CHAPTER 6

THE BATTLE HALF WON: REHABILITATION AND COMPENSATION
Any discussion on hydro-electric projects is incomplete without discussion on how the people affected by these projects were resettled and compensated. This chapter will focus on Relief and Rehabilitation (R&R) of the people affected by hydro-projects in Himachal Pradesh. The chapter is divided into three sections. The first two sections are analysing the R&R process with special reference to Pong dam. We are taking up Pong dam as a case study because its R&R process has been very controversial and is still pending even after four decades. The third section discusses the changing policies of R&R in Himachal since independence. This helps us to examine various aspects of rehabilitation and compensation.

Dams and displacement go together. While there can be displacement without dams, but no dams can come up without some kind of displacement. Displacement is the process of physically uprooting a large section of people from their land, economy, resources and culture. Involuntary resettlement has long historical roots. But in the twentieth century it has acquired rapid momentum. People have been displaced in an increasing number. The most painful aspect of displacement is the loss of livelihood.

Displacement needs to be tackled by proper rehabilitation of the displaced people. Failure to do this in the past has resulted, world over, in increasing criticism of large hydro-projects. In the long run it led to powerful anti-dam movements. It is unfortunate, argues Satyajit Singh, that irrigation and power generation projects, which could play an

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2 This happens as relocation sites are often unable to provide people the kind of income generation opportunities that they enjoyed earlier. In the new place the oustees are forced to depend on the market economy, to survive which is mostly not advantageous for them. Thus it usually leads to their pauperization and increased marginalization. Mathur, 'New livelihoods for old', in idem. ed., Managing Resettlement in India Approaches, p. 47.
important role in the alleviation of poverty and promoting greater social justice are, in fact, doing just the opposite.\(^3\)

India has a long history of dealing with displacement and rehabilitation of people in a wide variety of situations. Estimates of India’s displaced population from all kinds of projects since Independence vary widely. Majority of the estimates are in the range of 25-50 million.\(^4\) There is no overarching national policy on rehabilitation although there have been some attempts to move in this direction.\(^5\)

Most large projects in the country have their separate rehabilitation plans for the displaced people. Dams and mining projects have provided lead in this field. Rehabilitation schemes involve land grants, giving homestead sites, jobs in the project itself, fishing rights in lake reservoirs etc. Land grants always depended on availability of suitable land. No project guarantee jobs to all displaced people. Hence, rehabilitation in the past often meant cash compensation. While project affected people prefer getting good quality land and well paid jobs. Overall it can be said that project authority show reluctance in properly rehabilitating people.

The displacement caused by large scale irrigation and hydro-projects has drawn considerable scholarly attention in recent years. Many authors have studied the resettlement and rehabilitation of displaced persons and analyzed how it affected their income, standard of living and physical and emotional health. Amita Baviskar and

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\(^3\) Satyajit Singh, *Taming the Waters*, p. 182.


Arundhati Roy focus on the emotional trauma of displaced people. While E.G. Thakral, Ranjit Dwivedi, Satyajit Singh and Jean Dreze highlight various aspects of displacement and rehabilitation. Hari Mohan Mathur and Michael Cernea have critically analysed rehabilitation policies and training programmes carried for displaced people. They primarily evaluate the process of rehabilitation in economic terms.

All studies underline a fact that the greatest problem in properly tackling R&R process is the indifferent attitude of the government and the executing agencies towards rehabilitation. Often there is no advance and comprehensive plan for rehabilitation. The casual attitude can be judged from the fact that government even lacks comprehensive data on people displaced since independence. Project authorities only focus on engineering specifications and electricity and irrigation benefits. Many instances can be quoted where project authorities provided lower displacement figures in proposal documents, so as to show a favorable cost benefit ratio to the funding authority and thus

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9 In case of Bargi dam project on Narmada river in western Madhya Pradesh, till the dam was constructed and reservoir was filled, the project authorities kept saying that 101 villages will be submerged. However, when the reservoir was filled, the numbers of villages submerged happened to be 162. Then, the Chief Engineer just put a white paint on the old figures and wrote down the new figures. The paint, being of bad quality, for a long time both old and new figures continued to remain visible. Quoted in J. Bandyopadhyay, B. Mallik, M. Mandal and S. Perveen, draft report on ‘Policy Dialogue on Dams and
ensure clearance for the project. Another shortcoming of estimating dam-related displacement is that only reservoir displacement is taken into account. Further, the project authorities are mostly interested in the relocation rather than the rehabilitation of project affected persons, in their physical transference from the submergence zone to other place.

During the early years of independence there used to be bewilderment and confusion among oustees in virtually every large project about the details of submergence. There use to be hardly any clarity on which villages or segments of villages to be submerged, and when? The situation improved, to some extent, afterwards. But still it is far from satisfactory. Now from the 1990s the public hearings and consultations have become compulsory for obtaining the clearance, but they are merely conducted to fulfill a condition rather than to actually invite people’s participation.

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10 A World Bank review of the status of displacement and rehabilitation has shown that the displacement of as many as 0.6 million people across 192 projects had not been accounted for in project planning. In at least one instance, the number of people actually displaced was seven times the number stated in the project documents. McCully, *Silences Rivers*, p. 92.

11 The displacement due to colonies, canals, downstream impacts, catchment area treatment, compensatory afforestation, secondary displacement (at resettlement colonies, for example) and due to related conservation schemes like sanctuaries and national parks are generally not taken in account. E.G. Thukral, *Big Dams, Displaced People: Rivers of Sorrow, Rivers of Change*, p. 4.

12 The influential *Citizens’ Fifth Report* published by the Centre for Science and Environment documents, quotes the plight of about 12,000 Biranchi families in the Rengali dam area of Orissa, displaced in 1973. They continue to have no land for cultivation, no drinking water and no health care. Oustees from the first major river valley project of free India, Hirakund, in the absence of any rehabilitation plan, occupied whatever open lands they could locate. These lands are still not legally theirs, and they are harassed to vacate these lands by forest officials. *The Citizen’s Fifth Report: National Overview*. CSE, 1999, New Delhi.


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The Land Acquisition Act (LAA) which is the basis of all rehabilitation processes is more than 110 years old. The law guarantees payment of monetary compensation for compulsorily acquired individual assets, mainly land or houses. However, the manner in which the law is interpreted, the displaced land-owner or house owner becomes the loser. The LAA does not take into consideration the escalation of the market value between the time of notification and the date of actual possession. Compensation is only for persons in possession of undisputed legal title. Women are not accorded any rights for cash or land compensation. Community assets like grazing lands and forests, which again may be critical for the livelihood of the poorest, are not compensated for under the LAA.

Further, whatever compensation is fixed is paid as a rule in cash rather than kind. Most of the tribal people, and also rural people, have little experience in handling huge cash. Many studies have recorded how cash compensation is depleted by oustees in a short period, often for repayment of old debts, on liquor and conspicuous consumptions. As Ravi Himadri say that 'a lifetime of livelihood security or shelter is squandered in

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15 The practice is to pay compensation for lost fixed assets like agricultural land at the prevailing market rate, calculated as an average of registered sales prices of land of similar quality and location in the preceding three or five years. However, it is an open fact that most land transactions in India are grossly undervalued to evade registration fees. The oustee receives a rate which is much below the market rate, and the solatium of 30 per cent (or even 100 per cent as is being proposed in a new draft Land Acquisition Act (LAA) Bill under consideration with the Government of India) is far from enough to bridge the gap between the market and the registered prices. Typically land prices shoot up sharply around any large project because of enhanced demand for land and in anticipation for irrigation; likewise houses are depreciated in value for age. ‘Dams, Displacement, Policy and Law in India’, World Commission on Dams, www.dams.org/docs/kbase/contrib/soc213.pdf.

16 Tenants, sharecroppers, wage-labourers, artisans and encroachers are usually not considered eligible for compensation because they do not have legal title to agricultural land, whereas they are paradoxically the most vulnerable and in need of support.

months, sometimes weeks, condemning displaced persons to assured and irrevocable destitution’.  

Displaced, not only mishandle compensation money, they fail to acquire new cultivable land, which can provide alternative livelihoods. This leads to economic marginalization of the oustees, says Cemea. The dispossessed cultivator is then caught in what Cemea describes as the ‘spiral of impoverishment’ and is then left with one of two alternatives. The land-owner can either migrate to the slums of the cities in search of work, or moves out to neighboring common land or forest tracts, which he then clears for cultivation. Unable to ensure a land-for-land policy, the state governments are under pressure to rehabilitate the oustees by providing them sustainable non-land based livelihoods.  

The history of anti-dam struggles in India is long. Even before independence Senapati Bapat led a movement in opposition to the Mulshi hydroelectric project in the Western Ghats. The first large river valley project in India, Hirakud, also saw widespread protests after the initial notification in 1946. In projects like Bhakra, the Tungabhadra and the Damodar Valley, started immediately after independence, resistance was, as Ravi Himadri says, ‘sporadic, localised and disorganised, reflecting the anger of those who were to be displaced’. The political parties were mostly not a party to it except socialist

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20. Ibid.
leader like Ram Manohar Lohia, who led a struggle against the Rihand project in 1963-64. However, such early protests could not be sustained, 'partly because of their failure to attract larger alliances under the overwhelming influence of the nationalist rhetoric of nation-building that accompanied the construction of large dams in India'.

The success of the mobilisation against the Silent Valley project resulted in the decision to shelve the project in 1983. This led to a new phase in the history of resistance to big dams in India. In this project, environmental consequences rather than displacement were the central focus. The most celebrated protest movement against big dams so far has centered around the mega Sardar Sarovar Project on the river Narmada. Activists and intellectuals from India and other parts of the world expressed active solidarity with the Narmada Bachao Andolan formed under the leadership of Medha Patekar. The World Bank, which was funding the project, set up an independent review of the project led by Bradford Morse in 1991. The Morse report led to the withdrawal of the World Bank from the project.

The protest movements have led to the withdrawal of the some other projects also like Rathong Chu project in Sikkim in 1997 and the Bedthi project in 1998.

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24 Ibid.

25 However, alliances between environmentalists, scientists and tribal rights activists succeeded in securing the withdrawal of not only the Silent Valley, but also the Bhopalpatnam, Inchampalli and Bodhghat projects proposed over the Godavari and Indrawati rivers. Other notable early struggles against big dams were local movements opposed to the Suvarnarekha, Koel Karo and Srisailam projects. The Citizen’s Fifth Report: National Overview. CSE, 1999, New Delhi.

26 This project, designed to irrigate 2 million hectares of agricultural land, is expected to displace as many as two hundred thousand people, the majority of them are tribals.

27 The struggle for the oustees of the Sardar Sarovar project is still an ongoing process and has been discussed in details in all its aspects by many scholars like Satyajit Singh, Amita Baviskar, Ranjit Dewedi, Arundhati Roy, Jeane Dreze and many more.

28 Not only in India but throughout the world the dams were being opposed. The anti-dam movement has succeeded in cancellation or postponement of many prestigious large projects, some of the important examples are: the Franklin Dam in Australia, Nam Choan in Thailand, Babaquara in Brazil, Katun in Russia and Serre de la Farre in France. The popular agitations against the Arun III dam in Nepal, the Three Gorges dam in China forced the World Bank to quit from these projects. McCully, Silenced Rivers, pp. 26-29.
Determined protests have led to review of the rehabilitation package for Tehri in Uttrakhand, and the stalling of work on the Koel Karo project. Construction work in Bisalpur and Mansi-Wakal projects continues amidst organised protests, and work has commenced under police protection in the newest project over the Narmada at Maheshwar.29

As Ravi Hemadri says that ‘the greater success, however, of these movements has been the fact that they have given political voice to groups that were hitherto almost completely excluded from mainstream political processes.’30 By ensuring that these voices are heard, these movements have succeeded in compelling governments, both central and state, and powerful funding agencies like the World Bank, to rethink their policies on displacement and rehabilitation. However, these voices are always not as powerful as they should be; these movements still contribute to the empowerment of these vulnerable groups. And gradually influence the state development policies.31

The journey of rehabilitation process has come a long way in Himachal as well. Initially there was little protest as people were made to feel pride by sacrificing for nation, during the making of Bhakra dam. Later people, however, began to agitate. Nevertheless these were only a few agitators and they could not mobilize a large number of people. Hence they could not attract attention of national or international media. But the project affected people do still have a voice and at times are able to pressurise the government to make suitable changes in the policy. Now the planners in Himachal have become more responsive towards the rehabilitation issues. First we discuss rehabilitation

29 A significant development has been the recent revival of struggles by people displaced by dams completed years ago, such as on the Bargi (completed 1990), Koyna (1964), Tawa (1975) and Mahi-Kadana (1978). The Citizen’s Fifth Report: National Overview. CSE, 1999, New Delhi.


31Ibid.
and compensation in case of Pong dam. How the government learned from these experiences and made changes in the policy is discussed in the second section.

Section I: Rehabilitation Process of Pong Dam

'We will request you to move from your houses after the dam comes up. If you move it will be good. Otherwise we shall release the waters and drown you all.' These were the words of the then Finance minister Mr. Morarji Desai speaking to the people of Kangra who were being displaced by Pong dam. The dam began to be built in 1961 to bring in prosperity and greenery to Rajasthan along with Punjab and Haryana in 1961. These words showed the lack of sensitivity towards the people about to be displaced. Unfortunately his words did prove to be true. In 1974 the dam was suddenly filled up and many people lost their lives. The oustees not only lost some of their relatives but also the hope of better future and proper resettlement.

Resettlement of the affected people by development projects is not a happy experience anywhere, but in the case of the Pong Dam it is unique and very painful. It is a case where the reservoir land donor state is not a beneficiary state either by way of irrigational facilities or by way of electricity. Further, the people affected were asked to settle in a place which was totally alien to their culture and way of life. The Pong Dam rehabilitation process is one where land was offered for land in 1966. However, the process proved out to be complex and has not been fully settled so far.

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33 Pong dam is a classic case of inter-state projects involving a large number of people displaced from the sub-Himalayan hills ‘resettled’ in Rajasthan’s desert, which is an entirely different agro-climatic region among a people of an altogether different culture. Ravi Hemadri, 'Indian Experience On Displacement, Resettlement, And Development: People’s Perspective', Contributing Paper for World Commission on Dams, www.dams.org/docs/kbase/contib/soc213.pdf

34 Some of the records I am consulting in this section are in the office of D.C. Kangra, LAO Talwara and D.C. R & R Raja Ka Talab. However personal copies of some of these documents are available in the private collection of Mr. S.D. Kaul, Retired Superintendent, LAO Talwara, who has systematically
As mentioned earlier the dam was built in the Kangra district of Punjab while Rajasthan was the main beneficiary state. Hence Rajasthan was made responsible for resettling the oustees by providing them irrigable land, water, road, schools, dispensaries and other allied infrastructure facilities in the command area. Such an agreement to resettle the oustees is often excellent in mathematical proposition for the cost sharing of development projects, but in reality is totally blind and cruel to the socio-cultural concerns of the people. In this case people of hills, who were used to the cold climate, were expected to settle in the hot, barren, and humid deserts, bordering Pakistan. Not only the distance of the place of resettlement was large, but the climate, terrain, agricultural practices, culture and the total ambience was both unfamiliar and hostile. For many people these problems were insurmountable and regarded the attitude of planners as inhuman.

