IN ANY WAY CONNECTED WITH USE OF THE INFORMATION OR ANY LOSS TO ANY PERSON CAUSED BY ANY SHORTCOMING, DEFECT OR INACCURACY IN THE INFORMATION AVAILABLE ON WEBSITE (NCA)

Such disclaimers appear as notes/clarifications in almost all the Tables provided by NCA. The above mentioned disclaimer is like an advanced bail that enables the government from being caught in violating right to information.

Hence statistical devices seem an easy way out to create a false sense of objectivity and legitimacy. NBA challenges all these data and comes out with delegitimizing questions. This is exactly what NBA is doing, by following the government on all procedures and challenging its legitimacy so that the procedures may become more accurate and people friendly.

4.4.3 Legitimating Statistics – ‘Technical’ Rehabilitation

The following section shows the function of statistics as a factor of legitimation. As already mentioned, out of 52,013 officially recognized households (Ref. F.N.10) affected by the reservoir, only 11049 (21.24%) are so far resettled in Gujarat (SSPA, 2014).
Table 4.3
Summary Progress Report of R&R Activities in Gujarat

<table>
<thead>
<tr>
<th>SARDAR SAROVAR PUNARVASVAT AGENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status Report concerning PAFs of Gujarat / Maharashtra / Madhya Pradesh Resettled in Gujarat, Upto Dam Height EL 138.68 m (FRL)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>As on: December / 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sr No</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Source (SSPA, 2014)

The Gujarat government claims that they had resettled 4765 Gujarat PAFs spread over 110 resettlement sites (Vasavats) in Gujarat. 748 out of 4227 (17.70%) Maharashtra PAFs in 18 vasavats and 5536 out of 43021 (12.87%) MP PAFs in 108 vasavats are also so far resettled in Gujarat. This shows that, even according to official documents, only 21.24% of the total reservoir affected PAFs are so far ‘technically’ resettled in Gujarat i.e. on paper.

NBA alleges that even this resettlement was partially carried out through coercion and deceptive means as the resettled were illiterate adivasis who had no other option but to give their thumb impressions on the agreement papers. The field visits showed that many families who are ‘technically resettled’ had not moved out of the valley to the resettlement sites. This fact has also been reported by many people’s tribunals and public hearings which were held in the valley. For example, during a field visit conducted in April 2004 in one of the MP vasavat in Gujarat named Mota Habipura, Dhaboi Taluka, Vadodara District, the vasavat is supposed to have 24 families resettled there. Though 24 houses have been built by the SSPA, we could find only four families living there, the rest of the houses

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12 See Table 4.7
13 Refer FN 9
14 The Indian People Tribunal Public Hearing Reports (Patil, 1993, IPT,1999, IPT,2010), the TISS Reports (TISS, 1993, TISS, 2008) and more materials are available. See reference.
were not occupied. But technically, in the government records and affidavits submitted to the SC, 24 MP families are resettled there. These R&R sites are part of the 108 MP settlements in Gujarat. The argument is that the figures in Table 4.2, 4.3 (above) show a technical number of PAFs whose signed documents are available with the government, not that they were actually resettled 6 months prior to submergence as per NWDT Award. As mentioned earlier there is discrepancy between the data provided by government bodies and the ‘reality’ on the field.

4.4.4 The Permanent and the Temporary Affected

There is another pertinent issue that delegitimized the credibility of the Madhya Pradesh government. MP government embarked on a ‘game of numbers’\(^\text{15}\). They differentiated the reservoir affected families into permanently affected and temporarily affected and argued that only the permanently affected require rehabilitation. This was against the spirit of the NWDTA which makes it imperative that submergence should not be allowed to take place until complete settlement and rehabilitation of oustees is done which, in view of the definition of ‘oustees’, would mean both permanently and temporarily affected persons.

IV(6)(ii) : In no event shall any areas in Madhya Pradesh and Maharashtra be submerged under the Sardar Sarovar 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 therefrom in accordance with these directions and intimated to the oustees.

1(2) : "Oustee" An 'ouste' shall mean any person who since at least one year prior to the date of publication of the notification under Section 4 of the Act, has been ordinarily residing or cultivating land or carrying on any trade, occupation, or calling for gain in the area likely to be submerged permanently or temporarily.\(^\text{NWDTA, 1979}\)

Himanshu Upadhyaya traces this issue in an article. He says that “Facing the challenge of rehabilitating the thickly populated Nimad area in Madhya Pradesh, the NCA started drawing an imaginary and arbitrary distinction between temporary and permanent submergence” (Upadhyaya, 2005).

He presented data from NCA documentation showing how the number of families to be rehabilitated by MP government kept diminishing as years progressed. This

\(^{15}\) NBA submitted an affidavit in SC detailing the game of numbers (SC Judgment, 2005)
table was prepared by NBA and has been submitted in the Supreme Court. The Court has accepted these data as factual and it has not been refuted by the government lawyers.

Table 4.4

<table>
<thead>
<tr>
<th>Date</th>
<th>Total no. of PAFs</th>
<th>Claimed as Resettled</th>
<th>Balance</th>
<th>Option of Balance</th>
<th>Source of Information</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>in MP</td>
<td>in Gujarat</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug 29, 2001</td>
<td>5397</td>
<td>1182</td>
<td>2385</td>
<td>3567</td>
<td>1830</td>
</tr>
<tr>
<td>Nov 11, 2001</td>
<td>5379</td>
<td>1394</td>
<td>2381</td>
<td>3775</td>
<td>1603</td>
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<tr>
<td>Dec 08, 2001</td>
<td>5397</td>
<td>1399</td>
<td>2418</td>
<td>3817</td>
<td>1580</td>
</tr>
<tr>
<td>Jan 07, 2002</td>
<td>5397</td>
<td>1466</td>
<td>2691</td>
<td>4157</td>
<td>1240</td>
</tr>
<tr>
<td>Feb 08, 2002</td>
<td>5397</td>
<td>1466</td>
<td>2691</td>
<td>4157</td>
<td>1240</td>
</tr>
<tr>
<td>May 14, 2002</td>
<td>1883</td>
<td></td>
<td></td>
<td>1873</td>
<td>10</td>
</tr>
<tr>
<td>June 30, 2002</td>
<td>1883</td>
<td>967</td>
<td>916</td>
<td>1883</td>
<td>0</td>
</tr>
<tr>
<td>Dec 31, 2002</td>
<td>1883</td>
<td>967</td>
<td>916</td>
<td>1883</td>
<td>0</td>
</tr>
</tbody>
</table>

Source NCA (Upadhyaya, 2005)

Table 4.5

<table>
<thead>
<tr>
<th>Date</th>
<th>Total no. PAFs</th>
<th>Claimed as Resettled</th>
<th>Balance</th>
<th>Option of Balance</th>
<th>Source of Information</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>in MP</td>
<td>in Gujarat</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug 29, 2001</td>
<td>7913</td>
<td>1327</td>
<td>2584</td>
<td>3911</td>
<td>4002</td>
</tr>
<tr>
<td>Nov 11, 2001</td>
<td>7913</td>
<td>1587</td>
<td>2684</td>
<td>4217</td>
<td>3570</td>
</tr>
<tr>
<td>Dec 08, 2001</td>
<td>7913</td>
<td>1670</td>
<td>3360</td>
<td>5030</td>
<td>2883</td>
</tr>
<tr>
<td>Jan 07, 2002</td>
<td>7913</td>
<td>1670</td>
<td>3360</td>
<td>5030</td>
<td>2883</td>
</tr>
<tr>
<td>Feb 08, 2002</td>
<td>7913</td>
<td>1670</td>
<td>3360</td>
<td>5030</td>
<td>2883</td>
</tr>
<tr>
<td>June 31, 2002</td>
<td>3071</td>
<td>1990</td>
<td>1036</td>
<td>3026</td>
<td>45</td>
</tr>
<tr>
<td>Nov 14, 2002</td>
<td>3710</td>
<td>2443</td>
<td>1198</td>
<td>3641</td>
<td>69</td>
</tr>
<tr>
<td>Dec 31, 2002</td>
<td>3710</td>
<td>2443</td>
<td>1243</td>
<td>3686</td>
<td>24</td>
</tr>
<tr>
<td>May 13, 2003</td>
<td>3692</td>
<td>2434</td>
<td>1258</td>
<td>3692</td>
<td>0</td>
</tr>
<tr>
<td>June 31, 2003</td>
<td>3692</td>
<td>2434</td>
<td>1256</td>
<td>3692</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: NCA (Upadhyaya, 2005)
Himanshu continue to reiterate that

... while numbers of families at the height of EL 95.00 and 100.00 meters continued to diminish, the number of families affected at the Dam height of EL 110.00 meters was being consistently shown as 12681 throughout the meetings of the NCA’s R&R Sub Group between August 29, 2001 and November 14, 2002. May be the honorable members of R & R Sub Group of NCA were waiting for an extraordinary chilly winter of 2002 with a severe cold wave to follow the extraordinarily hot summer of 2002. More deflation of the PAF lists was to follow (Upadhyaya, 2005).

This proves that the Action Taken Reports (ATRs) of Madhya Pradesh government are ‘cooked up data’. It was based on such ATRs and progress reports submitted by MP government showing completed rehabilitation at each stage that NCA gave clearances for further construction of the dam.

