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# **A Socio-Legal Study Of The Narmada Bachao Andolan**

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## **Abstract**

Social movements, NGOs and other activist collectives prove to be a major part of the stakeholders that drive policy change in environmental politics. This paper is aimed to analyse one such people led movement that set to create ripples all around the world. This paper is about the social issue of The Narmada Bachao Andolan. It explores the meanings of contemporary social movements, analysis of the Andolan along with a detailed chronicle of the events that led up to the Andolan and the Award by the Narmada Water Disputes Tribunal. Additionally, the paper also lists down the role of the World Bank, international agencies as well as local organisations from the Narmada valley. The paper will also enumerate the important rallies in the movements, the writ petition that was filed in the court, the decision that was given by the court and a unique ecological lens to the whole struggle for rehabilitation of the displaced communities.

**Keywords:** Narmada Bachao Andolan, World Bank, Medha Patkar, Sardar Sarovar, Environmental Activists.

## **Introduction**

There are several stakeholders when it comes to the construction and maintenance of public facilities. The political leaders who decide the what and when to build a facility, the engineers and other governmental departments that oversee the design and maintenance, the firms that are involved in the design, construction and maintenance, the taxpayers, the lenders who fix the finances, the users of the facility and the residents nearby are some primary stakeholders that need to be actively involved. The question however, is that of the importance of each of these stakeholders and the roles that they should be influencing during the design, construction and maintenance of public facilities. This is a direct effect of public facilities affecting a diverse demographic.

This paper focuses on the anti-dam movement, Narmada Bachao Andolan in India which was aimed to be built as a public facility but met with a massive people-led struggle in terms of conservation of ecology. The Narmada Bachao Andolan has been an integral issue of debate amongst scholars, environmental activists and conservationists. One of the most powerful movements after the civil disobedience movements during the struggle for independence has been that against the construction of the Sardar Sarovar dam on the Narmada River which was to be built right at the point where it flows into the state of Gujarat.

Dam projects cause numerous problems that have a far-reaching effect not only on the biodiversity of the area but also of displacement which becomes nearly impossible to restore. The argument for the construction of these big dams is that the usefulness and the command area is much bigger than the area that will get submerged, however to consider this measurement does not give a holistic picture of the loss that will be suffered especially in terms of loss of habitats in the submergence area, loss of fertile land and area that is covered by forests. There is also a high possibility that the wildlife in the area will be endangered after losing their habitat to the submergence and supplementary forestation may not be able to make up the loss of natural species, adapted to the forest area for years.

The dam on the Narmada river as seen by scholars poses quite a few challenges owing to the size of the design. There is a high probability that earthquakes would be more frequent because of the large size of the dam, the deposits of silt at the base of the dam may be harmful to the dam itself. There is also a fear of spread of water borne diseases in the adjoining area because of the stagnant water collected in the reservoir. Another major challenge is the rehabilitation of tribal population and people living near the proposed construction.

Environmental experts suggest that for the purpose of sustainable development, small dams are important and serve a long-term benefit in terms of saving cost energy and at the same time preserving the environment. However, the Sardar Sarovar Project aimed to provide irrigation water for the drought prone areas of Gujarat, Madhya Pradesh, Rajasthan and Maharashtra. The finances for the construction of this dam were arranged from loans from the World Bank and the Japanese Government. The project cost was estimated to be Rs. 6400 crores and was to make provisions to irrigate 18 lakh hectares of land and generate 1450MW of power. It also provided for drinking water for 295 lakh people however up to 245 and 254 villages came under the area of submergence.

## **Research Questions**

Research Questions drive the researcher in a particular direction and gives a blueprint of the kind of research the researcher needs to delve into to answer these questions at the end of the paper. The following questions drive this paper titled 'Narmada Bachao Andolan'

1. What are the conceptual issues that drive environmental movements?
2. What are the events that are precursory to the Narmada Bachao Andolan?
3. Who were the different actors and stakeholders of the Sardar Sarovar Project and what were their roles in the Andolan?

## **Objectives Of The Study**

Research Objectives give a broad view of the themes that a researcher will explore during the course of their research. The following objectives drive this paper titled 'Narmada Bachao Andolan'

1. To get a cursory understanding of the theories and concept of the environment movement through the lens of social movements.
2. To get a narrative about the emergence of the Narmada Bachao Andolan and how it came to the stage that we most know about.
3. To understand the effect of mass mobilisations in social movements.
4. To understand the Narmada Bachao Andolan from the lens of law and policy making around environmental sustainability.