Renu Bhanot and Mridula Singh\textsuperscript{35} excellently portray the difficulties faced by the oustees of the Pong Dam. The article however places all blame for failure of rehabilitation on the Rajasthan government, which no doubt is largely true, but it underplays the fact that the oustees were initially reluctant to go to Rajasthan. Only when the water began to flow in the IGNP and the prices of the land along it skyrocketed, the oustees began to show keen interest in land there. Moreover many planned to get murrabas\textsuperscript{36} with the intention to sell them as early as possible for monetary gains. By saying this we are not absolving the Rajasthan government of its murkier role but suggesting that that the process was much more complex than made by the authors. Further we want to bring out the complexity of the role of the Himachal Government in the resettlement process. The intervention of the Supreme Court gave new twist to the

\textsuperscript{35} Renu Bhanot and Mridula Singh, ‘The oustees of Pong dam: Their search for a home’, pp. 102-144.

\textsuperscript{36} A murraba is a piece of 15.625 acre of land which was to be given to every oustee family in Rajasthan.
issue. These aspects are obviously missing from the article of Bhanot and Singh because it was written in 1989. We bring the story down to the present. By now almost all avenues have been explored by the oustees for justice, which still eludes them. We analyse factors, which make rehabilitation a Herculean task.

Although the government of Rajasthan and Punjab had planned to settle all the oustees, whether landed or landless, in the canal area in Rajasthan, the majority of the oustees did not settle in Rajasthan. They instead settled in different parts of district Kangra. Some settled here voluntarily. But some had no choice as they could not settle down in Rajasthan because of various problems faced by them.

To understand the complexity of the rehabilitation process, it can be divided into three Phases-

| Phase II      | 1982-1992, Till the filling of the case in Supreme Court. |
| Phase III     | 1992-Till date. |

**Phase I: 1966-1982**

When the Pong Dam was planned, the states of Rajasthan and Punjab were aware that the problems would be thrown up by the acquisition of land. It was agreed by the Chief Ministers of Punjab and Rajasthan in 1960 that apart from cash compensation being paid the oustees would also be provided land in the Rajasthan canal area for rehabilitation. This decision was primarily based on the humanitarian ground to resettle the oustees properly. Rajasthan government was also interested initially to settle the people in the canal area because it was uninhabited. By setting them here agriculture could be promoted in this barren land.

37 Details are given in chapter 5, section I, under the subheading 'People and the Reservoir'.
On 20th August 1962 officials of states and GOI met and agreed that the oustees of the Pong Dam, the Rajasthan feeder and the Beas Sutlej link would be eligible for allotment of land in the Rajasthan. As the issue of rehabilitation was a complex one a series of meetings held. A committee of the Chief Ministers of the concerned states was constituted to resolve the issues and expedite the process of resettlement. The committee met for six times, starting from 10th July, 1968 to 23rd September, 1971 (representatives of newly carved out states, Himachal and Haryana also joined). It was decided that Rajasthan government would acquire 3.25 lakhs acres of land to settle the oustees. It was to be provided by 1970-71. The land was to be allotted to the eligible oustees and eligibility conditions were to be worked out by the committee. The artisans, labourers, landless tenants, etc, who did not own land in Himachal were to be given land for houses within the abadi area. During the transitory period the shelter huts and transit camps were to be made available by the Beas Project Management. The oustees were to pay a concessional price for the land allotted to them. This was to be the same as being paid by Rajasthani landless labourers to get the land. The price was to be recovered in twenty equal annual installments. No interest was to be charged on this amount. The committee initially wanted to allot land to an oustee in proportion to the land acquired from him in

38 The oustees of this project from Mandi district of Himachal opted to settle in Himachal and did not go to Rajasthan at all.

39 See Detailed note on Pong Dam, by T. Swaminathan, Cabinet Secretary, Government of India (henceforth G.O.I.) Dated 03-07-1972 in the File name ‘Resettlement of Pong Dam Oustees in Rajasthan (Detailed note on Pong Dam)’, p. 2, in the Pong Dam Branch of D.C. office of Kangra at Dharamshala. (henceforth-Detailed Note by C. Sec.)

40 Recommendation No-IV-1st meeting of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi held on 10th July, 1968 at New Delhi, P.C. of Mr. Kaul.

41 Provision II of the 2nd Meeting- of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi on 14th December, 1968, Ibid.

42 Recommendation No-V and VI of the 1st meeting, Ibid.

43 Rates for the Land to be allotted for one instalment were Rs.1280/- Nali (Irrigated) Land, Rs.1080/- for Light loam, Rs.800/- for Sandy loam and Rs.240/- for un-commanded.

44 Provision 2 of the 3rd meeting of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi on 3rd-4th September, 1970, P.C. of Mr. Kaul.
Himachal. Later when the Planning Commission of India stipulated that minimum viable holding was 15.625 acre, the Committee of CMs decided that each oustee family would get 15.625 acre irrespective of whatever amount of land acquired from him.\textsuperscript{45} The land, which was to be allotted in Rajasthan, was to be developed by the Rajasthan Colonization department. It was also to provide the basic amenities like housing, roads, water supply, electricity etc.\textsuperscript{46} The land was to be reserved in Anupgarh, Gharsana and Suratgarh in Gharsana district along with in Vijaynagar, Raising Nagar and Chattargarh, Nachana, Puggal, Narwana, Jaisser to name a few areas. As the basic issues were decided upon, the committee worked out eligibility criteria. It was taken up in 1970 during their III\textsuperscript{rd} meeting.\textsuperscript{47} The eligibility criteria were:

1. For the purpose of the resettlement of an oustee from the Beas Project area, one had to be a person residing permanently within the area acquired for the construction of the Beas Project before 31\textsuperscript{st} March 1961, whether as a landowner, tenant, landless labourer or an artisan.

2. In order to be eligible for the allotment of land in Rajasthan, a landowner with less than 20 acres (held singly or jointly) had to lose 30 percent or more of his holding. An oustee with more than 20 acres (held singly or jointly) had to lose 50 percent or more of his holding, but he was not eligible for the land if his remaining land was more than 30 acres.

3. In case of a joint holding all the co-sharers were to be considered as one oustee and to be allotted one murrabas only, i.e. 15.625 acres.

4. After 1961, only ownership through succession was recognized.

Out of 30,000 families, which were to be affected by the construction of the Beas Project, the Himachal government forwarded a list of 20,722 families in 1969.\textsuperscript{48} The

\textsuperscript{45} Quoted in Detailed Note by C. Sec., p. 5.

\textsuperscript{46} Recommendation no. 5 & 6 of the 1\textsuperscript{st} meeting of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi on 10\textsuperscript{th} July, 1968, P.C. of Mr. Kaul.

\textsuperscript{47} Under provision 4 of the 3\textsuperscript{rd} meeting of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi on 3\textsuperscript{rd}–4\textsuperscript{th} September, 1970, ibid.

\textsuperscript{48} These were those families who were able to fulfill the eligibility criteria. Mr. S.D. Kaul, Retired Superintendent, LAO office Talwara, interviewed on 23\textsuperscript{rd} July, 2003.
Rajasthan Government did not question these figures. However, the eligibility became the first issue of disagreement.\textsuperscript{49} The main points of disputes were related to the eligibility for allotment of land and the eligibility of succession of landholders who had lawfully inherited land-owning rights after 1961.\textsuperscript{50} By mutual agreement the matter was referred to the cabinet secretary and his advice was sought as to how to determine the number of oustee families eligible for land allotment in Rajasthan.\textsuperscript{51} The then Cabinet Secretary, Mr. T. Swaminathan, in his note dated 3\textsuperscript{rd} July, 1972, reiterated this with great precision.

I would wish to emphasize that this is a unique case of land acquisition oustee being rehabilitated in a State different from the one in which the land is acquired. There can be no rules and regulations in regard to such an adhoc arrangement. The matter can be governed purely by goodwill between the reservoir land Donor State and the irrigation beneficiary State and by humanitarian consideration.\textsuperscript{52}

He also underlined that the Rajasthan government should not worry too much on account of the bonafide oustees as enough safeguard will be provided in the rules for allotment.

It seems that the Rajasthan Government from the very beginning was not very honest and eager about the resettlement issue and despite being the major beneficiary state was not entirely ready to fulfill its own promises. They also raised a question on the

\textsuperscript{49} The Rajasthan government wanted to verify the figures by a reference to the original records. It started with a few cases but later realized that the task was mammoth and the exercise fruitless. Detailed Note by C. Sec., p. 5.

\textsuperscript{50} As Bhanot and Singh have also pointed out in their article that the eligibility criteria were confusing viz-a-viz the rights of the co-sharers. Some totally displaced people only received cash compensation and no land and for reasons unexplainable. Bhanot and Singh, 'The oustees of Pong dam: Their search for a home', p. 121.

\textsuperscript{51} Provision II of the 4\textsuperscript{th} Meeting- of the committee of Chief Minister for re-settlement of oustees in Rajasthan Canal area held at New Delhi on 14\textsuperscript{th} December, 1968, P.C. of Mr. Kaul.

\textsuperscript{52} Detailed Note by C. Sec., p. 12.
enhanced compensation being paid to the oustees by the BBMB, while it was irrelevant to the question of rehabilitation. Still as it was forced to proceed, on 15th September, 1972, the Government of Rajasthan published the Rajasthan Colonization (Allotment of Government land to Pong Dam Oustees in the Rajasthan Canal Colony) Rules, 1972, based upon the decisions and guidelines emerging out of the meetings of the committee. These were enforced from 11th April 1973. The state government had based these rules according to the Rajasthan Colonization act, 1954.\textsuperscript{54}

**Procedure for allotment**

1. The eligible oustee was required to procure a certificate and identity card from the HP government as proof of being an oustee. Within three months of these being issued, he had to personally file an application in the office of the allotting authority to be provisionally registered until he was given clearance by the Rajasthan government [Rule 5(i), (ii) and (iii)].

2. Following the provisional registration of such an oustee and a lengthy scrutiny of legitimacy of the oustee concerned, the final decision of the allotting authority was to be conveyed to him [Rules 4, 5 and 6].

3. Once the application was cleared and the allotment order in the reserved land granted, the allottee had to take possession within 45 days of the receipt of the notice for allotment [Rule 5]. The same was to be considered cancelled in case the allottee failed to take possession within the specified 45 days [Rule 5 (vii)].

\textsuperscript{53} Ibid., p. 13. The Rajasthan government was of the view that the oustees are being paid good cash compensation and land also, which will raise the cost of the Beas Project. But the Cabinet Secretary in his award of 1972 overruled this objection.

\textsuperscript{54} The salient features of these rules were: I-The state government was to reserve land in specific areas of Rajasthan Canal colony and allotment was to be out of that land only. (Rule 3.1); II- The eligibility rules were the same as decided before by the committee of Chief Ministers. (Rule 2.9, rule 4.1, rule 4.3.); III- In the eligibility rules it was also added that only those oustees would be eligible for land whose names appeared in one particular khewat in the Jamabandi (revenue record of a village unit) up to 1961 and thereafter up to the time of acquisition [Rule 4(iv)]; Such an oustee would need to prove that he had been assessed and had paid land revenue separately and regularly up to 1961 and thereafter until the date of its acquisition [Rule 4(i) a].

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Terms and conditions of allotment

1. The allottee had to pay a price, which was fixed by the rules to the state government for his tract of land. (Rule 6.1)

2. No oustee was to be vested with ownership (khatedari) rights till the expiry of 20 years after allotment and till the payment of the full cost of land and any other dues (Rule 6.3).

3. The sale or transference of land in any manner whatsoever was forbidden even if it be alienation of land in the form of nokernama or mukhitarnama (Rule 6.4).

4. Within two months of allotment, it was compulsory on the part of the ousted allottee to start living permanently in the chakabadi (rehabilitation center) Rule 6.5) and cultivate the land personally, i.e., by means of ‘one’s own labour or the labour of any one member of the family’ (Rule 6.6)

5. The entire land had to be ‘brought under plough’ within a period of six months from the date of allotment (Rule 6.7)

6. The presence of the allottee himself on his land, especially at the time of field inspection, i.e., girdawari, was compulsory. He was required to produce his identity card as and when demanded by the colonization or revenue authorities (Rule 6.9)

Scale of price and mode of payment

1. The price for the best quality land to be given out of the reserved land in the command area was fixed at Nali Rs.35,000, Light Loam Rs.29,531, Sandy Loam Rs. 21,875 and Un-command Rs.6,562 per murabba (Rule 7.1), and possession for the land was to be handed over only after the payment of the initial installment within 45 days from the day of allotment. This was to be paid in 20 equal annual installments (Rule 7.1)

2. It was also specified that in case the land was developed by the state government, the price would also include the expenditure on developing it. The oustee was also
required to pay 6 percent interest on the amount spent on developing the land (Rule 7.3).

Cancellation of allotment

1. In case of breach of any of the above conditions, the allotment was liable to be cancelled with immediate effect and the land was to revert to the state government for fresh allotment (Rule 8.1).

2. Before passing an order of cancellation, the allotting authority will give an opportunity to the allottee concerned, an opportunity of being heard (rule 8.2)

The Colonization rules were enforced from April 1973, which was also the year when the dam was almost complete and already many families had been displaced. First batch of the oustees had arrived at Rajasthan in 1966. A batch of 203 oustees was escorted by D.C. R&R and were allotted murrabas in Tehsil Suratgarh, District Ganga Nagar. The oustees were promised completely irrigated land but it was found that a good deal of the land allotted to them was un-irrigated. This land was higher than the main water canal and infested with permanent sand dunes. The oustees requested for change of murrabas to command land, which was not granted because the Rajasthan Government had put a ban on such exchange. This shows malafide intentions.

The oustees were deeply disappointed with the rehabilitation scheme. They launched agitation for proper resettlement of the oustees in 1970 and paralyzed work for a fortnight. It seems that people were really agitated over the mishandling of the

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55 See the ‘Status Note on Pong Dam’ prepared by the office of D.C. R&R (undated), file named ‘Resettlement of Pong Dam Oustees in Rajasthan’ (Detailed note on Pong Dam), p. 2 in the Pong Dam Branch of D.C. Office of Kangra at Dharamshala. (Hence forth – ‘Status Note on Pong Dam’, D.C.R&R)

56 The land with irrigation facilities.

57 Bhanot and Singh, ‘The Oustees of Pong Dam: Their search for home’, pp. 101-102; Also told by many elderly men during interviews taken on 6th May, 2003.
rehabilitation process. A Pong Dam Oustees Samiti was formed and several rounds of negotiations were held and promises for proper rehabilitation were extracted from the authorities.