Such disparities in statistical data indicate an effort by the governments to create an illusion of objectivity. As mentioned earlier, NBA has called this exercise the ‘game of numbers’. There could be many reasons why the governments resort to such measures. It may be the pressure from the monitoring authorities and SC to submit time bound reports and affidavits; it may be due to NBA’s claims of large number of households still not counted as PAFs, pushing the government to come out with responsible data; it could also be due to the very fact that the area and magnitude of submergence is so huge that the governments do not possess the appropriate human resource, infrastructure and political will to come out with comprehensive data; it may still be the reluctance of the government to set
uncomfortable precedence\textsuperscript{16} by succumbing to pressure and doing ‘good governance’.

4.4.5 Community Rehabilitation

The NWDTA clearly states that villages have to be rehabilitated without disturbing the kinship web among the families.\textsuperscript{17} In the adivasi context, one of the interpretations of the word community is based on kinship. When we conceive the adivasi context or adivasi as a group, we are not homogenizing them. There are inter-adiwasi as well as intra-adiwasi heterogeneity. One can find locational specificity in the distribution of the adivasis dwelling in the study area i.e. the adivasis such as Bhils, Bhilalas and Tadvis have their own villages and hamlets. One village may be having several hamlets. These villages and hamlets are located at different heights from the river valley due to the gradient of the Vindhya and Satpuda hills. Such a distribution across space has several implications for placement/rehabilitation about which we will discuss soon.

A village may be two to three km in spread, with hamlets dispersed all over the area. Each household lives in a separate house. Soon after marriage, the new couples have to build their own house, separately but nearby the parental home. The aspect to be noted here is that adivasis do have village commune and they have evolved a highly interwoven life with each other and nature. While this is so, they have a unique sense of individuality and autonomy and personal freedom. They engage in collective action by cooperating to perform all activities of life and livelihood like agriculture, hunting and gathering, cattle rearing, making artifacts and tools for household and agricultural activities. When we examine rehabilitation, the points mentioned above have to be at the back of the mind.

Unlike their traditional spatiality in terms of habitat distribution as mentioned above, the government provided brick houses which are close to each

\textsuperscript{16} As mentioned already, there are 29 mega dams constructed by MP government on the Narmada River and its tributaries. Detailed and legally correct data accumulation in SSP region will set a precedence whereby government will be under pressure to do the same in all dam affected regions. Gujarat has a total of 666 dams including those under construction. They have never done rehabilitation of affected people like they do in SSP. A perfect model in SSP may rake up trouble of demand for land based rehabilitation in other dam affected regions as well.

\textsuperscript{17} [NWDTA XI IV (1) & IV (2)(iv)] See Annexure 1
other and in clusters in the resettlement sites in Gujarat. During our field visits, the people in the vasavats reported that the new rehabilitation sites created what we can call as ‘claustrophobia’. There was no space designed for cattle and of course no grazing lands were envisioned. The Award could not perceive the socio-spatial and kinship ties features of adivasi community. The environmental, economic and cultural disruption that has happened in this process of uprooting has destroyed community and collective action in their life forever. What we see in the resettlement sites are relocated adivasis who are forced to be in the process of learning to integrate themselves to the new surroundings which require new languages and new subjectivities. The state itself changes….

Table 4.7 brings out the geographical spread of the vasavats across seven districts of Gujarat.

<table>
<thead>
<tr>
<th>District</th>
<th>GUJ PAFs</th>
<th>MP PAFs</th>
<th>MH PAFs</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vadodara</td>
<td>82</td>
<td>57</td>
<td>14</td>
<td>153</td>
</tr>
<tr>
<td>Narmada</td>
<td>27</td>
<td>2</td>
<td>3</td>
<td>32</td>
</tr>
<tr>
<td>Kheda</td>
<td>0</td>
<td>14</td>
<td>0</td>
<td>14</td>
</tr>
<tr>
<td>Bharuch</td>
<td>0</td>
<td>13</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>Ahmedabad</td>
<td>0</td>
<td>11</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Panchmahals</td>
<td>1</td>
<td>10</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Surat</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>110</td>
<td>108</td>
<td>18</td>
<td>236</td>
</tr>
</tbody>
</table>

(Source: SSPA, 2006b)

This shows that the disruption of community life mentioned above. The households from less than 80 villages in MP are spread over 108 vasavats while those from 19 villages in Gujarat are relocated in 110 vasavats. 185 (78.39%) of the total number of vasavats are located in Vadodara and Narmada districts. It is to be noted that among the various communities residing in the affected villages, mostly those belonging to various adivasis communities accepted R&R in Gujarat. (Refer F.N. 81, Ch. 3) The Map 4.1 below gives a clear picture of the distribution of vasavats in Gujarat.
Map 4.1
SSP Resettlement Sites in Gujarat

Ahmedabad - 011 R & R Sites
Bharuch - 013 R & R Sites
Panchmahal - 011 R & R Sites
Narmada - 032 R & R Sites
Kheda - 014 R & R Sites
Surat - 002 R & R Sites
Vadodara - 153 R & R Sites

Total - 236 R & R sites

Source: (SSPA, 2006c) Also see Annexure 14
We will return to the discussion on geographical distribution of villages and hamlets before displacement. The rehabilitation process get all the more complicated because while one village or several hamlets get inundated by the dam reservoir, those villages and hamlets which located at higher locations of the hill need not get inundated at all. The implication of this is that while government rehabilitate people of the locations which get inundated, those at higher locations remain in the villages i.e. rehabilitation disrupts the historically continued kinship relations and collective life of the adivasi communities.

But still, the NWDTA stipulated community rehabilitation. Here we may infer that those who wrote the Award might have interpreted community from an urban context i.e. resettling people of one locality to another locality is for them, just like uprooting people from one flat to another. At this juncture we can argue that community rehabilitation is a near impossibility.

4.4.6 R&R in Command Area

NWDTA clearly stipulates that the affected families should benefit from the canal of the SSP to satisfy their water requirements. In other words, the PAFs should be resettled only in the command area\textsuperscript{18} so that Narmada waters are made available to them. There is a consensus in the world that the project affected should be given priority in the distribution of benefits. Hence they should be strictly resettled in the command area and Narmada waters made available to them. Some vasavats are literally outside the command area of SSP or in places where field channels were not available\textsuperscript{19}. The irony is that, in some cases, people are buying Narmada waters for drinking and irrigation and in other cases they are depending on bore wells and at the mercy of availability of electricity. There are frequent disruptions in the supply of electricity. Such ironic situation is yet another example for non-compliance of legal stipulations and vulnerability of the dam project to get delegitimized.

\textsuperscript{18} NWDTA XI IV (2) (iv). Refer Annexure 1
\textsuperscript{19} Field Work surveys have proved this. I have visited and seen that there are vasavats outside the command area, especially both in Vadodara and Narmada districts. Bore wells are provided but the PAFs are at the mercy of availability of electricity to use the pumps.
4.5 Affected but denied the Right to Placement

In this section, we have focused on the latter group i.e. those that are not ‘legitimate PAFs’ as per NWDTA. Within this group we found that families were affected due to different reasons and specificities of their traditional life worlds. We have identified six major categories of affected groups whose just claims of compensation are overlooked by the government. This is mainly because government relates displacement only with coming of the reservoir. All the ancillary alterations in the adivasi habitats caused by the dam appurtenant works are omitted from considering who is displaced and who is not, and who has the right to compensation and who do not have. Perhaps there is also an economic logic apart from governance issues such as precedence and administrative limitations and lack of political will. The economic logic could emanate from the fact that if the cost of compensating the negative externalities of the dam is comprehensively considered, then the construction of the dam turn out to be not cost effective.

As mentioned earlier, the dam colony affected, the canal affected, the dykes affected, the Tapu\textsuperscript{20} affected, the sanctuary affected, compensatory afforestation affected, downstream affected, drainage affected and the resettlement site and agricultural land acquisition affected are not covered by NWDT Award. The officials figures of how many are affected by these ancillary projects are not available. NBA estimates shows that their numbers will be not less than 80,000 PAFs. (This estimate number is based on the details prepared by NBA provided in the tables 4.8, 4.9 and 4.10 given below). They are under the mercy of the State government’s whims and have to be satisfied with the meager cash compensation given to them, if at all.\textsuperscript{21} Their issues are not dealt with in detail since the main tangent revolves around the reservoir affected PAFs whose rehabilitation has been validated by NWDTA. But the issue of their displacement and why the above said displaced have not found favour with the powers that be, is a question that is important for the study.