The rehabilitation should have been over much before it actually started. One of the reasons for delay was the transfer of Kangra District to Himachal Pradesh in 1966 and Punjab government losing its interest in rehabilitation process. Himachal being a Union Territory was busy in the reorganization of the state. Therefore, it could neither give sufficient attention nor had the required resources to deal with the issue. It was also confronted with another problem of fulfilling the promises made to the oustees before the reorganization.

In 1970, a study group of the Members of the Parliament visited the canal area and found that the Rajasthan Government had allotted only one lakh acres of land instead of 2.35 for resettlement of Pong Dam Oustees in stage one and out of this, too, 15 to 20 percent was under lease which was to be vacated. Although the government had reserved land for allotment to oustees, a large part of this land was used for purposes other than the allotment. Some was reserved for forests, for the use of local landless and Border Security Force and a part of it was already auctioned to the local population. Out of this allotted land not all was irrigable or command land as well.

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58 Mr. K.C. Sharma, who was posted as Sub Divisional Officer at Dheragopipur in 1972 told that many oustees carried out agitations for proper settlement. Interviewed on 10th November, 2003, Shimla.

59 Bhanot and Singh, 'The Oustees of Pong Dam: Their search for home', p. 102.

60 Bhanot and Singh have analysed in their article that Mr. Pratap Singh Kairon, the then Chief Minister of Punjab, had promise the oustees 31 acres of land per landholder in Rajasthan along with many infrastructural facilities. Bhanot and Singh, 'The Oustees of Pong Dam: Their search for home', p. 110.


62 Bhanot and Singh, 'The Oustees of Pong Dam: Their search for home', pp. 119-120.
Actual allotments

According to the rules of 1972, only 16,352 families were considered to be eligible for the allotment of land in Rajasthan out of a list of 20,722 families supplied by the Himachal government. But out of these 16,352 families (in earlier records this figure is quoted as 16,100 (this has been rectified now). Himachal government issued eligibility certificate to only 15,124 outee families and Rajasthan government allotted lands to only 9196 oustees till 1981, rejecting the case of 7266 oustees on the basis of non-eligibility. It seems that the Rajasthan Government was more interested in not allotting, rather than allotting the land. The Table 6.1 shows the year wise allotments made by Rajasthan Government to Pong Dam Oustees. The table shows the tardiness of the process.

Table 6.1 Progress of Allotment from 1966 to 1981

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NO. OF ALLOTMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1966-72</td>
<td>572</td>
</tr>
<tr>
<td>1973-74</td>
<td>8389</td>
</tr>
<tr>
<td>1976</td>
<td>12</td>
</tr>
<tr>
<td>1977</td>
<td>32</td>
</tr>
<tr>
<td>1978</td>
<td>101</td>
</tr>
<tr>
<td>1979</td>
<td>63</td>
</tr>
<tr>
<td>1981</td>
<td>27</td>
</tr>
<tr>
<td>TOTAL</td>
<td>9196</td>
</tr>
</tbody>
</table>


63 Data provided in the File named ‘Detail of Pong Dam Rehabilitation’ in the Pong Dam branch of the D.C. office Kangra.

64 The main reason for this was the lack of understanding on the part of oustees. The oustees who could not fill up the papers in time were not included in the list. They were again given a second chance at a later stage. Ibid.
The Rajasthan government not only failed in allotting land to the eligible oustees, it adopted very harsh measures by canceling allotments on very flimsy grounds. The action of the Rajasthan government was completely unjust and uncalled for as it did not consider the problems faced by the oustees in settling in Rajasthan. Table 6.2 shows the cancelled murrabas.

**Table 6.2 Cancelled Murrabas Till 1981**

<table>
<thead>
<tr>
<th>Reason For The Cancellation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>For not taking possession of murrabas within 45 days of the allotment</td>
<td>2289</td>
</tr>
<tr>
<td>For non payment of instalments on due dates</td>
<td>3495</td>
</tr>
<tr>
<td>For no self cultivation by the oustees</td>
<td>101</td>
</tr>
<tr>
<td>‘Benami’ transaction of subletting of murrabas etc by the oustees.</td>
<td>689</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>6574</strong></td>
</tr>
</tbody>
</table>


As is evident from the Table 6.2, a total of 2289 allotments were cancelled because of not taking possession of the murrabas in stipulated 45 days (rule 5.7). This mandatory provision of a period of 45 days for taking possession of the allotted land by the oustee could not be complied with, as it was humanly impossible to take possession after undergoing all the formalities as prescribed under the rules and especially for those oustees who were not literate. Kishori Lal, a 70 year old man, who was the resident of Sothal village in Haldoon valley was allotted a murraba in Anoopgarh Tehsil of Ganganagar, but lost it due to his ignorance. He says that he lacked knowledge of Hindi language (as he only knew Urdu) and did not understand the official documents, hence, could not fulfill official requirements till the stipulated time period. Now he is surviving.

65 Interviewed on 31st July, 2003 at Nurpur.
on whatever land he could manage to buy in Nurpur from the compensation money awarded to him.

Another 3495 allotments were cancelled because of non-payment of installments on due date (rule 7.5). For petty farmers it was difficult to pay installments as they did not have enough money to go on paying for the land which was not giving them anything in return, an aspect completely overlooked by the planners. Most of the murrabas were not cultivated due to the lack of irrigation facilities. They required money not just to pay installment, but in the first place to travel to Rajasthan also. Thereafter, living cost at a new place. Most of the money they received as compensation was spent in building house and buying a little land in Himachal. Other 101 oustees lost their land because they were not self cultivating (rule 6.6), and another 689 because of subletting or the ‘benami transaction’ (rule 6.4) of their murraba. Out of the total, 7129 families were not allotted land due to non-eligibility, as they did not apply for land within the time period of 80 days after receiving the cash compensation (Rule 8.3).

Most of the oustees were initially not interested in settling in Rajasthan. They hoped for some kind of settlement in Himachal itself. Kripal Singh of village Dhameta says that his father accepted Rs.250 in lieu of the land in Rajasthan, which was being offered by the Himachal government and did not apply for the murraba. His father had hoped that he will settle well in Himachal and the government will do something for the oustees. But when he realised the importance and value of the murraba in monetary terms and when the government gave him another chance in 1982 to apply again, he did and now his father has been allotted land in Jaisalmer District where there is no water. But Kripal Singh is paying the instalments in the hope that the value of the murraba will enhance some day and if not he then at least his son will benefit from it.

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66 Nanak Chand of village Makrana was allotted a murraba but he could not take the possession, as he did not have enough money to pay the installments, interviewed on 31st July, 2003, Nurpur

67 Interviewed on 19th November, 2003, Dhameta.
Table 6.3 shows the details of total allotments made, possession taken over of allotted land in Rajasthan and consequent cancellations up to the year 1982.

**Table 6.3 Actual Allotment under Phase-I**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total No. of eligible Pong Dam Oustees under the Rajasthan Allotment rules, 1972</td>
<td>16,352</td>
</tr>
<tr>
<td>2</td>
<td>Total number of oustees who did not apply or were not found to be eligible</td>
<td>7,299</td>
</tr>
<tr>
<td>3</td>
<td>Total No. of oustees allotted land</td>
<td>9,196</td>
</tr>
<tr>
<td>4</td>
<td>Total No. of oustees that took possession</td>
<td>6,893</td>
</tr>
<tr>
<td>5</td>
<td>Total No. of oustees who forfeited their right of allotment due to not taking over possession within the stipulated period</td>
<td>2,302</td>
</tr>
<tr>
<td>6</td>
<td>Total No. of allotment cancelled due to infringement one rule or the other. (Out of 6893)</td>
<td>4,271</td>
</tr>
<tr>
<td>7</td>
<td>Total No. of intact allotments</td>
<td>2,622</td>
</tr>
</tbody>
</table>


This simply underlines the inhuman aspect of the resettlement and rehabilitation. After a lapse of 16 years only 2,622 families could retain their murraba out of 16,352 eligible families i.e. 16.03 percent that too how well they were settled is an issue, which needs some detail study. The rules of rehabilitation were impractical and stringent. No consideration was given to the complex socio-cultural aspect.

**Problems faced by the oustees in Rajasthan**

The oustees who went to Rajasthan and could retain their murrabas had to face lot of problems. There was the lack of basic infrastructure and lack of proper drinking water. The canal water was the only drinking water. Prabhat Kumar of Dhameta village when went to Anoopgarh for the first time, he saw one buffalo and a dog lying dead in the canal which was the only source of drinking water.\(^{68}\) The government had neither built the required houses nor any schools or the hospitals, as was initially promised.

\(^{68}\) Interviewed on 19th November, 2003, Dhameta.
Further, the oustees were harassed by local people and authorities. They also suffered at the hand of anti-social elements. The katcha houses constructed for the oustees were mainly occupied by such elements. These elements wanted to grab the lands of oustees. They used to tamper with the irrigation facilities and terrorise oustees to discourage them from settling in Rajasthan. Garib Das, an oustee was murdered in broad daylight in Anoopgarh in 1973. Two oustees were also beaten up by anti-social elements, but were not indicted. Land grabbing too was a serious problem, often armed gangs used to forcibly take possession of the murrabas. Despite repeated complaints nothing much was done by the government to help the poor oustees. In addition to these problems, some powerful people were indulging in forgery of land documents as well.

The oustees who went Rajasthan later also suffered at the hands of a few of their own Himachalis who had settled earlier. They were now aware of the high value of the murraba and wanted to have as many as possible by expelling legitimate claimants. The people have quoted many such instances. Mr. Lekh Raj of Nagrota Suriyan told that the murraba of his father was encroached upon by another Himachali and hence his father did not want to go there because he was afraid of him. Vasudeo Sharma’s father was the oustee and had received a murraba in Ganganagar but the land was under illegal

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70 Status Note on Pong Dam, D.C.R&R.
71 Ibid. With coming of irrigation facilities the land had improved hence prices of land had considerably gone up. So land grabbing was becoming very attractive. It was easy to terrorise the simple Himchali’s by the anti social elements.
72 Bhanot and Singh, ‘The Oustees of Pong Dam: Their search for home’, p. 5.
73 Status Note on Pong Dam, D.C.R&R.
74 Lekh Raj is a retired government employee of Nagrota Suriyan of Kangra District, interviewed on 19th November, 2003, Dhameta.
75 Mr. Sharma, a retired government officer, is the resident of Ludret, Tehsil Dehra, District Kangra. He is now an advisor of the PBVSS, interviewed on 7th November, 2007, Shimla.
possession of Mohan Lal, a fellow Himachali and his father could not take the possession.

**Phase II: 1982-1992**

Finally the Himachal Government took notice of the plight of the Pong oustees. After repeated appeals from the Pong Dam Visthapit Samiti (PDVS) the HP Government took up the matter with the Rajasthan and the Central Governments. After a meeting of the Chief Ministers of H P and Rajasthan in September 1981, it was agreed to look a fresh in the problems faced by the oustees. It was decided to amend the Colonization Act of 1972. Consequently a ‘Memorandum of Understanding’ was signed by the Chief Ministers of both the states on 12th December, 1981. The amendments were duly carried out in the Rajasthan Colonization (Allotment of Government Land to Pong Dam Oustees in the Rajasthan Canal Colony) Amendment Rules, 1982, and were published on 22nd April, 1982. The main features of the memorandum were: -

1. Now the oustees could appoint an agent or manager for cultivation. (Rule 6.6)
2. The oustees can take possession of land within 90 days instead of 45 days. (Rule 5.7)
3. All cancelled murrabas were to be reviewed.
4. The time limit given for the land to be brought under cultivation was extended. Now the cultivation to be done within 3 years. 50 percent irrigated in 1st year, 50 percent irrigated in 2nd year and remaining un-irrigated in 3rd year. (Rule 6.7)
5. Defaulted instalments were re-scheduled with 6 percent interest. (Rule 7)
6. All pending cases to be reviewed under the new rules.
7. Un-command areas to be changed with command areas.
8. All encroachments from allotted lands were to be removed and the land was to be restored to the allottee.

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10. Proprietary rights were to be granted after 10 years instead of 20 years. (Rule 6.3)

11. Time-barred cases of allotment were to be taken up afresh in deserving cases for allotment of land in Rajasthan.

After signing of the M.O.U. a new phase of the allotments began and it can be considered as the Phase II of the resettlement process. A total number of 4734 oustees came forward for the restoration of their cancelled murramas and 1559 cases for the fresh allotment of land. The disposal of these cases by the Rajasthan government is shown in the Table 6.4.

Table 6.4 The disposal of the cases in Phase II of the rehabilitation process till April 1984

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total number of review applications received</td>
</tr>
<tr>
<td>2</td>
<td>Total number of cases restored by the allotting authority in Rajasthan</td>
</tr>
<tr>
<td>3</td>
<td>Total number of cases rejected</td>
</tr>
<tr>
<td>4</td>
<td>Total number of pending cases</td>
</tr>
<tr>
<td>5</td>
<td>Total number of cases in which the oustees took physical possession</td>
</tr>
<tr>
<td>6</td>
<td>Total number of cases for fresh allotment</td>
</tr>
</tbody>
</table>

Source- The 'Status Note on Pong Dam', in file named 'Resettlement of Pong Dam Oustees in Rajasthan' in the Office of D.C. R&R, Raja Ka Talab.

As is indicated by the Table 6.4 a total numbers of 3349 cases were restored but actual possession was granted to only 1550 families. Why the delay? The reason is not clear. But one can guess that the Rajasthan government was not interested in settling fresh cases of oustees in their now fertile land, the prices of which has gone up.

77 See the Status Note on Pong Dam, D.C.R&R, p. 8.
A Himachal government team, to review the problems of the resettlement process, visited Rajasthan in June, 1983.\(^7\) The team brought to the notice of the Rajasthan government that the price of the murraba was suddenly enhanced by the Rajasthan government from Rs. 25-35 thousand to Rs. 1.00 -1.50 lakhs,\(^7\) as a result of which many oustees were unable to pay the installments. The team also said that the enhancement of rates was not a part of the M.O.U. and Rajasthan government should charge as per the 1972 rules, irrespective of how much were they charging from their own people. During the rehabilitation process in the Phase II some other issues started gaining importance i.e. of the non-availability of the command land and the problem of encroachment on a huge scale. Surendra Singh of Dhameta village told that his murraba which was allotted in 1972 in Anoopgarh in Chak 8 A, got cancelled due to his absence at the place. He again got allotted a murraba in the second phase, but now at Nachana. This was in non command land area. He then again got his murraba transferred to Anoopgarh. When he went to take possession he found that it was under encroachment. So getting a murraba is now a dream for him.\(^8\)

As the oustees continued to face problems, two governments met again and their decisions were incorporated in the amended rules of 22\(^{nd}\) October, 1984. Now out of 4734 old cases, the allotments were restored and possessions delivered in 3182 cases. A number of 224 cases were not accepted for restoration and rejected while 223 cases were again cancelled after restoration due to the violation of Allotment Rules 1972.\(^9\) The remaining 1105 cases were pending on 12\(^{th}\) March, 1992. The reasons are shown in Table 6.5.

\(^7\)The Press Note’ by the visiting team in 1983, (P.C. Mr. Kaul)

\(^8\)Bhanot and Singh state that the cost of each Nalli murraba was raised to 20-25 thousand in 1981 and was further raised to 35 thousand in 1983. Bhanot and Singh, ‘The Oustees of Pong Dam: Their search for home’, p. 20.


Table 6.5. The reason of the pendency of the remaining 1105 cases

<table>
<thead>
<tr>
<th></th>
<th>Reason</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Removal of encroachments</td>
<td>54</td>
</tr>
<tr>
<td>2</td>
<td>Vacation of Stay orders</td>
<td>34</td>
</tr>
<tr>
<td>3</td>
<td>Exchange of Uncommand land</td>
<td>27</td>
</tr>
<tr>
<td>4</td>
<td>Double allotments</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>Possessions pending Phase-I</td>
<td>377</td>
</tr>
<tr>
<td>6</td>
<td>Possessions pending Phase-II</td>
<td>611</td>
</tr>
<tr>
<td>7</td>
<td><strong>Total</strong></td>
<td><strong>1105</strong></td>
</tr>
</tbody>
</table>

Source: The ‘Status Note on Pong Dam’ in file named ‘Resettlement of Pong Dam Oustees in Rajasthan’, D.C. R&R, Raja Ka Talab.

In addition to the above 1105 cases, the cases of 1559 oustees already sent to Rajasthan were pending for allotment with the government. Thus the actual allotment in 26 years, from 1966-1992, were only 2622 cases in Phase I and 3182 cases in Phase II. Hence only 5804 out of 16,352 eligible oustee families were rehabilitated.

**Phase III: 1992 - Till Date**

In spite of all the efforts, mentioned above, the oustees could not be settled properly in Rajasthan. On one hand, the Rajasthan government made promises in the meetings of the CMs, on the other implementation remained weak. Further, many actions of the Rajasthan government gave rise to suspicions about its intention. In 1992 it inserted an article 6 A in the Colonization Act, which facilitated easy reversion of the allotted land to the government of Rajasthan on flimsy grounds. Under this amendment the Rajasthan Government had extended the period of Khatedari\(^2\) rights from 20 years to 25 years under sub rule 3 of Rule 6. This was basically done to regularise the unauthorized possession of the people of Rajasthan who were in illegal possession of the land allotted

\(^2\) Ownership right of the landlord, after which he can sell the land according to his wish.
to the oustees. This amendment was notified on 12th March 1992. Due to this new change 2108 oustee allottees were affected on account of the reasons given below:

1. In 1256 cases the allotments were cancelled because of failed khatedari for 25 years. Further the murrabas were transferred to the local people of Rajasthan on account of deposit of Rs.2.25 lakhs with the Rajasthan Government.

2. In 431 cases the allotments were cancelled but the transfer was still not made to the local people.

3. In 421 cases the allotments were cancelled due to the violation of rule 6(4) (benami transaction), 6(5) (non self cultivation), and 6(6) (not living in chak), of the allotment rules 1972.

Murrabas were cancelled even in cases where the oustees were living in Rajasthan for the past 25 years. They had ration cards; their names were in the voters list and had even contested panchayat elections. This is not to suggest that an allottee would not have transferred the allotted land. In the absence of promised infrastructural facilities, there is a fair chance of abandoning the land for whatever consideration one could get and return to the native state. After the water started running in the Canal, the price of the land had sky rocketed and, therefore, intimidation, trespass and coercion by the locals had increased. But instead of inquiring these issues the Rajasthan government found it suitable to issue cancellation orders to the oustees. The amount of corruption all this generated could be an issue for a separate study.

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81 This was also contrary to the decisions taken in the meeting of the Sub-Committee constituted to monitor and review the progress relating to the resettlement and rehabilitation of the Pong Dam Oustees held at New Delhi on 30th October 1991 under the Chairmanship of Joint Secretary, Govt. of India, Ministry of Power. In this it was decided that illegal transactions may be verified by joint inspection/verification by the Tehsildars deputed by Himachal Pradesh Government and by Rajasthan Government. And the land thus available after cancellations may be allotted only to the Pong Dam Oustees. But the Rajasthan took one-sided action canceling thereby 2108 murrabas of the oustees without joint survey. File A 45 II, D.C. Office Kangra. (Pong Branch )
To make the matters worse the Rajasthan government issued a notice in a News Paper on 14th April, 1992 requiring about 2000 oustees to present themselves in the Courts of Sub Divisional Magistrate, Raisinghnagar on 30th April, 1992 for a hearing against their cancellations. It is surprising that the Presiding Officer had to review 2000 cases of the oustees in a single day, which is not humanly possible for any authority to attend on a single day. This action obviously shows the slip shod manner in which the rights of the oustees were being treated by the Rajasthan government. Their 20 years holdings which they developed at the expense of their hard earned money and labour was being treated so lightly. The oustees were paying regular instalments and were in cultivating possession of the land, which was evident from the entries in Khasra Girdawari, the revenue record in Rajasthan.84

When lots of hue and cry was made by the oustees and PDVS the Rajasthan government again modified the rules and inserted a new Rule 8 AAA in September 1992, which provided that only those allotments can be cancelled which have been heard in connection with the default of the new rule inserted in 1992.

Keeping in view the hardship of the oustees the matter was again discussed in the meeting of the Chief Secretaries of Himachal Pradesh and Rajasthan at New Delhi on 13th October 1995. It seems that Rajasthan government was happy participating in meetings, deciding issues and not implementing them. Till 1995, 11 meetings had taken place, but the situation remained almost the same. It was again decided to consider the cases of the fresh allottees and the Rajasthan government promised to provide the basic facilities.85

84 See the Status Note on Pong Dam, D.C.R&R, p 11
85 Minutes of the meeting between the Chief Secretaries of Himachal and Rajasthan held at Delhi on 13th October, 1995, File A-45 –II, Pong Branch, and D.C. Office Kangra.
As the justice constantly eluded the oustees, they were forced to knock at the doors of the Supreme Court. The Pradesh PDVS filed a writ petition in the Supreme Court of India on 25th May 1992 on the ground that Rajasthan, having obtained the benefit, reneges on its obligations to the Pong Dam oustees and discriminates against them. They also prayed to the Supreme Court to issue directions to the Government of Rajasthan not to cancel any allotment made to the Pong Dam Oustees, and to restrain from allotting the land to any other person in the cases where the allotments have already been cancelled.

**Intervention of the Supreme Court**

In its decision on the 26th July 1996 the Supreme Court sided with the Pong Dam Oustees and struck down the substitution of 25 years for 20 years. Introduction of Rule 6A, which provided for the reversion of the land to the Rajasthan government on breach of any rule under Colonization Act, was also set aside. Charging of higher rate for allotment from oustees than originally agreed upon was also quashed.

The Chief Justice of Rajasthan was directed to nominate one or more District Judges for reviewing all cancellation of allotments, subsequent to January 1, 1992, the year when regularization in favor of locals started. The review was to be done within a period of 18 months and the Judge was to give his finding in each case even if the oustee did not appear. The court was constrained to propose this as it strongly felt that, ‘having regard to their track record, the revenue authorities of Rajasthan cannot be entrusted with the task’. This review was binding on all.

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86 Civil Writ Petition No. 439/92, (PIL under article 126 of the Constitution of India).

87 The District Judge was to record whether the forfeiture was justified or not. The judge also had to record if the oustee was forced to leave due to the lack of essential facilities or because of coercion, intimidation or trespass. From the Judgement of the Judge S.P. Barucha and S.B. Majumdar against the Writ Petition (c) no. 439 of 1992, P.D.V. S. versus Union of India and ors. File A 45- II Pong Branch D.C. Office Kangra.
Further, a committee was constituted comprising Secretary, Ministry of Water Resources, Union of India, as its Chairman and the Secretaries of appropriate ministries in Rajasthan and Himachal Pradesh\textsuperscript{88} as its members, to ensure the settlement in the command area of the Indira Gandhi Canal of all oustees who have secured eligibility certificates from the Himachal Government. The court also observed that the Rajasthan Government is duty bound to dispossess locals, notwithstanding any hue and cry apprehended. Only the land forfeited by ineligible oustees will revert back to the Rajasthan Government and that also shall be utilized for the purpose of allotment of oustees not settled yet.\textsuperscript{89}

In replying to the plea taken by the Rajasthan government that the oustees had abandoned their lands and breached the terms and conditions of the allotment, the court observed, to quote from the Judgment, ‘the dam need not have been built, but it was built.’ It further stated about the condition of the oustees that:

Twenty-four years later they are not all settled. Irrigable land, water, roads, schools and dispensaries are not available to all oustees allotted land in the State of Rajasthan. Small wonder that some may have deserted their allotments and some may have transferred them for such compensation as they could get and returned to their native State. This really answers Mr. Aruneshwar Gupta’s (the council of Rajasthan) principal argument that the oustee allottees were found to have invalidly transferred their allotments or left them vacant.\textsuperscript{90}

\textit{The resettlement process after 1996}

Even after the momentous ruling of the Supreme Court, the issue of resettlement will take years to be really complete. The oustees have again approached, firstly the Supreme Court and, subsequently the high court, through a writ petition soliciting directions to the Special Judges to permit oustees to lead evidence on their plea of being forced to leave

\textsuperscript{88} Ibid., p. 33.
\textsuperscript{89} Ibid., p. 34.
\textsuperscript{90} Ibid., p. 27.
the land because of the lack of specified facilities or because of coercion, trespass or intimidation. Whenever and whatever the high court may decide, another set of litigation may or will follow.

The government of both the states, Himachal and Rajasthan, now wish to resolve the issue of rehabilitation. The High powered committee which was constituted at the direction of the Supreme Court has already met seven times till December, 2007 and has tried to expedite the work of rehabilitation. The committee has admonished both the states for not taking enough interest to resolve the main issues of dispute between them. The main issues of dispute between them are- (i) the total number of eligible oustees; (ii) total number of eligibility certificates issued by the State of H.P. before 1.1.92 and total number of new eligibility certificates issued/ yet to be issued after 1.1.92; (iii) number of applications forwarded by the State of H.P. to the State of Rajasthan for allotment of land before and after 1.1.92; (iv) total number of oustees to whom the land was allotted till 1.1.92, total number of cases intact/cancelled thereafter with reasons thereof; and (v) total number of cases cancelled under new rules of 1992 vis-à-vis total number of cases referred to Special Judges as on date.

Both the governments are indeed trying to resolve these issues and to settle all the oustees, but their efforts do not seem to be enough. The human touch is missing from the whole process. For the officers concerned the number of oustees seems to be official figures only and not the actual human beings. Even after 47 years of resettlement process the rehabilitation work is not over and it is thirteen years since the orders of the Supreme Court. The position of the 2,108 cases of cancellation under the new rule 6-A (1992) also did not improve much. The details of it are given in the Table 6.6 below.

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91See the Minutes of the 4th meeting of the committee constituted for the implementation of the Supreme Court Judgment of 1996, held at New Delhi on 15.04.1998. A 45-II Pong Branch, D.C. Office Kangra.
Table 6.6  The position of the 2108 cases of cancellation under new rule 6-A

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total no. of cases of cancellation</td>
<td>2,108</td>
</tr>
<tr>
<td>2</td>
<td>No. of cases instituted in the Special Courts constituted after the 1996 SC judgment</td>
<td>2,070</td>
</tr>
<tr>
<td>3</td>
<td>No. of cases in which land reverted to oustees</td>
<td>468</td>
</tr>
<tr>
<td>4</td>
<td>No. of cases in which land reverted to the Govt. of Rajasthan</td>
<td>1,188</td>
</tr>
<tr>
<td>5</td>
<td>No. of cases in which land reverted to others</td>
<td>270</td>
</tr>
<tr>
<td>6</td>
<td>No. of cases decided by various Revenue Courts in the Favor of the oustees</td>
<td>144</td>
</tr>
<tr>
<td>7</td>
<td>No. of cases pending with the Rajasthan Govt.</td>
<td>38</td>
</tr>
</tbody>
</table>

Source: File A 45-II, D.C. Office Kangra (Pong Branch)

Thus even after the relief which was provided by the Supreme Court there are only 468 cases in which the land was reverted back to the oustees. Out of 16,352 oustees, allotments were made to only 10, 584 oustees and only 7073 oustees could retain their land till 2007 as is clear from Table 6.7.

Table 6.7  The number of total allotments and actual possession till the year 2007

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total no. of allotments made under Phases I and Phase II, till 30-6-2003</td>
<td>10,584</td>
</tr>
<tr>
<td>2</td>
<td>Total no. of allotment intact till 1992</td>
<td>5,804</td>
</tr>
<tr>
<td>3</td>
<td>No. of allotments cancelled after 1992</td>
<td>2,108</td>
</tr>
<tr>
<td>4</td>
<td>Allotments remained intact after 1992</td>
<td>3,696</td>
</tr>
<tr>
<td>5</td>
<td>Fresh allotments after M.O.U. of 1982</td>
<td>1,232</td>
</tr>
<tr>
<td>6</td>
<td>Allotments made from the old pending cases till 1995</td>
<td>764</td>
</tr>
<tr>
<td>7</td>
<td>Allotments reverted after the Supreme Court decision, from the Cancelled 2,108 allotments</td>
<td>468</td>
</tr>
</tbody>
</table>

225
There were 7,156 cases of oustees also which had initially not applied for the allotment of the land in the year 1972-73. But after the signing of M.O.U. they were given another opportunity and their status remains as is shown in the Table 6.8

**Table 6.8  The position of the 7156 cases who initially did not apply.**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Those who didn’t apply</td>
<td>1,228</td>
</tr>
<tr>
<td>2</td>
<td>Applied after 1981 MOU</td>
<td>1,559</td>
</tr>
<tr>
<td>3</td>
<td>Pending with RS govt for allotment</td>
<td>1,228</td>
</tr>
<tr>
<td>4</td>
<td>Remained pending in DC(R&amp;R) office due to non completion</td>
<td>1,718</td>
</tr>
<tr>
<td>5</td>
<td>Fresh eligibility certificates issued after 1996 SC judgment</td>
<td>1,423</td>
</tr>
</tbody>
</table>

Source- File A 45 II, D.C. Office Kangra. Pong Branch

Regarding the eligibility and the eligibility certificates issued and the Order of the Supreme Court there are some area of difference between the governments of Himachal and Rajasthan which is shown in the Table 6.9 below.

**Table 6.9  The Areas of Difference with the Government of Rajasthan and Oustees**

<table>
<thead>
<tr>
<th>Issues</th>
<th>Stand taken by HP Govt</th>
<th>Stand taken by RS Govt</th>
<th>Stand taken by Oustees</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of eligible Persons</td>
<td>16,352</td>
<td>16,352</td>
<td>20,722</td>
</tr>
<tr>
<td>No. of eligibility Certificate issued</td>
<td>15,124</td>
<td>11,668</td>
<td>-</td>
</tr>
</tbody>
</table>
The above tables suggest that the rehabilitation process of the Pong Dam oustees is still an ongoing process and it is difficult to say when it will complete. We can briefly examine some factors which hindered the process of rehabilitation apart from the lack of basic amenities and infrastructure.