\textsuperscript{20} Top of a hill becoming an island when reservoir water level rises around it
\textsuperscript{21} The details of these variously affected groups are provided in the subsections of 4.5.1 to 4.5.6
For details of the variously affected categories of households in all the States, see the tables below. Table 4.8 is Gujarat, Table 4.9 Madhya Pradesh and Table 4.10 Maharashtra:

**Table 4.8**

Secondary Displacement in Gujarat due to SSP

<table>
<thead>
<tr>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dam Colony affected at Kevadia</td>
<td>950 PAFs in 6 villages</td>
</tr>
<tr>
<td>Canal affected in Gujarat</td>
<td>1,69,493 PAFs owning land titles out of these 24,000 will lose either whole or major chunk of their land holding and become landless or marginal farmers.</td>
</tr>
<tr>
<td>Shoolpaneshwar Sanctuary affected</td>
<td>38,000 PAPs in 104 villages</td>
</tr>
<tr>
<td>Downstream affected</td>
<td>10,000 PAFs making their livelihood fishing in the 150 kms stretch of river downstream of the Sardar Sarovar dam</td>
</tr>
<tr>
<td>Drainage affected</td>
<td>Large areas will be required for drainage. Just for the main drains in Zones 4-13 it is estimated that 18,000 hectares of land will have to be acquired and those losing land will have to be compensated. (Estimates for other areas not available)</td>
</tr>
<tr>
<td>Compensatory afforestation / Catchment area treatment</td>
<td>There is no estimate for the number of families being affected by these environmental protective measures. (approximately 3000-5000 tribal families)</td>
</tr>
<tr>
<td>Secondary displacement due to loss of lands to resettlement sites</td>
<td>There is no estimate for the number of families being affected due to this.</td>
</tr>
<tr>
<td>Tapu (areas that will become islands during rainy season but not included in the submergence zone) Affected</td>
<td>There is no estimate for the number of families being affected due to this.</td>
</tr>
</tbody>
</table>

Source: (NBA, 2000)
Table 4.9
Secondary displacement in Madhya Pradesh due to SSP

<table>
<thead>
<tr>
<th>Compensatory afforestation / Catchment area treatment</th>
<th>There is no estimate for the number of families being affected by these environmental protective measures. (approximately 3000-5000 tribal families)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary displacement due to loss of lands to resettlement sites</td>
<td>There is no estimate for the number of families being affected due to this. In a number of cases it has been seen that land is being acquired from adivasi / dalit families.</td>
</tr>
</tbody>
</table>

Source: (NBA, 2000)

Table 4.10
Secondary Displacement in Maharashtra due to SSP

<table>
<thead>
<tr>
<th>Compensatory afforestation / Catchment area treatment</th>
<th>There is no estimate for the number of families being affected by these environmental protective measures. It is being carried out in at least 49 adivasi villages in Akrani tehsil and tens of villages in Akalkuva tehsil of Nandurbar district over adivasi lands. (approximately 3000-5000 tribal families)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secondary displacement due to loss of lands to resettlement sites</td>
<td>This is a serious issue here. The PAFs are being relocated in adivasi lands where the rights of the original adivasis who have been living there have not been recognized. This has led to serious conflict and even the death of two original inhabitants at one of the R&amp;R sites.</td>
</tr>
</tbody>
</table>

Source: (NBA, 2000)

4.5.1 Dam Colony Affected

Those displaced by the Kevadia colony (constructed for the exclusive purpose to house those engaged in the construction of the dam) in 1961, now numbering more than 950 households, are still to be offered a suitable R&R policy to help them regain their previous life standard. There is no rehabilitation package
for them despite the recommendation to that end by the WB in 1985, Five Member Group (FMG) in 1993 and Shri Saxena after the 15th Field visit of the R&R Subgroup of NCA in 1995. As mentioned earlier, the six adivasi villages whose lands were acquired for the Kevadia Colony i.e. Waghodia, Kevadia, Koti, Gora, Navagam and Limdi are still staying in their original villages although they are affected since 1962, but not rehabilitated yet. Their 51 year long struggle for legitimate rights still continues. Their demand is not legitimate in the eyes of the government due to reasons of governance i.e. precedence. The government is afraid that all other dam affected households in Gujarat will demand land based compensation if they yield to the demands of the Kevadia colony affected. There are more than 280 dams constructed in Gujarat where the colony affected were given petty cash compensation, if at all, when they were ousted from their habitats and livelihood.

There was a demand by the colony affected to return the excess lands acquired that are not used for the said purpose. According to legislations regarding acquisition of tribal lands, government ought to have returned the excess lands. But instead, the government is planning tourism related projects in the excess lands in the name of national development. The adivasis still residing in those six villages may slowly be pushed out of their ancestral lands.

4.5.2 Canal Affected

85,123 hectares of land is required for the construction of the main and branch canals. (This does not include land going under the field distributaries). As already mentioned, the NWDTA does not include the canal affected. Their fate is determined by the State policies. For those affected by the canal, there existed a policy where they are entitled to only ½ hectare of land which itself is unjust. But to date not a single canal-affected PAF has been compensated with land. They are offered meager cash compensation. The incompetence and corruption in the process of assessment of land and distribution of cash keeps propping up in the media. The other aspect of the canal-affected PAFs’ issue is that their lands (beside the canal) get affected due to salinity and water logging. Though this is a serious

See Annexure 7
issue, it is not addressed sufficiently. There is no exact assessment of the number of canal affected even now since much of the canal network is yet to be completed. Government focused on the main canal and the two branch canals to Saurashtra and Kutch which are completed. Government prudently repressed the struggle by canal affected people and it never gained sufficient momentum in Gujarat. Those who struggled for land for land compensation were labeled as *andolankaris* who worked against the ‘interests’ of the State.

4.5.3 Shoolpaneshwar Sanctuary Affected

The Dumkhal sanctuary, which was established in 1982, had 150.8 Sq.Km. area. It was later notified as Shoolpaneshwar wild life sanctuary in 1987 and 1989 with an enlarged area of 607.70 Sq. Km. The adivasi villages within the forest area were legally bound to move out of the sanctuary area, especially those villages at the core of the sanctuary. As mentioned earlier, there exist 38,000 adivasis in the 104 villages in the area designated for the enlarged Shoolpaneshwar Sanctuary. Their activities will be severely affected and they will be forced to give up their traditional lands and resource base. They will be displaced “voluntarily” without their land rights having been settled yet. But then they have access to non-timber forest produce. The GoG still has no policy for them nor does enlist them as PAFs. Their traditional rights are already being infringed upon and atrocities against those raising an opposing voice are already on as in the case of harassment of activists who are working in that area, with the support of the local officials. Since these villagers do not come under the purview of NWDT Award, they have no claims either for rehabilitation, cash compensation or any other means of survival, depending on forest produces. This is a predicament that the SSP has created.

4.5.4 Down Stream Impact Affected

By rough estimates, there are more than 10,000 households affected by downstream impacts due to the dam. Post dam period has witnessed increase in the salinity of the downstream water which negatively affected the people who mainly depended on fisheries. There are evidences that there is substantial depletion of fish stock in the downstream. This depletion in turn forced the fisher people to shift their occupation and survival mechanisms. There is no rehabilitation policy for
them. The estuaries are also similarly destabilized and fish spawning seriously affected. Salinity ingress has also affected the ground water table affecting agriculture and availability of drinking water in the region. These communities who traditionally depended on downstream and estuaries for their livelihood do not come under the purview of PAF category. Therefore they do not have any legitimate scope to raise voice against the dam project or government, although it is construction of the dam which negatively affected their livelihood source.

4.5.5 Tapu Affected

Another serious issue is of *falias* (hamlets) of many villages not being declared as part of the submergence area. Though some of these *Tapus* are at a lower altitude than the other submerging falias and villages they are not treated as submergence affected area. For instance, the Budni falia of village Turkheda is the lowest falia of this village but is not declared while the falias above have been resettled. This falia has 350 families. Two other falias of this village, Handlabari and Baskariya are facing the same problem. The case of Kunda falia of Kadada with 90 families is the same. Another falia of the village Shulpan is in the same situation.\(^{23}\) Here it is not inundation that displaces those who live in the Tapu areas but their relative isolation as their hamlets are circumscribed by water bodies created by the dam. Although it is legitimate for them to claim as PAFs, the government cannot consider them so due to procedural problems. Government requires substantial political will to accept ethically and economically rightful rights of those people.

4.5.6 ’Patta’ (Title Deed) less Farmers

The labeling of adivasi people who does not hold land title deeds as encroachers into the protected area is yet another serious issue. The local officials knew from government records that the adivasi families whom they label as encroachers have been engaged in shifting and seasonal cultivation and living in their respective villages. Many villages, especially in Maharashtra and MP were forest villages, not yet converted to revenue villages after India’s independence. The NWDTA also considered them as encroachers and therefore did not consider

\(^{23}\) The figures are from NBA field records.
them as PAFs. But State governments, after substantial protests and agitations by the villagers, have later extended land benefits to them with a cutoff date. These cut off dates are different in each State. For instance, the cutoff date in Gujarat is one year prior to notification under Section 4 which may vary on the basis of time of submergence. The cutoff date for Maharashtra and Madhya Pradesh are fixed; for MP it is 13.04.1987 and for Maharashtra, it is 31.03.1978. Since the encroachers do not have title deeds, the only evidence they have regarding use of land is the ‘receipt of fines’ that they used to give to the forest officials, in order to cultivate the forest lands. But many times, due to corruption, they do not have these bills as officials did not care to issue written receipts. The provision for encroachers in each State is given below.

**Madhya Pradesh** - They will be treated as landed oustees subject to two conditions.  
  i) Encroachment must be on or before 13.4.87.  
  ii) Allotment of agricultural land will be 1 ha or 2 ha only subject to the size of encroachment coming under submergence. Encroachers will be entitled to get compensation for land under submergence.

**Gujarat** - Encroachers prior to 1 year of Notification under Sec. 4 of the Act are entitled for 2 ha of land and compensation for the balance encroached land as ex-gratia

**Maharashtra** - 2 ha of land and compensation as ex-gratia payment for the balance land encroached upto 31/3/78. Later encroachers will be treated as landless and will get 1 ha. Agriculture land (NCA, SSP)

Coming back to the discussion on land issues, the SC order that rehabilitation has to be completed six months prior to submergence is practically impossible for government. At each stage of the dam height, the State governments were under pressure to show through affidavits that resettlement of the affected households up to a specific height of the dam is completed. Only this would enable them to go ahead with the dam wall construction.