The trickiest is the non-availability of the land in the command area. As is clear from the table 6.8 only 7073 oustees are in possession of their lands in Rajasthan, where as the land reserved in Phase I was for 16,352 oustees. Out of the reserved land for pong dam oustees, the Rajasthan Government has allotted land to other persons in the Phase-I. Out of 2.25 lac acres of land earmarked for Pong Dam Oustees as per decision taken in the meeting of the Committee of Chief Ministers, held at New Delhi on 3rd April, 1970, the Rajasthan Government earmarked only 1,18,000 acres of land for allotment.

The Rajasthan Government allotted land to the oustees in the phase-II in Charanwala area of Jaisalmer district. This is a remote area and no basic amenities of life are available there. It is at a distance of 1051 kms from Kangra and about 300 kms from Bikaner. This area falls in Nachana Tehsil of Jaisalmer district. The district headquarter is at a distance of 90 km from the sites of allotments. The bus plies only up to Bhikampur and there is no further transport facility up to the reserved area. The oustees if accept allotments in this area have to travel 30 kms on foot. Moreover Charnawala area is undeveloped and there is no hope of irrigation water reaching there. No infrastructure has
been created in that area with the result that the oustees are facing all kinds of odds for resettling in that area. There is no electricity, no taps for drinking water purpose and no shelter of any kind. The availability of medical and educational facilities is practically nil. But Rajasthan government expresses its inability in allotting land elsewhere. The constraint of availability of land is a major issue.

Another problem is the encroachment on the lands allotted for the Pong Dam oustees. Rajasthan government was not able to solve the issue. Most of the plots restored to the oustees after cancellation were often found to be encroached upon by non-oustees and anti-social elements. Many encroachers were able to obtain stay orders to retain their lands. The prices of the good murrabas have sky rocketed and due to political reasons Rajasthan government also is not too enthusiastic to settle this issue.  

Section II: Compensation process in Pong dam

In India, the acquisition of land and the determination of compensation thereon are being done in accordance with the provisions of the Land Acquisition Act, 1894, as amended from time to time. The courts have interpreted the term 'compensation' to mean not just any compensation but fair and reasonable compensation. The legal and administrative procedure in India is cumbersome, time consuming and unfriendly and it can easily change a well-meant programme into a difficult and frustrating one. The similar thing has happened in the case of Pong dam. This section is discussing the process of compensation in the case of Pong dam, which is going on even after 40 years. It has also been analysed as to why it has become so complicated that no end of it is in sight.

92 The price of a murraba in Ganganagar District is about 20-25 lac rupees now. That is why the Rajasthan government is not interested in parting away with good quality of land for oustees who were dislocated almost 50 years back. Mr. Badalia, LAO and D.C. R&R Raja Ka Talab, interviewed on 21st September, 2008.


*Land Acquisition for Pong Dam*

The cash compensation process in the case of Pong dam is long and complicated. For understanding this process, it will be appropriate to divide it in three phases, namely:

- **Phase I**: From 1961 - 1966 (till the reorganization of the states)
- **Phase II**: From 1966 - 1983 (Before the insertion of Section 28A)
- **Phase III**: From 1984 – Till date

**Phase I: 1961 – 1966**

As the first concern of an oustee is to procure right amount of compensation, the matter received due attention at the time of the planning. The work commenced in 1961, with a separate Land Acquisition Officer (LAO) for the project posted by the Punjab government. In all, total area of 30,729 ha (75,932 acres) was acquired for construction of the dam including its appurtenant works, roads, colonies, borrow pits and the land submerged in the reservoir. Table 6.10 shows the details of land acquired both in Kangra and Hoshiarpur District for the Beas Project II.

**Table 6.10 Details of the land acquired for Beas Project II**

<table>
<thead>
<tr>
<th>S. No</th>
<th>Particulars</th>
<th>Total Hectares</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dam including the Construction camps &amp; Temporary colony at the Dam site etc</td>
<td>410.25</td>
</tr>
<tr>
<td>2</td>
<td>Talwara Township &amp; Allied Colony</td>
<td>715.49</td>
</tr>
<tr>
<td>3</td>
<td>Mukerian Colony</td>
<td>1.62</td>
</tr>
<tr>
<td>4</td>
<td>Rail cum Road Formations</td>
<td>25.35</td>
</tr>
<tr>
<td>5</td>
<td>Labour colony, Job Facilities &amp; plant area of Sansarpur</td>
<td>148.92</td>
</tr>
<tr>
<td>6</td>
<td>Rail cum road bridge, Haul &amp; approach roads</td>
<td>463.93</td>
</tr>
</tbody>
</table>

93 The special Land Acquisition Collector, acquired land for the purposes of roads, Railway, Colonies, both at Talwara and Sansarpur, Dam and appurtenant works, borrow pits etc. See File D 43 'Land Acquisition For Beas Project' Office of Land Acquisition Officer, Talwara.
The Punjab government officially announced its intention to acquire land for the constructions of Beas Project Unit II vide three notifications issued in 1962, 1963 and 1964.  

A good part of the land to be acquired for the reservoir was between two khads (streams) namely the Gaj and the Baner. This area, locally known as Haldoon Valley, comprised of fertile land irrigated by a network of private khuls (irrigation channels), managed and maintained by the proprietors themselves. The Haldoon Valley was considered to be the granary of Kangra district, producing all kinds of crops. The details of the revenue villages partially and wholly acquired are given in the Table 6.11. This also shows the proportion of the land in joint ownership and individual ownership.

The compensation was to be awarded only to the landowners for their land, houses and trees. People who were landless were to be awarded compensation for house and trees only and they were not eligible for land grant in Rajasthan. Apart from the individual compensation, compensation for the common property resources (CPR) like the shamlat land, private roads, schools etc was also to be awarded.

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Table 6.11 Details of the Villages acquired.

<table>
<thead>
<tr>
<th></th>
<th>Total No. of Tikas Revenue Estates</th>
<th>339 up to 1410 (Elevation Level affected)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) Wholly</td>
<td>223</td>
</tr>
<tr>
<td></td>
<td>(b) Partially</td>
<td>116</td>
</tr>
<tr>
<td>2.</td>
<td>Total area of land acquired</td>
<td>75268 acres</td>
</tr>
<tr>
<td>3.</td>
<td>Total No. of oustees land-owners</td>
<td>20722</td>
</tr>
<tr>
<td>4.</td>
<td>Total No. of land owners affected</td>
<td>32339</td>
</tr>
<tr>
<td>5.</td>
<td>No of Khewats</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Individuals</td>
<td>6074</td>
</tr>
<tr>
<td></td>
<td>(b) Joint</td>
<td>19362</td>
</tr>
<tr>
<td></td>
<td>(c) Total</td>
<td>25436</td>
</tr>
<tr>
<td>6.</td>
<td>Population Effected</td>
<td>90702</td>
</tr>
</tbody>
</table>

Source: File D 43 ‘Land Acquisition for Beas Project’ Office of LAO, Talwara Punjab

The cutoff date for calculating the cash compensation was 31st March 1961 that is the date of publication of section 4 under the Land Acquisition Act 1894. The land was categorized into 12 classes for which the cash compensation was to be paid.⁹⁵ To announce the first award notification was issued in the Punjab Government Gazette and after hearing the people, the LAO announced the award on 16th February 1965, in the Tika Bhajker of Mauja Narhana.⁹⁶ The award was announced and the best quality of land i.e. nehri awwal (irrigated land) was rated at Rs. 140 per kanal. The people were asking for Rs.1000 for nehri awwal. For other categories as well award was much below the

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⁹⁵ File no. D 43 LAO Office, Talwara. Bhanot and Singh have stated in their article that land was evaluated for 8 categories, which is factually incorrect. Bhanot and Singh ‘The Oustees of Pong Dam: Their search for home’, p. 111.

⁹⁶ Award No. 166, By the LAO, Talwara, File No. D 43, LAO office, Talwara.
expectations of the people. Kishori lal, a resident of a submerged village Sothal, said that the people expected much higher compensation. Compensation grant was unacceptable to people. They made a ‘reference’ through the LAO to the court of Additional District Judge (ADJ), Kangra. Their reference was accepted and the ADJ enhanced the rates to Rs. 400 for nehri awwal in 1968. The rates granted in the award and after the references are shown in the Table 6.12.

Table 6.12 The Comparison of rates in the First Award

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Classification of Land.</th>
<th>Rate of land per kanal by LAO</th>
<th>Rate of land per Kanal after reference in 1968</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Nehri Awwal</td>
<td>Rs. 140/-</td>
<td>Rs. 400/-</td>
</tr>
<tr>
<td>2.</td>
<td>Nehri Do fasli.</td>
<td>Rs. 140/-</td>
<td>Rs. 400/-</td>
</tr>
<tr>
<td>3.</td>
<td>Nehri Ek fasli.</td>
<td>Rs. 105/-</td>
<td>Rs. 300/-</td>
</tr>
<tr>
<td>4.</td>
<td>Nehri</td>
<td>Rs. 105/-</td>
<td>Rs. 300/-</td>
</tr>
<tr>
<td>5.</td>
<td>Barani Do fasli.</td>
<td>Rs. 105/-</td>
<td>Rs. 300/-</td>
</tr>
<tr>
<td>6.</td>
<td>Barani Ek fasli</td>
<td>Rs. 60/-</td>
<td>Rs. 200/-</td>
</tr>
<tr>
<td>7.</td>
<td>Banjar Jadid as Barani Do fasli</td>
<td>Rs. 84/-</td>
<td>Rs. 250/-</td>
</tr>
<tr>
<td>8.</td>
<td>Banjar Jadid as Barani Ek fasli</td>
<td>Rs. 46/-</td>
<td>Rs. 150/-</td>
</tr>
<tr>
<td>9.</td>
<td>Banjar Qadim</td>
<td>Rs. 24/-</td>
<td>Rs. 80/-</td>
</tr>
<tr>
<td>10.</td>
<td>Charand</td>
<td>Rs. 24/-</td>
<td>Rs. 80/-</td>
</tr>
<tr>
<td>11.</td>
<td>Gair Maumkin Abadi</td>
<td>Rs. 105/-</td>
<td>Rs. 300/-</td>
</tr>
<tr>
<td>12.</td>
<td>Gair Maumkin except Gair Maumkin Abadi</td>
<td>Rs. 15/-</td>
<td>Rs. 30/-</td>
</tr>
</tbody>
</table>

Source- File No. D 43, LAO office, Talwara.

97 Interviewed on 31\textsuperscript{st} July, 2003 at Jawali Sub Division, Kangra.

98 Any party dissatisfied with the award of the Land Acquisition officer has a right to appeal to the District Judge. This right is provided in Section 8 of the Land Acquisition Act and is known as 'Reference' and this reference can only be made through the Land Acquisition Officer and not directly to the District Judge.

The oustees, however, were not satisfied only with legal remedies, as the legal procedure is generally long and the oustees perhaps wanted to have other avenues as well. The land owners, particularly those who were faced with the prospects of the extinction of their entire holding, such as those coming under the reservoir and township, organized themselves into an Oustees Committee (called Pong Dam Oustees Samiti),\(^{100}\) and launched a determined agitation for the enhancement of land compensation, as early as in 1965. The passions of the people were so much aroused that the work of measurement of land, structures, and the evaluation of trees was completely paralysed.\(^{101}\)

The representatives of the Oustees Committee met first the Home and Development Minister, Punjab, in April 1965 and the Chief Minister, Punjab, then in June 1965. After hearing their viewpoint the Chief Minister asked the Deputy Commissioner (D.C.) Kangra,\(^{102}\) to go into the matter thoroughly and after examining the yield of crops, to suggest a fair and reasonable price for the land.\(^{103}\) The DC reported that in his opinion Rs.3,000/- per acre for ‘Nehri Do-fasli’ land (irrigated land yielding two crops) i.e. Rs. 300 per kanal would be a reasonable and fair compensation.\(^{104}\) These rates failed to pacify the landowners and they continued the agitation under the auspices of the Oustees Committee, consequently there was delay in land acquisition.\(^{105}\)

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\(^{100}\) This Samiti was a hurriedly summoned association of persons to deal with the immediate issue of determination of rate of compensation and it fell apart after a brief period. Another body called Pong Dam Visthapit Samiti and which invoked the indulgence of courts at more than one occasion took up the major fight with the government later.

\(^{101}\) See the ‘Status Note on Land Acquisition and Compensation in Beas Project II’ (undated) in File named ‘Land Acquisition and Compensation’ in the office of LAO Talwara, p. 4.

\(^{102}\) The rates suggested by the Deputy Commissioner can act as a reference only in the proceedings before LAO who alone is competent to fix the rate under the Act.

\(^{103}\) ‘Status Note on Land Acquisition and Compensation in Beas Project II’, p. 5.

\(^{104}\) Accordingly, the rates for different classes of land were intimated by D.C. Kangra in November 1965, and the same were adopted for the remaining land to be acquired and were also provided for in the revised Project Estimate of Beas Project II (1968). File entitled ‘Land Acquisition and Compensation’ Office of LAO Talwara.

\(^{105}\) ‘Status Note on Land Acquisition and Compensation in Beas Project II’, p. 6.
Thus till the end of Phase I the rate of compensation per kanal for nehri awwal recommended was Rs 300 (rate of ADJ Rs. 400). This was not acceptable to the oustees.

**Phase II: 1966 to 1983**

The land acquisition process came to a grinding halt upon the re-organization of the state of Punjab, in November, 1966, when the jurisdiction over the subject was transferred to Himachal Government. The Himachal Pradesh government fell in line with the popular feelings and was of the view that the award did not adequately take notice of the general spurt in land prices. The new government assured the oustees that they would get a fair amount of compensation for their lands. Since the acquisition work had come to a virtual halt and the work on the dam was going on, the government of India expressed concern and asked the Himachal government to speed up the acquisition work. The process was resumed when the Himachal government posted its own Land Acquisition Officers in a bid to clear the backlog and to catch up with the workload. By and large, the main work for compensation was to be accomplished by June 1974. Simultaneously, the administrative control of the Beas Dam passed on to the government of India through the Beas Construction Board in 1966. The change of circumstances provided new life and strength to the agitation. The Himachal Government reopened the entire issue of compensation. The Deputy Commissioner Kangra re-fixed the rates for the various classes of land in September 1967. In many cases the rates were increased more than two times. The rate of nehri awwal was increased from Rs.300 to almost Rs. 650 per kanal.

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106 After the re-organization of Punjab state in November 1966, most of areas affected by the dam passed onto the Himachal Pradesh. The work of land acquisition now fell within its jurisdiction.

107 Mr. K.C. Sharma who was posted as S.D.M. Dehra told that he had accompanied the then Chief Minister Shri Y.S. Parmar to a public meeting in Haldoon Valley where the C.M. had assured the Oustees for a fair compensation. Mr. Sharma, interviewed on 10th November, 2003, Shimla.

108 'Status Note on Land Acquisition and Compensation in Beas Project II', p. 8.

109 Beas Project Unit 2, Beas Dam at Pong, a booklet published by the I & B Ministry of Govt Of India, Delhi 1978, p. 31.
The table 6.13 shows the comparison of the rates awarded by the office, of D.C. Kangra in 1965 and 1967.

Table 6.13 Comparison of the rates awarded by the D.C. in 1965 and 1967

<table>
<thead>
<tr>
<th>S. N.</th>
<th>Classification of land</th>
<th>Rates/Hectors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1965</td>
</tr>
<tr>
<td>1</td>
<td>Nehri Awwal, Nehri Do-fasli, Ghair Mumkin Abadi</td>
<td>Rs. 7,410.00</td>
</tr>
<tr>
<td>2</td>
<td>Nehri Bramdi, Nehri Ek-fasli</td>
<td>Rs. 4,631.25</td>
</tr>
<tr>
<td>3</td>
<td>Barani Do-fasli, Ghari Mumkin Ghami</td>
<td>Rs. 4,631.25</td>
</tr>
<tr>
<td>4</td>
<td>Baranai Ek-fasli, Barani/Baramdi &amp; Behand Banjar</td>
<td>Rs. 2,778.75</td>
</tr>
<tr>
<td>5</td>
<td>Banjar Qadim, Kharetar, Charana</td>
<td>Rs. 1,390.60</td>
</tr>
<tr>
<td>6</td>
<td>Ghari Mumkin River, Rasta</td>
<td>Rs. 684.00</td>
</tr>
<tr>
<td>7</td>
<td>Banjar Jadid</td>
<td>Rs. 2,502.10</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1967</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 16,928.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 13,680.75</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 11,074.85</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 9,120.25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 5,863.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 5,863.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 8,200.65 to Rs. 15,249.55</td>
</tr>
</tbody>
</table>

Source-File No. D 43, LAO office, Talwara.

The first to react was the BBMB. It argued that the new award would upset the project estimate substantially. As against the original provision of Rs.5.38 crores, the liability on account of land acquisition was now expected to be 23.95 crores, more than four times. So in consultation with the Ministry of Law, an application under Section 18 of the Act was filed with the Land Acquisition Officer for making a reference to District Judge. A deadlock was created causing hardship to the oustees. The awarded amount was not released to the land owners and further progress of acquisition was again held up. The Land Acquisition Officer was not prepared to give further awards till the case was

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settled. While the oustees were left high and dry, the BBMB was in a happy situation as the construction work was in full swing- earth moving machinery arrived in 1969 and the dam was advancing towards completion.\textsuperscript{111}

Instead of making a reference, as demanded by the BBMB, the LAO who probably did not want the matter to go to the courts referred the matter to Himachal government. The Himachal Government strongly favored the award as it regarded it as a fair award to the oustees and was able to prevail on the Government of India to direct the BBMB to accept the award and abandon their desire of seeking a reference. It was agreed by the Himachal government and the BBMB that payments for the remaining land to be acquired would also be made according to the new rates with a stipulation that the total compensation for land, structures and trees, falling in reservoir, borrow areas and realignment of K.V. Railway, would not exceed Rs.45 crores.\textsuperscript{112}

But the oustees realized that there is no need to abide by the decisions of the government as their right of reference is independent of negotiations between the Himachal and Union governments. They were otherwise also very unhappy with the amount received by few of them, particularly in the light of the subsequent increase in the value of the property in the area. As Mangat Ram of village Bharman said, the rate was not inadequate but by this time the rates of the properties in the adjoining areas had started to go up. Even the banjar (non cultivable) land was difficult to secure on the rates given as compensation.\textsuperscript{113} He was the owner of 30 kanal of land in Dhunga village before it was submerged. From the compensation he got he was able to buy only 5 kanal land in the adjoining Bharman village.

\textsuperscript{111} Beas Project Unit 2, Beas Dam at Pong, p. 29.
\textsuperscript{112} Status Note on Land Acquisition and Compensation in Beas Project II’, p. 8.
\textsuperscript{113} Interviewed on 31\textsuperscript{st} July, 2003 at Jawali Sub Division of Kangra district.
Because of this dissatisfaction seven hundred and forty three appellants made use of their right to reference and appealed in the court of Additional District Judge (ADJ) Kangra. Their reference succeeded and the ADJ enhanced the rate for nehri awwal from Rs 650 to Rs 1000 per kanal with similar increase for the other classes of land. In doing so, the ADJ did not approve that part of the award whereby the Land Acquisition Officer had struck a mean between the capitalised value and the offer made by the LAO. The oustees were seeking a rate of Rs. 1000 per kanal for the best irrigated land from 1963 and they finally got it.

But the matter did not rest here. The BBMB was really taken aback and filed two appeals before the High Court. The Divisional Bench accepted the appeals and remanded the case to the Additional District Judge Kangra for fresh determination of compensation. The Additional District Judge reexamined and arrived at the valuation figure of Rs.1000.00 per kanal for nehri do fasli again and proportional increasing for other classes of land. However, the BBMB was still not prepared to concede this rate and again took the matter to the High Court, much to the annoyance of the oustees who had now to bear the additional cost of litigation in addition to harassment, dejection and anxiety. The High Court took no time in dismissing the appeal of BBMB.

114 Order of Additional District Judge of Kangra dated 24.09.1970. In land reference No. 40 to 42 of 1970 and as the facts have it, all subsequent awards were pronounced by the District Courts on the basis of the award of Tika Bihari dated 24th October 1970.
115 The order of High Court of H.P. dated 14th January, 1976 disposing both the appeal cases.
117 Order of High Court of H.P. dated 20-05-1981 in RFA no 4 and 5 of 1981. Infact after the remand of Tika Bihari case in 1976 the High Court of Himachal Pradesh vide its Judgment dated 12th July, 1979 dismissed 17 RFAs bearing Nos.2 to 7 and 9 of 1975, No.68 to 77 of 1974 and vide its judgment dated 22nd September 1980 dismissed RFAs Nos 220/80 and 21 Nos. other RFAs by upholding the amount of Rs.1000.00 per kanal for Nehri Do Fasli land allowed by the Additional District Judge on the basis of the award of Tika Bihari.
If the oustees thought that enough was enough, they were sadly mistaken. The matter ultimately was taken to the Supreme Court by the BBMB as the enhanced rates substantially increased the cost of the project. The oustees were in for a major shock. The Apex Court reduced the market value of the land from Rs.1000.00 per kanal to Rs.750 per kanal for nehri do fasli land (on the basis of 15 years purchase rule) and set aside the previous determination of market value of land (on 20 years purchase rule).\textsuperscript{118}

The rate of compensation for land was finally adjudicated in 1983 at the rate lower than the oustees were getting. And even this came after a gap of 14 years. The litigation spiral is summarized in Table 6.14.

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|}
\hline
S. No & Authority & Date & Remarks \\
\hline
1 & LAO (Land Acquisition Officer) & 02.04.1969 & Best Quality land for Rs 650 per kanal \\
\hline
2 & ADJ (Additional District Judge) & 29.04.1970 & Rs. 1000 \\
\hline
3 & High Court & 14.01.1976 & Case Remanded \\
\hline
4 & ADJ (Additional District Judge) & 31.10.1980 & Rs.1000 \\
\hline
5 & High Court & 20.05.1981 & Appeal Dismissed \\
\hline
6 & Supreme Court & 05.10.1983 & Rs. 750 \\
\hline
\end{tabular}
\caption{The History of Litigation}
\end{table}

Source- Based on various judgments

But did this adjudication finally settle the issue? Not, in fact, it became further complicated. The BBMB decided to recover the differential amount of Rs 250 per kanal from all oustees involved in 743 cases that went to Supreme Court and in all other such cases where the compensation was paid at the rate of Rs. 1000 per kanal for nehri-do-fasali. The extra enhanced amount was almost Rs. 3 crores.\textsuperscript{119} It was a bolt from the blue.

\textsuperscript{118} Order of Supreme court in case titled Union of India Vrs Shanti devi decided on 05-10-1983 reported in A.I.R. SC 1190. Vide this order the court allowed 22 SLPs/Civil Appeals filed by Union of India and Himachal Pradesh.

\textsuperscript{119} File No. B 63, Name ‘State Level Pong Dam Advisory Committee Meetings’.

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for the oustees and they refused to accept it. Worried of the reaction, Himachal Pradesh government decided to waive off the recovery in all the cases, except the 743 cases decided by the Supreme Court. But even in these 743 cases, a via media was found out. The Himachal government agreed to refund the amount in case of poor oustees.

Other Compensations

The law of land acquisition began receiving liberal interpretations in India in recent decades. Pong Dam land acquisition was no exception. It cannot be denied that though LAO was acting in a judicial capacity, his sympathies were with the oustees for two reasons, firstly, Himachal Government was on the side of the oustees and secondly, the money was not to come from Himachal Government, but the BBMB. All benefits of doubt and discretion were exercised in favour of the oustees. Hence compensation was also awarded for other things, apart from the land.

A notable feature of the subsequent awards was the acceptance of loss of earnings/shifting allowance. This was not quoted in the earlier awards. This was allowed by the LAO in the cases of two tikas of reservoir area, on the claims put forth by the artisans and shopkeepers, who were awarded six months earning. As it was a new addition in the award and it also meant extra financial burden to the BBMB, it was hesitant in releasing this money and referred the matter to the Ministry of Irrigation and Power. The sanction was, however, received and the money was paid to the oustees.

Apart from land the houses and structures falling on the acquired land are covered under the definition of ‘land’ as given in the LAA, compensation for the same was assessed and awarded by the LAO liberally as done in the case of land. The rates of the

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120 File No. B 63, Decision of the 1st meeting of the State Level Pong Dam Advisory Committee, held on 28th January, 1985 at New Delhi.

timber trees were also revised. However how many oustees really took advantage of this additional compensation and what exactly was the rate of compensation could not be ascertained due to the lack of source material.

**Phase III: 1984 – Till Date**

The oustees had consoled themselves with whatever amount of compensation they had received. Many had not got the enhanced rates as they could not make a reference, as they were illiterate and were not aware of the legalities of the compensation process. Different people got different rates and they were not even aware as to why did it happen.

Similar was the situation in most of the other developmental projects also. The poor and inarticulate people, because of the lack of awareness and resources, generally do not make use of their right of reference. Such persons were thus deprived of enhanced compensation. In order to remedy the situation the Government of India inserted Section 28A in the Act with effect from 24th September, 1984. The newly inserted Section 28A provided an opportunity to all aggrieved parties, whose land is covered by the same notification, to seek re-determination once any one of them have obtained orders for payment of higher compensation from the reference court under section 18.

The insertion of Section 28A proved to be a boon for the Pong Dam oustees as the awards for the compensation were still being awarded and some of them were pending in the courts. The situation was made all the more beneficial for the oustees because of the

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122 Status Note on Land Acquisition and Compensation in Beas Project II', p. 7.

123 The object underlying the enactment of these provisions, as indicated in the Statement of Objects and Reasons, was:-Considering that the right of reference to the civil court under Section 18 of the Act is not usually taken advantage of by inarticulate and poor people and is usually exercised by the comparatively affluent landowners and that this causes considerable inequality in the payment of compensation for the same or similar quality of land to different interested parties, it is proposed to provide an opportunity to all aggrieved parties whose land is covered under the same notification to seek re-determinations of compensation, once any one of them has obtained orders for payments of higher compensation from the reference court under Section 18 of the Act.
liberal interpretation of this Section 28A by an officer of Himachal government who was posted as LAO at Talwara.

One such award, after coming into force of Section 28A, was made on 21st February, 1987. Smt. Pradeep Kumari filed an application under Section 28A for claiming the benefit of the said award. On her application the Collector made an order, dated 14th March, 1988 awarding additional amount of compensation on the basis of the award of the court dated 21st February, 1987. The stipulation of the new section was that an application had to be filed within the three months of the award pertaining to the same Section 4 notification. But the LAO started to accept the applications even after the second or the third award pertaining to the same Section 4 notification. The LAO probably did this to give outmost advantage to the oustees. The BBMB was of the view that the benefit of Section 28A is to be restricted to the first award on the notification that is made by the court after coming into force of Section 28A.

The BBMB, as usual, was not prepared to accept the interpretation given by the LAO to the language of Section 28A as it was again increasing their liability. Given their tendency to litigate and their policy of not really making an attempt to create goodwill, the BBMB approached the High Court. Another related case which was already before the High Court was filed by an oustee Smt. Savitri Devi.

Both the writ petitions were disposed of by a Division Bench of the High Court by a common judgment. The High Court held that all that is required for the applicability of Section 28-A is that

(a) There should be an award made in which excess amount is allowed from the previous award,

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124 Civil Writ Petition No.181 of 1989 in the High Court of Himachal Pradesh.
125 Civil Writ Petition no 580 of 1987 in the High Court of Himachal Pradesh.
126 Order dated 24-10-1990.
(b) That the land of the person interested should be covered by the same notification in which the award is granted by the court,

(c) That the application should be moved within the period of three months from the date of the making of the award, and

(d) That the said right has to be exercised only once.

The BBMB, dissatisfied with the decision of the High Court, took the matter up to the Supreme Court. The Apex Court upheld the order of the High Court. The BBMB was still not satisfied and filed a review petition. The apex court categorically adjudicated that the benefit of re-determination of the amount of compensation under Section 28A could be availed on the basis of any one of the awards that has been made by the court after coming into force of Section 28A and further that collector is competent to award interest on the additional compensation. As a matter of fact, the interest works out to be a substantial amount and in some cases even higher than the enhancement of the principal amount.

In the wake of this new provision, about 36,865 applications were received by the Land Acquisition Collector Beas Project, Talwara, for re-determination of compensation under the provisions of section 28A up to 31st August, 2007. Out of these, awards have been announced by the LAO in 13,435 cases. While 13,323 cases were rejected as the person concerned had failed to fulfil the requirements as laid down in the new Section 28A of Land Acquisition Act. Total number of cases pending for hearing and for announcing of awards are 10,107. Amount of compensation disbursed under Section 28A is almost 24 crores and almost 10 crore is to be disbursed in the future.

The interpretation of the Section 28A can be easily understood through the example of Situ son of Lakkhu of village Ludhiara Khas. He was an owner of 8 kanals...
and 9 marlas of land, which included 6 kanals of nehri awwal and rest of other categories. In 1970 he was paid a cash compensation of Rs. 6,399.39 @ of Rs. 650 per kanal for nehri awwal. In 1987, after the insertion of Section 28 A, he made a reference for enhancement of compensation. His case was decided on 14th October 2003 and he was awarded an additional compensation of Rs. 21,233.28 (including the interest). That made his total cash compensation to be Rs. 6,399 plus 21,233. This was equal to 27,632.130

Section 28A and its interpretation by the LAO which was upheld initially by the High Court and eventually by the Supreme Court is a historical development and has proved to be a blessing for thousands of oustees, many of whom had lost all the hopes. The benefit though goes, more often than not, to the second generation. The amount may seem small by today’s standards but comes out to be substantial with the interest amount added to it.