Further, on our discussion regarding the legitimacy of rehabilitation process, the specific nature of the R&R entitlements seem clearly based on an analysis of the miserable performance of the R&R and the traumatic experience of the development projects displaced people till then. As per the report of the WCD,
large dams have displaced 40 to 80 million people, with adverse impacts including extreme economic hardship, community disintegration, and an increase in mental and physical health problems, affecting the tribal and peasant communities. The downstream people also suffered from disease and the loss of natural base. (WCD, 2000:16)

4.6 The Already Resettled and the GRAs

The fact that the Supreme Court ordered the implementation of yet another monitoring institution to oversee the process of rehabilitation indicates that governments do not have the sufficient mechanisms to satisfactorily proceed with the required processes. The Grievances Redressal Authorities came to existence in all the three affected States in 1999 headed by an ex-justice of the respective State High Court. NBA’s vociferous pleas and the stalemate over rehabilitation necessitated this institution. The ever increasing number of complaints from the already relocated households was an indication that there are serious anomalies in the process of rehabilitation. Hence the SC had to set up a judicial mechanism to monitor the administrative-bureaucratic body.

Grievance Redressal Mechanism

The appeal mechanism has been established in the policy statements by all the three State Governments for the redressal of grievances of the PAFs. According to this mechanism, if a displaced person is aggrieved by the decision from any of the rehabilitation officers in respect of R&R process, he may appeal to the concerned agency /officer for his proper resettlement within a limited period. Besides, there are independent Authorities in the States specially for redressing the grievances of the PAFs.

Gujarat:

The Government of Gujarat has constituted an independent Grievances Redressal Authority (GRA) on 17.2.1999 for redressing the grievances of PAPs resettled in Gujarat. The Authority has Mr. S.B.Majumdar, retired Judge of Supreme Court government of India as the Chairman.

GRA of Gujarat has taken an innovative step in installing a permanent in-house grievances redressal mechanism known as Grievances Redressal Cell (GRC) within Sardar Sarовар Punarvasvat Agency (SSPA). GRC deals with grievances on the basis of applications on the spot through Tatkal Fariyad Nivaran Yojna (TFNY) and through Single Window Clearance System.

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24 The SC and government bodies have to follow these stipulations. The study narrates how many legal stipulations are circumvented politically and how the governments were able to relegitimize the project when faced with resistance by the affected people.
Madhya Pradesh:

In pursuance of the Government Notification no. 5-7-27-2-2000-474 of Narmada Valley Development Department, dated 30th March, 2000, the Government of Madhya Pradesh has constituted an independent Grievances Redressal Authority (GRA) for redressing the grievances in the work of Resettlement & Rehabilitation (R&R) of Sardar Sarovar Project for affected persons resettled and to be resettled in Madhya Pradesh. The Authority has been functioning under the chairmanship of Mr. N.G. Karambelkar, Chief Justice (Retd.) M.P. High Court.

The GOMP has appointed Rehabilitation Assistants and Companion for helping GRA in implementation of R&R progress.

Maharashtra:

The Government of Maharashtra has constituted an independent Grievance Redressal Authority on 17.4.2000 which has been redressing the grievances in the work of Resettlement & Rehabilitation (R&R) under the Sardar Sarovar Project (SSP). The Authority has Mr. P.S. Brahme, Retired Judge of Maharashtra high Court, Mumbai, as the Chairman.

Within a year of the establishment of the Gujarat GRA, it received about 15000 complaints out of which, 9000 complaints (60%) were land related. The PAFs have been allotted land that has dabh grass (which hampers the growth of other plants), waterlogged lands, allotment given as more than one piece of land and that too in two different places and many have received less than the land entitled to them. There were many cases where PAFs have been given possession slips but no land. As mentioned earlier, the most blatant violation of the NWDTA by the States was that of the community resettlement clause. GoG has relocated the PAFs of the 19 submerging villages in over 110 R&R sites.

Gujarat government claims that no PAF from the State remains to be resettled. They reiterate that the grievances of the PAFs at the current height of 121.92 meters of the dam were redressed through the Gujarat GRA. But the ground reality narrates a different story as already discussed. The representations of the status of rehabilitation displayed in the official documents, websites and affidavits to the Supreme Court hide more than they reveal. The language of bureaucracy that enriches the government documents and the language of the judicial proceedings have sufficient inherent possibilities to create an illusion of legitimacy through
‘white lies’. There will always be more to a phenomenon than what is said about it. But the Judiciary recognizes only the written affidavits and the governments prepare field data and interpretations that are projected in an already legitimimized manner.

The problem is that the affected people are not familiar with this language. Their ‘common sensual’ language expresses their agony and apprehensions but the fact that they are human beings who want to make decisions for their life rather than ruled over, get refuted. They inadvertently fall into the trap of believing that the language of the governments is superior to their language. The languages of the natural resource based affected people and that of the urban ‘community’ that looks continuously for extrageneous sources of energy and resources to sustain its ever growing material demands, are incommensurable.

The brief passages discussed in the following pages show glimpses of the legitimizing language of bureaucracy with which those who resist have to wrestle with, sometimes through public acts of protest and sometimes compelled to speak the same language for all practical purposes.

“The norms for Resettlement and Rehabilitation (R&R) were decided by the NWDT and the R&R package offered in Gujarat. The state of Gujarat has liberalized the R&R package recommended by the Tribunal, and so far, it remains one of the most liberal rehabilitation packages in the country.” (SSPA, 2006c)

The words such as ‘norms’, ‘so far’, ‘liberalized’, ‘liberal’ are to be noted. A careful analysis of the construction of the passage talks less about rehabilitation but more about the ‘state’ of Gujarat. The superiority of the modern state and its language of ‘liberal norm’ legitimate the act of subversion. Irrespective of the fact whether the state is actually liberal and respects norms or not, the fact remains that the liberal democratic state is idealized as better than any other political institutions. It is expressed through the phrase ‘so far’ indicating a moment in history which need not be linked to what went before or what may come after. The state has enframed its deeds and presented it in such a manner that the recipient feels that there is no other alternative. The constant delegitimizing by NBA has

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25 This point is further discussed in the coming section
forced the government to present itself in more acceptable demeanor. Meanwhile non-compliance remains an issue that threatens legitimate appearances. As mentioned earlier, sometimes what is not explicit is more important than what is written to understand how the same language that legitimizes also delegitimizes. Let us see how it happens.

As noted earlier, the NWDT gave its Award in 1979. The Gujarat government immediately began procedures for rehabilitation and in 1980-81 period the first batch of PAFs was relocated. During this phase only a few hamlets of one Maharashtra village known as Manibeli was actually relocated along with a few Villages in Gujarat. The government offered cash to them to buy land. There was no land for land rehabilitation. Government, at that stage, wanted to show that papers are signed and that the initial construction of the Sardar Sarovar dam could proceed.

As mentioned earlier, government did not provide land. PAFs were asked to identify lands and then officials intervened to purchase it for them. No cash was directly given to the PAFs. But as mentioned earlier, ARCH Vahini was deputed to persuade people to vacate the valley and to help them find lands. This procedure was not sufficiently effective.

By the late 80s and early 90s, actual displacement started hitting the people on a larger scale. This was because till then, the relocated PAFs in the vasavats like Parveta were able to do cultivation in their lands in the original villages. From 1994, when the first submergence hit Manibeli village near the dam site, the seriousness of livelihood struck the PAFs. This was when fear, anxiety, anger and sorrow disturbed the people most affected and under immediate threat of submergence. They were insecure because only resettlement was offered and rehabilitation with full amenities was getting postponed for ever.

Within the next 13 years, situation went out of hand in such a way that hundreds of PAFs who came to the Vasavats joined the resistance movement (NBA) due to dissatisfaction with the new place and also strong feeling of being cheated by the government. The promises that were given to the affected people were far from practical and not achievable in the immediate future. Under pressure
from NBA’s struggle and presence of World Bank, the Gujarat government issued government orders (GO) towards an improved package at last in 1992. But due to non-compliance, the NCA stayed the SSP in January 1995, which was endorsed by the SC in May 1995 following protest by the Madhya Pradesh government for a reduction in the proposed height of the dam. The point is that the ‘liberal norm’ is not that liberal as Gujarat government was forced to produce documents under intense resistance and changing balance of powers due to the withdrawal of World Bank and protest by MP government. Moreover the new atmosphere of economic liberalization that was taking shape in India as a result of the New Economic Policy (NEP) gave fillip to these changes.

4.6.1 Issues in Rehabilitation Sites – Improvement or Impoverishment?

There are some more issues that demand our attention before we proceed further. In 2004, as South Gujarat reeled under floods and water logging, the SSP affected adivasis, nearly 6000 families who were resettled in Kheda, Vadodara, Narmada, Bharuch and Surat districts were facing severe crisis since most of their monsoon crops were destroyed. In 2005, a random survey\(^\text{26}\) in 10 R&R sites (200 families) in Vadodara district who were affected by water-logging and crop loss estimated a total loss of nearly five lakhs rupees just in terms of the prices of seeds and fertilizers. This may accentuate the process of pauperization of those who fall into credit traps and perpetual indebtedness to banks or moneylenders. The Government or SSNNL had not given any relief to the PAFs.