**Pong Dam Oustee Development Agency**

Under the Land Acquisition Act, not only the oustees were to receive the compensation for the individual land, but the state of Himachal Pradesh was also entitled to receive compensation for common property resource (CPR). This common property means the shomalat land, school buildings, roads and other common properties. Bhanot and Singh have stated that the compensation for CPR was to be distributed to the oustees but this is factually not correct as all common resources of people and panchayats stood transferred to the state of Himachal Pradesh.131 The government was, however, undecided about the utilization of this money.

With the aim of providing assistance in self employment to the oustees and for establishing industrial units to support them,132 an agency called Pong Dam Oustee

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130 Ibid.
131 Bhanot and Singh 'The Oustees of pong Dam: Their search for home'.
132 As stated in the Memorandum of understanding.
Development Agency (PODA), was constituted and registered in 1981. Oustees were given credit, particularly for setting up diary, poultry and allied units. The agency was also to help them in marketing. However, its walk was restricted to low interest credit with virtually no recoveries. The Non Performing Assets was written off and now PODA is a dead agency for all practical purposes. What is of significance to oustees now is the Shamlat Compensation Fund.

The Shamlat Compensation Fund has an account balance of almost Rs. 4.5 crore as on 12th December 2007 and most of it is because of the compensation received by the state under Section 28A. This fund is utilized for the wellbeing of the oustees. The total cost of litigation for Compensation and Rehabilitation has been borne out from this fund. The oustees are also granted traveling allowance for Rajasthan from this fund.

Conclusion

It was 47 years back in 1960, the Chief Ministers of Rajasthan and Punjab Province came up with the brilliant scheme of rehabilitating the Pong Oustees in the Canal area of Rajasthan, thereby serving two purposes, one inhabiting the arid areas of Rajasthan and settling the Pong oustees with a dream to provide them a better life. The scheme was quite good in many respects. The area of the allotted land was to be the same for all the oustees irrespective of how much land was acquired from them and the land allotted was a large piece of land of 15.625 acres, which was considered economically viable by the Planning Commission. The government had promised to provide the entire infrastructure required to settle down in a different, difficult and arid area. Elaborate Rules were framed and the rehabilitation process was started with great enthusiasm.

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133 Certificate available in file no M-39 of PODA Branch of DC office.
134 Ibid.
135 The fund is applied for creating infrastructural facilities for oustees in Himachal Pradesh and Rajasthan.
But after a lapse of 42 years many oustees or perhaps now their heirs (for many original oustees are no more) are still awaiting for the allotment of their lands and even if they finally get it, they are not sure whether it will be economically viable or not.\textsuperscript{136} Another question arises as to how many of them really want to settle in Rajasthan? Most of the oustees who had got their ownership rights have sold their land for good price and returned to Himachal and in cases where they still have the lands, most of the oustees stay in Himachal and get their lands tilled by hired labour. Most of the oustees, who have not acquired ownership rights till now, mostly go to deposit the installments and come back. Most of the new land is in the uncommand area and is of no value at present. But the oustees hope for better returns in future which may not be advantageous to them but to children.

The time now is to really evaluate the rehabilitation scheme in monetary terms as well. The expenditure incurred on various law suits, rehabilitation offices, both in Himachal and Rajasthan and by the poor oustees in visiting Rajasthan for various legal formalities, was really well spent or not. If studied extensively, I m sure the amount will be astronomical and could have been utilized for the real betterment of the oustees. It also reduces the economic viability of the dam as well.

Same is the case with the process of land acquisition as well. The exact date of finalization of all the awards cannot be given because fresh cases are filed almost daily and send for references. It will take minimum of 3-4 years for deciding the existing cases presuming that there is no fresh case and this is as unlikely as the sun setting in the East. With the attitude of the government for which the issue of oustees is alive only at the time of hustling, it would be an unfortunate but realistic apprehension that the chapter of rightful compensation will go on for another two decades for the land acquired four decades back. But to be fair, the long drawn process to a large extent has been caused due

\textsuperscript{136} 'Pong Dam oustee seeks land', \textit{The Tribune}, Kangra, 5\textsuperscript{th} July, 2001.
to positive, humane and beneficial intervention by legislature and judiciary. However, the impact will be lost unless delivery mechanism is improved by increasing the number of Land Acquisition Officers, their staff and infrastructure. Constant monitoring and regular follow up will only be ensured if the issue becomes a political agenda of governance.

More than 40 years have passed and still those who made sacrifices for the larger good of society have been left to fend for themselves. The social and cultural trauma is impossible to quantify. The matters that were to be resolved through goodwill and humanitarian considerations as was suggested in the arbitration note were decided by judicial intervention at the cost of the oustees. And after all this, the fight is not over and the struggle continues. But the question still remains to be answered is whether the second generation of the oustees will get its due and even if they do receive the same, the bigger question is as to when will they get it?

However, some lessons were definitely learnt from this experience. Government avoided projects entailing displacement of a large number of people

Section III: Rehabilitation in Himachal Pradesh

Projects such as the Bhakra and Pong dam displaced a large number of people in Himachal. It remained a sore point with the people and the government for a long time. In fact, their R&R process is still going on. The government tried to learn from these experiences and instead of large reservoirs, the focus shifted to ROR projects. Due to this, displacement has been reduced. However, the new issues of damage to the natural resource and livelihood base of people of much larger area have begun to arise. As in the rest of the country, the approach to rehabilitation has always been one of framing project specific schemes. There has also been a shift over time from large land grants and jobs to smaller land grants with increasing amount of payment. A study of the provisions of
some of the rehabilitation schemes, from the Bhakra project to the Sainj power project, shows this trend.

While dedicating the Bhakra Nangal project to the nation on 22nd October 1963, Pandit Jawahar Lal Nehru said, ‘This dam has been built up with the unrelenting toil of the man for the benefit of mankind and therefore worthy of worship’.\textsuperscript{137} He was actually saluting the sacrifices made by the people of Himachal whose fertile land and homes had been submerged for irrigating the barren lands of Punjab and Haryana. A total of 17,984 ha land was acquired along with a complete township of Bilaspur affecting some 7209 families. No protests were made, no agitations, the oustees were remarkably cooperative and accommodating at every step of the rehabilitation process, though suffering enormous hardships.\textsuperscript{138} This was because the mood in the country was that of celebrating nationalist sentiments. No sacrifice was enough for the dream project of the first prime minister of the nation. Dharmadhikary noticed this and writes, ‘even while pointing some of the serious problems with the policy and implementation, the oustees repeatedly told us that this was the first dam in the country, and the government did not have any experience in this field. So the oustees told us how could it be expected to have an ideal resettlement plan? The government was learning, they said, and the oustees willingly gave it the benefit of this.’\textsuperscript{139}

It was a time when national leaders and policy-makers typically viewed these hardships as legitimate and inevitable costs of development, acceptable in the larger national interest. Nehru, while laying the foundation-stone for India’s first major river valley project, the Hirakud Dam in Orissa in 1948, said to the tens of thousands facing

\textsuperscript{137} Quoted in Rangachari’s \textit{Bhakra Nangal Project}, p. 57.

\textsuperscript{138} Shipad Dharmadhikary, ‘\textit{Unravelling Bhakra}’, p. 212. Promises were made by local MPs and former ruling family but not fulfilled. Documented in an unpublished M.Phil dissertation by Vinay Kumar, ‘\textit{Bhakra Bandh Ka Bilaspur Par Prabhav: Govindsagar Jheel Ka Arthik va Paryarneeya Adhyayan}’, MPhil Dissertation History Department, Himachal Pradesh University, 2007.

\textsuperscript{139} Ibid.
the grim prospect of displacement: ‘If you have to suffer, you should do so in the interest of the country.’ The same sentiments were echoed 36 years later by Prime Minister Indira Gandhi in a letter to one of India’s most respected social workers, Baba Amte. She wrote: ‘I am most unhappy that development projects displace tribal people from their habitat, especially as project authorities do not always take care to properly rehabilitate the affected population. But sometimes there is no alternative and we have to go ahead in the larger interest…’ This larger interest theory was heavily propagated by the planners and that is why during the planning of large multipurpose river projects the social and the human cost was always undermined.

In case of Bhakra it was decided that both land and cash compensation will be granted to the oustees. The land was to be allotted in the command area of Bhakra canal in Hissar district of Haryana. Out of a total 7209 affected families, 2398 settled in Himachal climbing up on the hills, 2632 preferred cash compensation and settled on their own and only 2179 families preferred resettlement in the irrigation command area in Hissar. The scheme was considered to be good with additional facilities like free fishing licenses in the reservoir for three years and employment during the construction of the project.

But after a lapse of almost 50 years, the rehabilitation process is still an ongoing process and people are still to be rehabilitated. The faith put in by the oustees in the government slowly started eroding as the years went by and the oustees started realizing that it was not the inexperience that was responsible for the bad resettlement but the insensitiveness on the part of executing agencies. Dharmadhikari found out in his study that apart from few people who went to Hissar, most of the oustees who were allotted...

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141 Ibid.
142 For further details of R&R programme of Bhakra refer to Rangachari, *Bhakra- Nangal Project* and Dharmadhikari, *Unraveling Bhakra*.
land in Himachal or who tried to settle on their own are not very well provided for.\textsuperscript{143} Even the oustees who are economically well off in Hissar faced emotional trauma of social ignorance.\textsuperscript{144} The cash compensation was not very well handled and some of it was gobbled up by the Sahukars (money-lenders) who were given this money for safe keeping.\textsuperscript{145}

In the case of the oustees wanting to settle in Himachal, the rehabilitation scheme was notified under Rule 8-A of the H.P. Nautor Rules, 1968\textsuperscript{146} that provides for the framing of a separate scheme for the grant of land for resettlement and rehabilitation of persons displaced as a result of anything done for public purpose. The scheme was well intentioned but has partly failed in its objective. Many revenue officers feel that only the influential amongst the oustees harvested the gains of the schemes in the form of land grants and the benefit of the schemes never percolated to the other needy and poor oustees.\textsuperscript{147}

While the rehabilitation process of Bhakra was going on, the land began to be acquired for the construction of Pong dam in Kangra district. The area to be acquired was much larger than acquired for Bhakra (30725 hectares). And a large population consisting

\textsuperscript{143} The land allotted to the oustees or occupied by them is still not registered in their names. These new settlements lack in day to day facilities and at times face acute water shortages. One reason is because most of the natural water sources were submerged in the reservoir. Dharmadhikary, \textit{Unraveling Bhakra}, p. 218.

\textsuperscript{144} Dharmadhikary has noted in his study that the oustees were referred to as ‘Bilaspuriyas’ and not many marriage alliances were formed with the oustees. Similar was the case with the Pong Dam oustees in Rajasthan as well as in Himachal when they tried to settle at different areas of Kangra. Dharmadhikary, \textit{Unraveling Bhakra}, p. 218.

\textsuperscript{145} Most of these claims are rebuffed by Rangachari in his study. He is of the opinion that the rehabilitation package of Bhakra was a reasonably good one considering the time and age. Rangachari, \textit{Bhakra- Nangal Project}, pp. 62-66.

\textsuperscript{146} Nautor land means the right to utilize with the sanction of the competent authority, waste land owned by the government, outside the towns, outside the reserved and demarcated protected forest and outside such other areas as may be notifies from time to time by the state government in this behalf for any purposes mentioned in Rule 5 of Nutor rules.

\textsuperscript{147} SEDEM Study, ‘Socio-economic impacts of hydro-projects’ also found out that both in the rate of compensation as well as allotment of nautor land the influential people of upper castes have benefited more.
of 30,000 families was to be affected. The R&R plan was considered to be an improvement over the Bhakra plans, as it involved giving both cash and land compensation along with the provision to settle the landless oustees also in the command area. The land grant was also much higher at 15.625 acres per oustee family, irrespective of the land acquired. But as time has proved, the R&R plan of Pong dam has also failed in its objective. It could not resettle the oustees properly and process still continues after 40 years.\textsuperscript{148}

In the meantime, the planning for the Beas-Satluj link project was also in process. The planners wanted to have an impoundment dam in the Balh valley of Sundernagar. This plan was obviously opposed by the Himachal government. The government did not want a repeat of problems as it already was facing with the oustees of Bhakra and Pong.\textsuperscript{149} The plans were modified and a Run-of-the River project (ROR) with two small reservoirs was envisaged as it involved less submergence and little displacement.\textsuperscript{150} A total of 6987 bighas land was acquired and 1554 families were affected. Average cash compensation paid was Rs.2500 per bigha,\textsuperscript{151} while the average prevailing market price was Rs. 1100-1600 at that time. This was for the first time the planners tried to be fair to the affected families. The original plan was to follow the example of Pong to settle the oustees in Rajasthan.\textsuperscript{152} But, the state government intervened and the oustees were settled in Himachal as the bad experience of interstate resettlement was proving to be hazardous and inadequate. This was perhaps the reason why there is no pending case of BSL project and the oustees are generally satisfied with whatever compensation they received at that time.

\textsuperscript{148} Details are given in the first section of this chapter.
\textsuperscript{150} Ibid.
\textsuperscript{151} Bigha is 800 sq mts.
\textsuperscript{152} See detailed note on Pong Dam, by T. Swaminathan, Cabinet Secretary, Government of India (henceforth G.O.I.) Dated 03-07-1972 in the File name ‘Resettlement of Pong Dam Oustees in Rajasthan (Detailed note on Pong Dam)’, p. 2, in the Pong Dam Branch of D.C. office of Kangra at Dharamshala.
During the 1980s, the nation witnessed a lull in dam building activity because of the long gestation period, anti-dam movements and easier to install thermal power plants. The funding for major projects also became an important issue as World Bank and other foreign funding agencies started withdrawing from many projects because of people’s movement. Large dams were postponed in many places. In Himachal also the survey work for Kol dam, Parbati Project and Nathpa had been conducted in early 70s but work did not move an inch in this decade. One of the reasons, as stated earlier, was that the Himachal government was cash strapped with no finances to undertake such mega projects and private sector participation was yet to mature. Secondly, though not documented in records, the displacement issue was perhaps also riding high on the mind of the planners who did not want further human displacement.

The 1990s again witnessed a change in the hydro policy at the national level. It was because the Hydro-Thermal ratio had gone down and there was a need to improve it, along with the need to generate clean electricity. It was a time of economic liberalization and opening up of private investment in hydro sector. At the same time there was increased awareness of the miseries suffered by the oustees of developmental projects. The sacrifice for the nation theory was losing its appeal with personal gains gaining dominance. With the coming of new technology, hydro shifted towards ROR projects, which entailed less submergence and displacement. They were also supposed to be more environmental friendly.

153 At the time of independence the thermal-hydro ratio was 60-40 and by mid 1970’s it came down to 75-25. The cost of installing hydro plants was almost double than the thermal plants with very little displacement problems. On the other, hand the impoundment dams had huge human cost and serious displacement issues.


Another important change that came in 1994 was the necessity of having Environment Impact Assessment (EIA) plan for every project. Prior to EIA, R&R process started after the completion of the project. After EIA, R&R is part of the plan and the cost has to be included in the overall cost of the project. The project authorities were definitely more open to better R&R packages as could be seen in case of Chamera and Nathpa projects.