Such situations contradict the provisions of the NWDTA and State Rehabilitation Policies which are expected to ensure an improvement in the livelihood standard of the PAFs who were affected by the SSP. As mentioned earlier, people were deceived in the process of land allotment. Moreover, the field-canal-networks\(^\text{27}\) which were intended for irrigating the lands has blocked most of the minor natural drains resulting in water stagnation in the agriculture fields, especially in the resettlement sites in Vadodara district. The canal got breached in

\(^{26}\) A field survey was done by the researcher during the monsoon floods of 2005 with the help of students who came for internship with NBA.

\(^{27}\) The smallest part of the SSP canal network which brings water to the agricultural fields from the sub-minor canals.
many places causing severe damage to crops and houses. Instead of the free water received during monsoon runs off, the people were forced to buy water from the canals or from local land lords.

Another incident that may shed light of the claims of Excellence happened on April 3, 2005 when two houses were fully charred to the ground, and another two were partially burned in a fire caused by low-hanging electricity cables at Thuvavi Rehabilitation site, Dhaboi taluka, Vadodara district, Gujarat. The households originally belonged to the affected villages of Maharashtra. For the thirty-one people in four families who have lost their possessions in the fire, they had to rebuild their lives all over again. After the loss of his family’s last remaining resources, one of the PAFs said, “We feel like dying”.

Yet another issue happened when protectors turned predators. Kantibhai Rumal of Savli Resettlement site, (originally from village Mokhadi in Gujarat) was arrested for threatening to commit suicide in the Sardar Sarovar dam. Driven by absolute despair, these are select gestures of resistance by oppressed individuals. No organization suggests, encourages or endorses the practice and politics of suicide, but every organization is obliged to consider who is responsible for producing conditions that force people to such extreme measures. This incident is the 4th of its kind happened within a four years span (2001-2005), including the suicide attempt in the reservoir by 15 youths in December 2003. In each of these incidents, the government had tried to suppress the real issues and humiliate and criminalize the affected persons.

Another major issue is with regard to the suitability of their living conditions in ensuring food security and sustainability of the coming generations. Two situations provide indication towards this end. One is that in the original villages in the valley, before submergence, the subsequent generations were not having any immediate threat to their livelihood since there was land to expand and each family used to produce sufficient food, in some cases, enough for two years. In the vasavats, there is no scope for expansion, not even to construct another house for newly married couple. Moreover, they have to find daily wage labour in the surrounding localities to make both ends meet. What was produced in the fields
was insufficient even to sustain a household for six months. Even the women had to leave home for daily wage labour. This indicates that displaced communities more often fell into bouts of poverty that happens gradually but steadily; a process that slowly lead towards borrowing, debt and pauperization for many households. One reason is that though some of the families who were lucky enough to have all their children as major sons or daughters, when land was acquired from them, got much more land than what they earlier held in the Narmada valley as each declared adult were eligible to receive minimum five acres of land. But those children who were even one day short of the cut-off date of 18 years did not get anything at all though they became parents and some even grandparents since January 1\textsuperscript{st}, 1987. A family with 5-6 members, who got five acres during relocation, is now a larger family of 12-14 members, living under one roof and earning by daily wage labour.\textsuperscript{28} Land no longer provides sufficient livelihood for them since size of the households have increased and productivity of most of the lands given to PAFs have become sub-optimal quality.

We need to keep in mind that the excellent examples of prosperity- claims made by SSPA are those families who received more land and those who were given government employment apart from land allotment. In many cases, this happened due to the differential treatment already existing in our polity. For example, the household of the village Sarpanch and those who are dominant in each community were appeased by the government in order to get them out of the submergence zone. The ‘important’ people were given the few good lands that were available with the government. When the leading households accepted lands in Gujarat, the others in the affected villages in Gujarat did not have much option. This is also one reason why there was initially no struggle in Gujarat. It is only

\textsuperscript{28} The demography discussed by Alexander Chayanov is of relevance here. The adivasis produce children as labour force, not for profit but for subsistence. They were living in the valley where they had land to expand and the demographic pattern was conditioned accordingly. In the vasavat, land is limited and they are not even able to subsist from land alone. Chayanov’s consumption-labour-balance principle’ is also useful to understand the predicament of the families resettled in the vasavats. Gujarat government presumed that adivasis may be slowly integrated into the capitalist farming practices existing in Gujarat. But adivasis never work to produce more than what they need for consumption. Forcing them into producing for profit may not work as Chayanov has rightly predicted in the context of Soviet Union in his work first published in 1925. (Thorner, 1968)
after moving out to *vasavats* and experiencing the differential treatment and unfulfilled promises that many of the households of Gujarat joined the NBA.

Coming back, people in many *vasavats* felt that brick buildings, electricity, roads and education (the kind given in the schools for children) do not feed their stomachs and hence they are depressed and deeply disturbed by the non-comparable loss that they suffered due to Sardar Sarovar displacement. They had no modern facilities in the valley but they had food security and never worried about the days to come. Now, in the resettlement sites, every day they worry about the next day and about the future of their children.

### 4.6.2 Legal Legitimation for Major Sons

The next generation which has no memory of their original abode is growing up as trees without roots and they may fail in life, more often than not, when faced with the tempest of competition and unemployment scenario, which is now affecting even the middle class populations living in this neo-liberal environment.

There are umpteen numbers of other examples which can enumerate this phenomenon. There are now grown up married men and women in the Gujarat resettlement sites who were born after shifting to the *vasavats*. We have already mentioned that the first relocation happened in 1981-83. The fact is that none from the new generation had any right to land or house. They had to solely survive on the basis of their skills. During field visits, the researcher had come across youth who were working as daily wage laborers in nearby fields. The tractor of the local landlord will come to pick the laborers in the morning and drop them back in the evening. In fact they were being utilized as reserve army of labor. But we could see that soon these youth were forced to move out to cities like Surat to seek urban labor in the road and construction industry. After having lost their autonomy and land based stability, their dignity stood disintegrated, not able to organize and not even able to stay with family for more than six months. We see a community pushed into oblivion, disintegration and misery.
The numbers of major sons, who were technically not eligible to be declared so due to fixing the cut-off date for major sons as 1st January 1987, come to about more than 3000 in the vasavats in Gujarat. Considering that their children are growing up, we are up with a scenario where these natural resource based adivasi populations are devoid of resource base. They end up as victims of exploitation and manipulation as agricultural and industrial labor in Gujarat. No one desired such situation but it had become inevitable. Currently the government has only one response to their question of subsistence and survival i.e. resettlement is completed and people are happy.

4.6.3 Corruption, Scams in Land Purchase and Allotment

In Gujarat, newspapers are highly discreet and pro-government when it comes to reporting issues of resettled populations. Since the government wants to paint a picture that ‘all is well’, news of frauds during the land acquisition for developing rehabilitation sites rarely sees light. It is now clear, as reported in local dailies, that the SSPA has indeed bought poor quality lands at high prices, with corrupt officials pocketing the extra money (NBA, 2005:14). Nearly 200 acres of land in the villages of Dhantej and Tulsipur in Vadodara district were acquired by the State for the purpose of rehabilitating Sardar Sarovar PAFs. Curiously, this insipid land, which was valued at Rs. 22,000 per hectare, was bought for an exorbitant price of Rs. 1,85,820. The extra money, needless to say, didn’t go to the farmers, but to the pockets of government officials involved in the transactions. Complaints from farmers who sold their land helped to expose the scandal. AK Singh, an official at the deputy collector level, had been charged, along with two patwaris, for cheating the public exchequer of Rs. 72.32 lakhs and farmers of Rs. 41.32 lakhs. Beyond this, the land they acquired was of low quality, much of it barren and dotted with ravines. It is a pertinent question to ask how they intended to resettle displaced farmers on it! These facts vindicate the grievance of many PAFs that the lands allotted to them were indeed neither arable nor habitable. The

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29 According to the Gujarat government orders, only those who have completed 18 years of age as on 1 January, 1987 were eligible for land based rehabilitation. In the last more than 30 years, the generations who were 17 years and below in 1987, and all those who were born later have to struggle to survive since a family of 5 children will have only the 2 ha of land their father received. The situation is becoming grave as years pass by.
GRA Gujarat has cleared more than 13,000 such petitions as redressed after the SSPA produced the Agricultural University’s Certificate stating that the lands are productive!

While the government continued to prove things correct on paper, the people continued to suffer. All these incidents show the complexity ingrained in the process of resettlement and the apprehensions regarding what may happen in the longer process of rehabilitation. For our discussion, the important point is that these highlighted issues challenge the hype of excellence. The language game of self legitimation by the State and delegitimation by NBA points to the fact that legitimacy is in constant flux. The claims and contestations regarding Displacement and Placement, which we have been discussing so far indicates that Land is a fundamental issue as far as displaced communities are concerned. The contestation over the quality of rehabilitation is not merely a struggle for sustenance but a process of challenging already accepted legitimacy of developmental discourse.

4.7 The Art of Legitimizing and Delegitimizing Placement

Another passage that reveals the legitimizing language or textual strategy of the government is given below.

The underlying principle on which the Gujarat R&R package hinges is that the economic conditions of the affected families should improve significantly after rehabilitation.