After the commissioning of BSL project in 1977, the major projects which started in Himachal were Chamera project I by NHPC in 1984 and Nathpa Jhakri project by newly formed Satluj Jal Vidyut Nigam (SJVN) in early 1991-92. Both these were ROR projects with little submergence and displacement. The resettlement package proposed was considered an improvement over the previous R&R packages with adequate employment generation in Chamera I project. The guiding principal was to be generous at the time of acquisition to avoid agitations. Agitations cause delays which escalates cost of the project later. The attitude towards the oustees was also more benevolent. The fact that the money was to be handed out by the project authorities (in these cases the NHPC and SJVN), and not the government, allowed the acquisition officers to be more generous. On the flip side, the better package meant more cash

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156 It was only in 1994 that the Ministry of Environment and Forests (MOEF) issued a notification under the Environment Protection Act of 1986, making environmental clearance mandatory for specified kinds of projects, including dams.

157 Kulbhooshan Upmanyu an environmentalist feels that R&R package of Chamera I paid handsomely to the oustees along with employment to most of the totally displaced families. The employment quintet could not be followed up in Chamera II and III. Mr. Upmanyu, Himalaya Niti Abhiyan, interviewed on 24th March, 2008, Shimla.

158 Views expressed by Mr. Arvind Mehta who was the Deputy Commissioner of Chamba when the land acquisition for Chamera project started in 1992. He is at present Principal Secretary Finance with the government of Himachal Pradesh. Interviewed on 23rd March, 2008, Shimla.

159 Mr. Mehta is of the opinion that the NHPC at that time was more than willing to pay a generous package. The project authorities had understood that onetime payment was better than long litigation and delays in construction work, which eventually would again lead to cost escalation.
compensation, capable of quick disappearance in the hands of the more vulnerable among the displaced.\textsuperscript{160}

The Nathpa resettlement can be called a successful settlement with most of the oustees being satisfied with all kinds of compensation. Since very few families were fully displaced, it was easier to resettle them in the vicinity of their earlier holdings. In fact, a study\textsuperscript{161} has found that the income level and standard of living of project affected people have improved, as they immensely benefited from compensation and rehabilitation. The World Bank Mission has also monitored the R&R activities carried out in Nathpa project and has appreciated the efforts. To quote the Bank, ‘The success of the resettlement activity undertaken in this Project is quite rare for India, and can be considered as one of the best examples of resettlement implementation in Bank-Assisted Projects in India. It should be considered as an example for other projects.’\textsuperscript{162}

Amongst the major projects that were started in late 1990s, the Kol Dam scheme addressed concerns of displaced people more satisfactorily. The state government for the first time sincerely tried to address more than general issues of only cash compensation and land grants. It drew a comprehensive R&R plan with promoters of Kol Dam i.e., National Thermal Power Corporation. A scheme called ‘Resettlement & Rehabilitation of the oustees of Kol Dam Hydro Electric Project’ was formulated to address the issues of the oustees in the four districts; Mandi, Bilaspur, Solan and Shimla. The schemes focused on all round socio-economic development of the community. It addressed the eligibility of the oustees, the quantum of financial compensation as houseless & landless grant, construction of oustees’

\textsuperscript{160} Mr. Nagin Nanda, Member Secretary Pollution Control Board. He was Secretary Human Rights from 2004 -2007 and has analyzed the rehabilitation process of Himachal in detail. Interviewed on 23\textsuperscript{rd} March, 2008, Shimla.

\textsuperscript{161} A study was conducted by Agro Economic Research Centre, HP University, Shimla (HP) on the ‘Impact assessment of Resettlement & Rehabilitation (R&R) plan undertaken by Nathpa Jhakeri HEP’. 2002. http://sjvn.nic.in/projects/projects_nathpa_se_rr.asp

\textsuperscript{162} http://sjvn.nic.in/projects/projects_nathpa_se_rr.asp

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along with infrastructure, training and skill upgradation and provisions of wage employment.\textsuperscript{163} Most important was the recognition of the fact that it would be very difficult to make available the lands to all the displaced people. It also recognises difficulty in offering jobs to all affected families. Hence the scheme emphasized on the need for vocational training to equip the oustees to find alternate jobs. It also talked about proper Catchment Area Treatment and to safeguard environment as much as possible. But it stopped short of a structured plan that could take care of the needs of those actually displaced and as a substitute only added more cash for compensation.\textsuperscript{164}

A total of 4768 bighas of private land from four districts of Himachal, namely, Bilaspur, Mandi, Solan and Shimla was acquired. The average rate of compensation paid was 3.00 to 9.00 lakhs / bigha depending on the quality and location of the land.\textsuperscript{165} About 1200 families have been affected (345 totally displaced). Four resettlement colonies are being constructed to rehabilitate the totally displaced people, apart from being compensated by cash. The awarding of cash compensation process is already over and rehabilitation process will also be over before the commissioning of the dam.\textsuperscript{166} A total of 247 housing plots have already been allotted and 98 plots are in the process of being

\begin{footnotesize}
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\item \textsuperscript{163} 'Status note on Kol Dam project, Bilaspur District 2008', in the LAO office of Kol Dam, Bilaspur, pp. 2-7; Relief and Rehabilitation scheme in Kol Dam www.ntpc.co.in/resettlement&rehabilitation
\item \textsuperscript{164} Mr. Vijay Chandan, A.D.M. Hamirpur district was posted as SDM Sundernagar from 1999-2002. As SDM he acted as LAO for KOI Dam and supervised the land acquisition process. Interviewed on 28th September 2008, Hamirpur.
\item \textsuperscript{165} During this time the prevailing land price was around Rs. 30,000 thousand to 3.00 lakhs per bigha. These rates were also a little high due the many registries done for the sale purchase of the land. People already knew that the project was to come to this area and had enhanced the rates of the land compared to other districts. In tehsil Hamoda the highest award was granted at the rate of 4.69 lakhs for best quality irrigated land. An additional 30 percent consortium plus 12 percent additional value along with the price of the trees enhanced the value of the bigha to 9 lakhs. Mr. Kulveer Singh, Patwari, LAO office, Koldam, Bilaspur, interviewed on 28th September, 2008. File no. 26/2000; Mohal Ropa-no. 249.
\item \textsuperscript{166} NTPC has paid Rs 700 crore as compensation to the oustees and is developing four rehabilitation colonies at Kango in Mandi district, Jamthal in Bilaspur and Sunni in Shimla district and Mundkar for oustees in Solan district. An additional Rs 7 crore has been paid as house and land grant to the affected villagers. Kuldeep Chauhan, 'Kol Dam oustees seek jobs, land', \textit{The Tribune}, Chandigarh, 27\textsuperscript{th} February 2005. Jagdish Chand, Assistant, R&R assistant, DC office Bilaspur, interviewed on 28\textsuperscript{th} September, 2008. File no. BLS/RRB/ (9*15 to 21) - R&R Of Kol Dam.
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allotted. NTPC has provided direct employment to 23 persons and 403 people have been provided employment through various agencies. NTPC is also paying for the repairs of various existing schemes in partially acquired villages as well.\(^\text{167}\)

Ramesh Chand of village Harorha is happy with the cash compensation received (Rs. 1 crore for 17 bighas), but feels that employment schemes should have been better and apart from cash some compensatory land should also have been granted. He is left with 25 bighas of land and feels that R&R package of Kol dam is better than other projects. Despite such sentiments he has made use of reference clause in the Act and has demanded even more cash compensation.\(^\text{168}\) Sant Ram of Funihan village, however, does not share his sentiments and feels that the land lost cannot be compensated by any amount of money. For him gaining employment has more meaning. He lost 10 biswas of his land and was awarded 2 lakhs of rupees as compensation.\(^\text{169}\)

Other ongoing projects like Parbati, Mallana, Allahain-Duhangan and Rampur are trying to emulate the package offered by Kol dam. They are mostly cash rich packages with the rate of compensation varying from area to area. Himanshu Thakkar says that comparing rate of compensation for land for different projects is difficult as rates of land vary widely from one location to another. He is of the view that people have realised their bargaining power and are demanding more rates than justified for their lands and are getting it as well.\(^\text{170}\) Sanjeev Sharma has carried out a study of Parbati project and found out that very few are satisfied with compensation they got.\(^\text{171}\)

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\(^{167}\) Status note on Kol Dam project, Bilaspur District 2008*, p. 4.

\(^{168}\) Ramesh Chand, resident of Kasol village is Vice President Gram Panchayat Harnoda. He is a farmer by profession. Interviewed on 23\textsuperscript{rd} September, 2008.

\(^{169}\) Sant Ram is the Vice president of Kol Dam Sanyukt Sangharsh Samiti established in 2000. Interviewed on 23\textsuperscript{rd} September, 2008.

\(^{170}\) The rates of land differ from Panchayat to Panchayat in both Parbati and Allahain Duhangan Project. The people of Jagat Sukh and Preeni Panchayat in Manali have received different rates of compensation for similar type of land. As told by Mr. Himanshu Thakkar, an activist and who regularly contribute for Dams, Rivers and People. Interviewed on 15\textsuperscript{th} December, 2008. Delhi.

\(^{171}\) Sharma et. al, 'Assessment of Man-made and Natural Hazards', p. 225.
Sainj valley, we found that people were keen that a portion of their land be acquired, as the rates of compensation is much higher than the prevailing rates in the area. But no one wanted to lose their entire land. Anita of Sainj, it seems, would have been happier if some of her land was acquired. According to her, ‘only those people are happy who got compensation. Otherwise, this project is not going to bring anything good for Sainj.’

People neither want to get displaced nor want to get their traditional rights terminated, but do want some share of the money being dispersed as compensation. Devender of Raini Dhar is happy to lose 4 bighas of his land for 28 lakhs of rupees. His father has bought two vehicles and they are running them as taxis for the project. Their monthly income has gone up and his family has new avenues of employment.

The Nathpa Jhakri Project brought forward other relevant issues in Himachal Pradesh than actual displacement. The environmental issues started to gain prominence and attention of the planners as well. The study conducted by SEDEM found out that as projects are moving upstream the amount of land required for project is declining. Displacement is no longer a big issue. Now damage caused by the projects to the physical environment, land and water sources has become important. Construction activities are affecting the livelihood of people living near the project area. These are not displaced by projects, nor are they treated as partially affected. There is no explicit recognition of this problem in the rehabilitation schemes. It is expected to be tackled (but only to a

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172 Anita has a shop in the main market of Sainj. Her husband is the patwari and she feels that the rate of compensation is better than the prevailing rates. Interviewed on 13th April, 2007, Sainj, Kullu.

173 Lal Chand Katoch of Kullu says that if one has more than adequate land and if some is acquired then it is good as it provides handsome money to buy the land of choice. 4 Bighas of his personal land was acquired in Allahain Duhangan Project and he is happy with the cash settlement. Mr. Katoch is a retired Head master. Interviewed on 8th September, 2008. Dams, River and People, A bi-monthly magazine of South Asia Network for Dams, River and People (SANDRP). 3(2-3):16, New Delhi. 2005.

174 Devender was our driver during the field trip to Sainj in April 2007. According to him the price of his land before acquisition was 5-6 lakhs which was compensated for 28 lakhs of rupees. Interviewed on 13th April, 2007, Sainj, Kullu.

175 These issues have been discussed in III, IV and V chapters of this thesis.
limited extent) by the Catchment Area Treatment (CAT) Plans to be funded as part of the project.

In case of ROR projects, the wider environment implications affecting a large number of people have become important. Environmental and social activists like Rahul Saxena and Kulbhooshan Upmanyu are of the view that ROR projects affect a large number of people living in areas far away from place of project. Their natural resources like water, grazing lands, forest are affected, but they are not compensated for this. Sanjeev Sharma’s study reveals that people feel that while Parbati project took only 10 percent of the land of the area for construction, it damaged the remaining 90 percent of the land in the process of road constructions, blasting and muck dumping, etc. No compensation is paid for this damage. It is pertinent to mention here that the Land Acquisition Act recognises only the right over the cultivated land and houses. It does not recognize rights in the common pasture, of minor forest produce, of water sources etc. These rights are the backbone of a rural economy. These never get accounted for in the compensation package.

Significant changes are noticeable in the R&R policies in the recent years. All over India planners are becoming more sensitive towards the emotional, cultural and economic needs of the displaced people. New policies are being adopted to safeguard the interest of the oustees. As the Draft for National R&R policy was framed in 2007, the newly established Himachal Pradesh Power Corporation Limited also framed its R&R policy for the Sainj Power Project in Kullu. It has also formulated a Hydro Policy (2006) so that the private investors develop hydro-power in more environmental friendly way. The R&R plan of Sainj Power project is considered to be an improvement over the

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176 Rahul Saxena works for Kalpavriksha and Kulbhooshan Upmanyu is the General Secretary of Himalaya Niti Abhiyan, interviewed on 24th September, 2008, Shimla.

177 Sharma et. al., ‘Assessment of Man-made and Natural Hazards in the Surroundings of Hydro-power projects under construction in the Beas Valley of North Western Himalaya’, p. 225.
previous plans. It addresses many core issues like creation of R&R administration cell at
district level. It has underlined proper guidelines for identifying ‘affected areas’ of the
project and ‘affected families’. It further focuses on providing land for land rehabilitation
and stresses on the return of the unutilised land to the government so that it can be used
for creating infrastructure. The plan envisages imparting skills to affected people so that
they can have sustained income. This is supposed to help those among oustees belonging
to the weaker section of the society.

The plan, however, fails to address some issues. First, it overlooks problems of
indirectly affected people. Second, there is no mention of traditional rights and right of
access to natural resources and equitable benefit sharing from the power project. What if
these rights of people are taken away, even if private land is not acquired? Will such
persons be treated as project affected persons? Third, there is no mention of involving
local communities in the process of planning and execution of rehabilitation measures.
Finally, why should Project Authority declare ‘affected area’? A ROR project affects a
wide area and which may have nothing to do with acquired area. Nevertheless the Sainj
R&R plan is a step in the right direction. The new Power Corporation attempts to be fair
to the project affected people and to try to safeguard the environment as well.

Conclusion

Looking at the response of the Himachal government to the issue of rehabilitation
process, it emerges that unlike other governments, it has not been involved in acquiring
of land. The initial state projects, both Bhakra and Pong, came when Himachal was not a
separate state. These are the two projects where major problems of rehabilitation are still
continuing. Subsequently, it has stepped only as a legal authority to acquire on behalf of
companies-both public and private. Since the money was not to be paid by the
government, it has often been accused of favoring oustees at the cost of companies. The
companies, without going on records, allege that politicians have built their constituencies by claiming credit for compensation which is excessive. Even the Land Acquisition Officers accept that the rates are generous, considered a euphemism for exorbitant, by project proponents.

Over the years the Himachal government has attempted to improve the rehabilitation and compensation package to the project affected people. However, there are still areas where government needs to focus. There is need to give more attention to the environmental degradation. In a race to acquire the status of ‘Power State’, the government is overlooking the omissions and commissions of project executing authorities.