Today, most commitments made by Gujarat towards R&R have been fulfilled. New settlers in host villages are fairly satisfied with the package. The State has gone at lengths to ensure that amenities and provisions such as education, roads, transport, and health care are effectively delivered to the Project Affected Families (PAFs). As a result, the displaced communities have been able to experience far better general living conditions in their new settlements. Gujarat’s R&R package can be considered as one of the best in the country. (SSPA, 2006c)

In this write up, the State government becomes more assertive about its claims, hoping that the rhetoric will legitimize them. The first two sentences verbally concoct a desirable future for the relocated PAFs. Rehabilitation is a state of affairs that is long term in nature and no one can define how ‘long’ it is. So it is generally safe to claim that the principle of rehabilitation is intending for
improving the quality of life of the people after some time i.e. after rehabilitation. We can infer that problems that PAFs are facing currently are problems of relocation and resettlement and ‘improvement’ may come only in the ‘future’. So just like the agony of the ‘birth pangs’, the ‘good intentions’ of ‘improvement’ is expected to justify the current agony of displacement and uprooting. This language is common to all legitimizing discourse that do not speak of the ‘agony in the present’ as it is interpreted hinging on ‘hope for a better future’. Another indication of the word ‘improvement’ is that it is easy to express it as it is not defined in any specific way. No one knows what kind of improvement or whose improvement. The term ‘improvement’ is sufficiently ambiguous but convincing.

As we continue the perusal of the passage, it becomes evident that the bureaucratic language is clamored in a ‘naked cloth’ of generality which do not specify anything but justified everything that the Gujarat government wanted to justify. The last sentence explicitly makes a claim of being ‘one of the best’ rehabilitation packages, which is a slightly polite version of ‘the best’, the superiority that we were discussing a while ago. In fact the government is relegitimizing and making up for lost grounds by claiming that they have al’most’ done with their commitments and that they have done their best. It may indicate that now it is up to MP and Maharashtra governments to do their part. If they are not satisfying their responsibility in resettling the people affected in their State who chose to resettle there, it should in no way prevent the government of Gujarat from completing the Sardar Sarovar project. If they are denied that ‘pleasure’ of completing the dam construction, the interpretation is that the accused have become the victim now i.e. people of Gujarat are suffering injustice. This will be further discussed in the next chapter.

There is one more passage that is helpful in giving insights into how the State of Gujarat legitimizes the process of displacement and placement.

In 1992, the Sardar Sarovar Punarvasavat Agency (SSPA) was constituted for implementing the Resettlement and Rehabilitation(R&R) activities of the Sardar Sarovar Project Affected Families (PAFs) in Gujarat. While implementing the activities, SSPA recognized that resettlement and rehabilitation are two different issues. Resettlement is more concerned with the change in geographical location and the provision of basic
infrastructure in the new habitat, Rehabilitation is more concerned with the empowerment of PAFs, so that they can get assimilated and prosper in their new settlements ... 

...SSPA’s rehabilitation and resettlement efforts are being implemented as a development programme. It has established various cells with clear agenda so that a holistic and sensitive approach to R&R is possible (SSPA, Mile Stone).

As noted earlier, it took 13 years for Gujarat government to constitute the SSPA, since the NWDT gave its Award in 1979. The juridico political language of the NWDT saw rehabilitation as a process that can be completed within a year of relocation. But from working experience government of Gujarat realized that rehabilitation is a very complex and problematic process. The language of delegitimation highlighted that rehabilitation process is not happening as per stipulations of NWDT. As part of relegitimizing its position, government employs another mechanic of language which is to go into detail and interpret more shades of meaning to a word. By this procedure, they differentiated the term resettlement from rehabilitation and argued that resettlement precedes rehabilitation. Resettlement will have many problems which will only be rectified in the longer process of rehabilitation. In this way, government was able to relegitimize their act of placement over against constant criticisms and protests.

The last paragraph in the above quotation highlights the crux of the matter. The discursive tactics regarding legitimation reaches its peak. SSPA takes R&R as a ‘development programme’. Here we see the seeds of yet another ‘white elephant’, a red taped system of bureaucratic procedures and programs, objectifying the SSP affected households as the object of development. When the intention is development it means a lot. It legitimizes displacement, uprooting, trauma, agony, relocation, suffering, resettlement, disparities, community disintegration and finally the incomplete process of rehabilitation. In one sense, this study is seeking to understand the story of how discursively, the conceptual shades of development is used to legitimize damming and its negative externalities.

In the case of Gujarat resettlement sites, the primary issue is not whether PAFs have been given their rightful land and amenities or not but the quality and
feasibility of these lands and the possibility of using them for the betterment of life and livelihood as claimed by Gujarat.

As already mentioned, the field data proves that all households have not been allotted cultivable lands, but technically according to government records and affidavits submitted in the Supreme Court, every family is allotted cultivable land and amenities. The irony is that most of the 20,000 odd petitions filed in the GRA, Gujarat from 1999 to 2002 were related land issues. This indicates that while land was allotted, the conditions regarding the quality and nature of such lands, in many cases, were not of the kind stipulated by NWDTA.

As mentioned earlier, the necessity of rehabilitation was an inconvenient truth and unwanted responsibility that the Gujarat government had to accept for the sake of constructing the mega dam. The haste with which Gujarat initially went about the R&R proceedings gave an impression that they wanted to relocate the people as fast as possible by allotting them the temporary compensatory provisions, and any fallouts or complaints arising from therein, may be looked into, at a later stage. But once the people agreed to move out of the original villages and settle in the vasavats, the follow up on the corrective measures slowed down as the pressure of creating new resettlement sites mounted. Moreover, after the SC Judgment of 2000, the prime focus of SSPA shifted to the construction of new vasavats for PAFs coming from Madhya Pradesh. Also, Justice S B Majumdar took over as GRA of Gujarat from Justice P D Desai. From field responses, one could infer that Justice P D Desai was more sensitive to the gravity of the issue and it showed in his approach. The new GRA was more bureaucratic in approach and focused more on technicalities and accepted the interpretations of the officials by distancing himself from the affected people.

A typical example of this phenomenon was the situation faced by the households of Thuvavi vasavat near Dhaboi, in Gujarat. For a long time, the relocated households from Maharashtra resettled in Thuvavi were complaining that the water available in the wells were not potable, not only for human use but also for irrigation. The local authorities would listen to this but do nothing about it. In 2005, when the GRA visited a nearby vasavat to participate in a function
highlighting the government’s achievements in good rehabilitation, the Thuvavi people went and complained to him directly about their predicament and handed over to him bottles of water collected from the wells. From the very next day, the SSPA officials started providing water to the households in tankers. The point is that the information regarding the complaint of the people never reached the authorities. They acted only after they found their credibility at stake and fearing that if they do not provide water, what NBA constantly advocated would be vindicated.

4.7.1 Claims and Counter Claims within a Legitimating Domain

The constant claim of the Gujarat government is that ‘majority of the PAFs’ are happy and ‘improving’ in the vasavats. The Counter claim by NBA is that there are many PAFs who are in dire streets and worse than what they were in the valley before submergence. Our discussion focuses on the fact that claims are made in order to re-legitimize a state of affairs whose legitimacy was challenged. The truth claims of the arguments justifying the process of rehabilitation and the critical viewpoints have to be brought forth, and this is precisely what we have been attempting. The effect of the truth claims are also equally important since that is the plane where legitimacy works. If a group succeeds in effecting delegitimization of the state of affairs, it indicates that their language was more persuasive in creating ‘truth effect’. In the same manner, when a group is able to justify its position by reclaiming legitimacy, their rhetoric enabled them to subvert the arguments and counter arguments of those who oppose it. Here language means not only the spoken language, but the rhetorical language and the institutions of perpetuating the ‘manufactured consent’. (Chomsky & Herman, 1988)

The languages and the phrase regimes of the affected people are not generally accepted as legitimate and hence not effective in negotiating with bureaucracy and judiciary. But when they are put in the framework of an application, an affidavit or a grievance and submitted to the juridico political bodies, then it gains relevance and legitimacy. Narmada struggle was effective and captured public attention only because it was able to communicate the issues in the language of the dominant group, in the language of development, in the language
of alternatives, in the language of human rights, Constitutional rights etc. The field realities were always a challenge to the governments. Once put in their language, the hype of excellence diminishes and some actions will be taken towards the amelioration of the highlighted issue. But if there is no resistance and process of delegitimizing, then the need for mitigation of problems faced by the people also does not arise.

4.8 Compensation Contested

Etymologically, the word compensation means a ‘balancing act’. (Dictionary, 2001)

late 14c., "action of compensating," from Latin compensationem (nominative compensatio) "a weighing one thing against another, a balancing," noun of action from pp. stem of compensare (see compensate). Meaning "what is given in recompense" is from c.1600; meaning "amends for loss or damages" is from 1804; meaning "salary, wages" is attested from 1787, American English. The psychological sense is from 1914.

According to free online dictionary, the word compensation in its noun form means ‘making amends for a loss of something’. (Dictionary, 2003) There are a few other meanings also given which is not relevant for our discussion. They are the following:

1. the act or process of making amends for something
2. something given as reparation for loss, injury, etc.; indemnity
3. (Life Sciences & Allied Applications / Physiology) the automatic movements made by the body to maintain balance
4. the attempt to conceal or offset one’s shortcomings by the exaggerated exhibition of qualities regarded as desirable
5. (Life Sciences & Allied Applications / Biology) Biology abnormal growth and increase in size in one organ in response to the removal or inactivation of another

compensational adj

It is important to note that the meaning of the word ‘compensation’ denotes an assessment of a loss in such a way that when reparation is carried out, it should be satisfactory for the one who receives compensation. Apart from this, it also implies that ‘giving compensation’ is not a top down process of ‘charity’ or ‘concessions’, but a mutual process where one who creates loss and one who
incurs it mutually agree regarding the balancing norms i.e. compensation. Since the SSP has created an inter-State dispute, the NWDTA clearly stated that land compensation is a must for loss of land. As cash compensation will never be able to balance the losses suffered, at least land compensation will ensure that there is something concrete, tangible, that can be seen. Even NWDT was myopic realistically assessing the loss of community life and culture. They might have ruled that out as it was inconceivable to compensate the losses. But NWDT ordered community based rehabilitation to reduce the extent of loss of culture, but here too there were problems as culture is not just because of living together, but evolves as a result of human interactions with environment and economy as well. In the foregone discussion we have already seen that community rehabilitation could never take place.

The argument is that the concept of compensation is so supple, for all practical purposes, that it is very difficult to confer it any element of legitimacy other than the legal. There is one more possible locus for legitimacy – Consent. But in the case of displacement in the Narmada valley, the governments are not able to come to any level of consent with the affected populations. If consent has to arise, the entire process has to be democratic, transparent and affected people should have been consulted from the beginning and prior-informed consent sought. Since that did not happen, there is no way they could arrive at consent at a later stage in the development of a project. The only alternative was compromises. But compromises, if they do not happen between two equal parties (equal in terms of political power) there tend to be problems even in those compromises.

Most of government’s promises, which of course failed, were actually their attempts at compromises, for taking the project ahead. This was a kind of diplomatic game.

As far as the PAFs were concerned, there was only one legitimate path left for their non-violent struggle for just compensation, it was the legal path; while eschewing violence and direct confrontation, PAFs, through their organization, demanded at least the legal provisions stipulated in the NWDTA which was endorsed by the SC judgments 2000 and 2005.
Since Gujarat was the main beneficiary of SSP, MP and Maharashtra initially refused to take responsibility for land-based rehabilitation of their own PAFs. Instead they prompted their PAFs to accept land in Gujarat. Because of the pressure from NBA, Maharashtra government succumbed to it and began offering land to the PAFs of Maharashtra. After the SC judgment, MP government continued to refuse land based rehabilitation but agreed cash compensation in lieu of land to the PAFs. The detailed discussion is coming up in Section 4.8.2 of this chapter.

Here it is important to note that gain of someone does not take place at the cost of someone else; it is not considered legitimate and acceptable as per the legal provisions based on the Constitution of India. Hence the myth of ‘compensation’ was created to legitimize displacement. The initial argument was that during the colonial period, no compensation was given to project affected populations. Gujarat justified the huge displacement caused by SSP with the ‘best rehabilitation package’ offered in Modern India for such a huge displacement. The question is, does ‘compensation’ legitimize displacing a citizen for the sake of another, especially on such a vast scale? What are the legitimating planes that make ‘compensation’ as an acceptable factor in the game of legitimation?

As seen earlier, the etymological shades of meaning take us through return, reimburse, reward, payment, damage, costs, reparation, amends, recompense, expense, fee, repay, pay back, return, make up for, atone for, settle up, restore etc. None of these terms fully capture what was happening in the Narmada valley. The NWDT stipulated that those families who own revenue lands should be given alternative lands and houses with basic modern amenities like tiled roof, brick wall, electricity, roads and access to modern medicine and education. They should also be rehabilitated in the command area as beneficiaries. Gujarat government, in the face of resistance to the dam, went one step ahead and offered land to the major sons with cut-off date as 1/1/1987 (In Madhya Pradesh and Maharashtra the cut-off date is 1994) where as the cut-off date in NWDTA was 1/1/1982 (the tribunal
expected that relocation may begin soon). In one of the websites of the Gujarat government it is given thus

Every development project has its cost. While economic cost/benefit analysis is being traditionally done, there is a greater emphasis these days on human and environment cost. During the hey days of Industrial and Technological revolutions, the mills of economic development of western world ground fast and fine, not caring either for human rights or for ecological consequences. With accumulation of wealth and affluence, finer sentiments of human rights and environment are now surfacing. And what is good for G-7 has to be good for the rest of the World! So our urbanite elite have also adopted human and environmental issues as the State of the Art evaluation angle. (GSNRGF)

It is clear from the above quote that Gujarat did not consider human and environmental costs as a legitimate priority, but as an aberration forced upon it. Since the awareness of the necessity of compensating such cause has already set it and since they had to build the dam, the Gujarat government finally accepted social and environmental costs as something to be compensated. That is, the rhetoric of human rights and environmental costs became prevalent, governments could not more overlook them as used to be, during the colonial period. The government had learned this the hard way. The fundamental question raised by critical scholars is about the incommensurability of what is achieved and what is destroyed as a result of the SSP. It is impossible to fix compensations, decide on costs and benefits, and measure the value of displacement.

4.8.1 Utility of Compensation

It is primarily in a market situation that compensation gains relevance i.e. where materials, belongings, natural endowments and social relations are seen quantifiable, measurable and exchangeable. That is, use value and exchange value get separated. There is no doubt that Gujarat government was driven by the principle of utility as economic rationality governed the overall thinking of the

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30 The significance of this date is that NWDT estimated the number of total affected households according to the 1982 cut-off date for major sons. The more the delay in relocation, the number of households kept multiplying as more and more sons crossed the 18 year mark. The issue here is that the spirit of NWDTA exhorts that at the time of relocation, someone who is above 18 years should be eligible for land-based rehabilitation. But what happens is that since the cut off date is fixed as 1987 (Guj) or 1994 (MP, Mah), those who are above 18 when they are relocated in 1998 or 2008 will not be considered as Major sons. This badly affects the adivasis since large number of ‘now’ major sons with family and kids are not declared as project affected.
governments in the context of aggressive economic development. Therefore, what can be said is the primary motive was that displacement and dispersal of communities can be materially compensated. It has to be pointed out at the outset itself that only in MP cash compensation was executed. Gujarat and Maharashtra States followed the path of land based rehabilitation.

4.8.2 Cash Compensation

Etymologically, the word cash means ‘money box’. (Dictionary, 2001)

1590s, "money box;" also "money in hand, coin," from Middle French caisse "money box" (16c.), from Provençal caissa or Italian cassa, from Latin capsula "box" (see case (n.2)); originally the money box, but the secondary sense of the money in it became sole meaning 18c. Cash crop is attested from 1831; cash flow from 1954; the mechanical cash register from 1878.

Like many financial terms in English (bankrupt, etc.), ultimately from Italian. Not related to (but influencing the form of) the colonial British cash "Indian monetary system, Chinese coin, etc.," which is from Tamil kasu, Sanskrit karsha, Sinhalese kasi.

The word cash has been used in many ways, some of which are given below.

Cash

*n.*

1. Money in the form of bills or coins; currency.
2. Payment for goods or services in currency or by check.

*tr.* **cashed, cash·ing, cash·es**

To exchange for or convert into ready money: cash a check; cash in one's gambling chips.

**Phrasal Verbs:**

**cash in**

1. To withdraw from a venture by or as if by settling one's account.
2. *Informal* To obtain a profit or other advantage by timely exploitation: Profiteers cashed in during the gasoline shortage.
3. *Slang* To die.

**cash out**

To dispose of a long-held asset for profit: Hard-pressed farmers are tempted to cash out by selling their valuable land.
**Idiom:**

*cash on the barrelhead*

Immediate payment: You must pay cash on the barrelhead; we don't offer credit. (Dictionary, 2003)

The meaning of the Noun form is common. But in the Phrasal Verb category, it is used as a slang which means ‘to die’. An exemplary sentence which is relevant for our discussion is the following “To dispose of a long-held asset for profit: Hard-pressed farmers are tempted to cash out by selling their valuable land”. (Dictionary, 2003)

In the matter of compensating the SSP PAFs, the Madhya Pradesh government resorted to cash compensation instead of the NWDTA stipulated land compensation. This policy statement appeared after the SC order 2000. The PAFs felt that the SC had let them down and left them to the mercy of the State governments. MP government categorically stated that they have no cultivable land available to rehabilitate the PAFs. The government stated that those who insist on land based rehabilitation should go to Gujarat resettlement sites as they are offering land. The PAFs who wanted to remain in MP, near their kith and kin, were thus forced to accept cash compensation as all their hopes on getting land in MP died off. Moreover, to some farmers and peasants indebtedness was cumulating, especially in the Nimad region. Cash compensation was attractive to PAFs who were immediately in need of money. Such indebtedness was not due to crop failures or any vagaries of nature but due to dam-led submergence.

The adivasi villagers never bought their lands from anyone. They were born there. They belonged to the land. So when the government valued their land and fixed up the cost of the lands, it was a statistical statement rather than having any real meaning to the adivasis. For the adivasis, valuing land was an abstract act; exchange of land for cash was alien to them. The implications of such an exchange were far greater than what they thought of it for it was an unequal exchange.

In the Nimad villages, where they were more exposed to market and semi-urban life, cash was not a strange idea. But they would never have opted for Cash instead of cultivable land, unless caught in an option-less situation. Hence even when people accepted cash compensation, they were not really happy, hoping that
the NBA’s struggle would succeed and they may get land in the future. It was a case of ‘standing on two boats’. There were villages like Bhavariya, Kadmal, Kapparkheda and many others, where many hamlets resisted cash compensation and still fought for land compensation in MP itself. They were the strong base of NBA in Madhya Pradesh. Government was banking on people’s fear and ignorance, and to some extent the delusion of development as accessing motor bikes, cars, mobile phones and televisions. This was the consumption pattern of most of the PAFs who accepted cash. The Cash compensation was never sufficient to buy another plot of arable land equal to what they lost in submergence except in few cases i.e. those farmers who also held substantial lands in non-submergence areas. They did not have serious problems with cash compensation.

4.8.3 Cash Compensation in Madhya Pradesh

According to the government of MP, there are no irrigable agricultural lands for resettlement of PAFs. This was a very serious issue considering that the maximum displacement due to submergence was in this State i.e. 43021 (82.71%) households. The MP government had categorically stated that there was no agricultural land available in MP for SSP rehabilitation. Even by rough estimates, to allot at least one hectare of land to each household require 43021 hectares of arable land.

The resettlement sites, which were required to be established, were still incomplete. There was no agricultural land in any Resettlement site (except Gopalpura site, where too the land was uncultivable) and the civic amenities to be provided were still pending. The only site where PAFs have moved in and taken possession till 2006, when the dam height has gone to 400 feet (121.92 meters), is Eklera (affected at 312 feet (95m)). Besides this site all other sites were uninhabited. The status of resettlement in MP given in NCA website claims that out of the total 24421 households affected in the 177 villages of MP at the dam height of 121.92 m. 18965 (77.66%) PAFs were cash compensated in MP and continue to reside in their original villages. The rest 5460 (22.36%) have accepted
resettlement in Gujarat. While the Gujarat status report shows that they have allotted land to the MP PAFs in Gujarat, almost 78% of the affected households in MP had to content with Cash compensation. The MP government, immediately after the 2000 SC judgment, issued government orders claiming cash compensation as legitimate despite NWDT and SC orders stating otherwise. This new scheme known as Special Rehabilitation Package (SRP) issued in 2001 evolved into a major scam of crores of rupees pocketed by the government bureaucrats and middlemen who were involved in the resettlement process in MP. Tusha Mittal wrote in Tehelka in 2009 that

Desperate to meet pre-conditions and raise the dam higher, the Narmada Valley Development Authority (NVDA) introduced a Special Rehabilitation Package (SRP) worth Rs 300 crore in 2001. It gives oustees cash compensation as long as they can prove they’ll buy land with it – a feat the government couldn’t accomplish themselves.

Today, the SRP scheme has led to more chaos and displacement. While the State defines only those whose lands are slated for submergence as “project affected”, as one travels through the Nimad plains of Madhya Pradesh, it is impossible to find a non-project affected family — farmers who were unaffected by the dam have begun killing themselves, those displaced are finding themselves in jail, those who have received compensation are being asked to return it, while the ineligible and the deceased are paid crores in compensation. (Mittal, 2009)

The tragedy of SRP is that it was imposed upon the PAFs, violating their legal right to land based rehabilitation. We have already discussed in detail the issues involved in land based resettlement. Altercating cash for land creates a more complex process where the intended purpose of rehabilitation i.e. an improvement of the quality of life after resettlement may get subverted to a large extent. The efforts at legitimizing this process did not succeed much as the High Court of Madhya Pradesh has taken a critical view of the cash compensating process. PAFs have gone to court questioning the legitimacy of this procedure and challenging the State government to stick to its responsibilities towards the people who bear the cost of development. As already discussed land based rehabilitation is a legal right for the SSP PAFs, guaranteed by NWDTA, R&R Policies of the States, Judgments of the Hon’ble Supreme Court (18-10-2000 and 15-03-2005) and the Orders of the GRA. NBA argued in the court that most of the PAFs are small or marginal

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31 Refer Table 4.3
farmers, especially adivasis and dalits and that this scheme of replacing cash with land is in utter violation of all the aforesaid legal provisions. It was also stated that cash compensation is inadequate in comparison to the current land prices in the area. Cash compensation was insufficient to purchase land elsewhere. Many households who received the 1\textsuperscript{st} cash grant (out of three installments) could not yet purchase land.

While this is so, a major reason to give cash in lieu of land was to speed up resettlement and show to the SC that MP government has fulfilled its responsibilities. There was also severe pressure from the Gujarat government on MP government as Gujarat wanted the dam to be completed as fast as possible. Unless and until resettlement is completed at a particular height of the dam wall, further heightening of it will not be permitted by the NCA.

In order to statistically under represent the numerical strength of the PAFs affected in MP, the government categorized the affected households into permanently and temporarily affected so that the latter do not fall under those requiring compensation. About this issue the TISS report 2008 refers thus:

After the SC Judgment 2000, Madhya Pradesh government changed their R&R policy from land based compensation to cash compensation. For instance, the NWDT has clearly laid down land based rehabilitation measures, but the Madhya Pradesh government introduced the Special Rehabilitation Package (SRP) in 2001, under which the state has been disbursing cash in lieu of land submerged.

Further in 2002, the state government introduced an arbitrary distinction between permanently and temporarily affected families, which resulted in a drastic decline in the number of Project Affected Families (PAFs). The Supreme Court in 15 March 2005 disapproved of such a distinction and asked the state governments to rehabilitate all the affected families and major sons, providing all rehabilitation entitlements as laid down by the NWDT. Following this, the SRP (Cash for Land) was suspended by the Review Committee of the NCA on 21 March 2005. However, the SRP was revived again by Madhya Pradesh government on 16 June 2005. The decision of the NCA to allow the height to be raised to 121.92 m on the basis of “assurances” to cover all affected families for rehabilitation benefits constitutes clear violation of the undertaking to the NCA and Supreme Court of India. (TISS, 2008)

The substitution of cash for land and the arbitrary distinction between permanently and temporarily displaced were challenged by NBA in the court. The SRP was legally stayed while the second one got ruled out.
We need to remember that a change in MP government’s attitude towards that of Gujarat came after the SC Judgment 2000. There was a tendency to shed off the earlier grievances regarding dam height and water sharing. This coincided with coming of BJP to power in Gujarat in 2002 and in MP in 2003. Politically, this atmosphere was more congenial to make decisions favourable to Gujarat. NBA embarked on a delegitimation campaign that the push for cash compensation and filing of affidavits with ‘cooked up’ data in the SC were part of this nexus between the States governed by the same political party since 2003. It is probable that with this nexus the performitiveness of judiciary got dilated. But that is not what actually happened.

### 4.8.4 The Justice Jha Commission

The stay on the Dam construction in 2006 again saw a shift in the balance of powers, especially a re-alignment between Judiciary and NBA, SC and NBA, MP government and NBA and so on. In 2008, the Jabalpur High Court appointed the Justice Jha Commission\(^{32}\) to look into the matters of illegal disbursement of Cash in lieu of land and also fake registries scam, a major corruption whereby officials and ‘dalals’ minted cash that was due for rehabilitation of SSP PAFs in MP. The duties of the Jha Commission are stated thus:

1. Whether there have been fake registrations of sale-deeds under the SRP for rehabilitation and resettlement of PAFs/PAPs of Sardar Sarovar Project in the districts of Badwani, Dhar, Jhabua, Khargone and Dewas and if so, the details of such fake registrations of sale-deeds and the persons responsible for such fake registrations of sale-deeds?
2. Whether the civic amenities in the R & R sites such as road, drainage, panchayat bhavan, schools, dispensaries, seed, stores etc. are of sub-standard quality as compared to the expenditure incurred by the State Government or the NVDA and if so, the persons responsible for such constructions of substandard quality?

6. That, by order dated 12.11.2009, the scope of reference to Justice S.S. Jha Commission was enlarged to: “enquire into the alleged corruption/irregularities as to livelihood grants and alternative livelihood,

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32 Justice Shravan Shankar Jha was a former judge of the High Court. When the rampant corruption in rehabilitation of MP PAFs reached a high pitch with NBA filing petitions in the court, the Madhya Pradesh (MP) High Court constituted the Jha Commission in August 2008 to enquire into the multi-crore scam of fake registries of Sardar Sarovar affected victims, which is currently looking into the matter. The responsibility of the Commission was to enquire into the issue of fake registries and also to identify the culprits behind the low quality of construction works at the R&R sites.
Following on the same lines as the SC Judgment 2009, the Jabalpur High Court pro-actively issued an order on 6th January 2015, upholding the SC verdicts 2000, 2005 and 2009 and directed that Cash Compensation be stayed with immediate effect. Excerpts from Para 34, 35 and 36 is given below:

34. we hold that the State Government is not justified in making payments in installments to PAFs without the Commission's verification. All the payments made without Commission's verification be now placed before Commission for verification within seven days. The Commission shall dwell upon the same and furnish the report within two weeks therehence for necessary orders in the present proceedings.

35. we direct that by special financial assistance to the oustees, there will be no distribution of compensation in the form of cash or cheque towards various grants as it is alleged in the petition that a lot of irregularity and corruption is taking place at the time of distribution of such compensation by cash or cheque.

36. Suffice it to observe that the order dated 29.11.2013 passed by the Supreme Court has the effect of suspending the directions given by Jha Commission regarding payments made to the oustees as per Special Grant vide order 4.4.2012 and the consequential Memorandum dated 16.4.2012 issued in that behalf and nothing more. The State Government is obliged to honour the direction given by the Supreme Court on 11.5.2009 regarding disbursement of compensation by way of cheques or cash after 4.4.2009 - subject to the scrutiny by Justice Jha Commission. That condition is inviolable (Jabalpur HC Judgment, 2015)

To explore the issue of contestation and the process of legitimation further, we shall now turn our attention to the terminologies, concepts and categories that function as conceptual complexes for perpetuating legitimation and delegitimation. This is taken up in the forthcoming chapter.