## Review Of Literature

Literature review in research is integral to understand the existing information that other researchers have put forth. An exposure to extensive research done on the topic proves beneficial to the present study. The paper titled 'Social Movement: Narmada Bachao Andolan'<sup>1</sup> talks in detail about the types and theories of social movements. It also details out the history of social movements in both the Global and the Indian Context. The paper further talks about the history of the Narmada Bachao Andolan, the actors involved in the movement and the inter dependency of the participants in the movement. "The paper titled Scale, Place and Social Movements: Strategies of Resistance Along India's Narmada River was also referred as key literature. The Narmada Bachao Andolan, a rural social movement fighting displacement due to dams along India's Narmada River, is the subject of this research. This study uses a comparison of two major anti-dam struggles within the Andolan, centred on the Sardar Sarovar and Maheshwar dams, to show that multi-sited social movements employ a variety of scale and place-based strategies, and that this diversity is critical to the progressive change possibilities that they entail."<sup>2</sup> In the paper 'People's Movements in Environmental Politics: A Critical Analysis of the Narmada Bachao Andolan in India' the author states that Environmental politics is dominated by social movements, activist groups, and non-governmental organisations (NGOs). The discourse of these forces is often viewed as emancipatory in social science study, particularly social movement studies. This article examines the formation and politics of an Indian people's movement. It tracks the movement's progress from an NGO-led fight for better rehabilitation to a societal movement asserting human rights, environmental, and alternative development concerns and ideals. It examines some of the movement's practises and thinking and concludes that they severely limit the movement's emancipatory potential. The paper titled 'Retrospect and Prospects of Narmada Bachao Andolan'<sup>3</sup> the author states that the fact is that the Narmada Bachao Andolan (NBA) has long been a source of controversy among academics. As a result, one of the most effective civil disobedience movements since 1980 has been opposing the construction of a massive dam on the Narmada River right below its confluence with Gujarat state. The lake that resulted was named the Sardar Sarovar after Sardar Vallabhbhai Patel. The World Bank and the Japanese government provided funding for the dam's construction, and approximately 245 and 254 villages were buried as a result. To solve the problem of people's rehabilitation, several activists banded together to oppose the government's policies. The paper named 'Narmada Bachao Andolan',<sup>4</sup> talks about the history and evolution of the Andolan and it also talks about the writ petition. The paper titled 'Till the Rivers All Run Dry: A Human Ecological Analysis of the Narmada Bachao Andolan'<sup>5</sup> seeks to investigate the NBA as a significant social force in contemporary India. Big river dams are inspired by a particular definition of development that is intellectually hegemonized by globalization's compulsions. The paper 'Narmada Dams Controversy - Case Summary'<sup>6</sup> enumerates the use of public facilities in view of the different stakeholders in

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<sup>1</sup> MANJULA YADAV, *SOCIAL MOVEMENT: NARMADA BACHAO ANDOLAN* (2015).

<sup>2</sup> Pratyusha Basu, *Scale, Place and Social Movements: Strategies of Resistenace Along India's Narmada River*.

<sup>3</sup> Dr. Braham Parkash, *Retrospect and Prospects of Narmada Bachao Andolan*, 2018 JETIR June 2018, Volume 5, Issue 6

<sup>4</sup> Daine Seirra Jacob, *Narmada Bachao Andolan*, International Journal of Advance Research, Ideas and Innovations in Technology, Volume 3, Issue 5.

<sup>5</sup> Prasenjit Maiti, *Till the Rivers All Run Dry: A Human Ecological Analysis of the Narmada Bachao Andolan*, Electronic Green Journal, 1(14) (2001).

<sup>6</sup> MJ Peterson, *Narmada Dams Controversy - Case Summary*, International Dimensions of Ethics Education in Science and Engineering, Version 1; September 2010.

question and does this through the use of the case study of the construction of dams in the Sardar Sarovar Project. In the paper 'Interpreting Narmada Judgment'<sup>7</sup> the Supreme Court used the 'separation of powers' doctrine however side lined the issues of sufferings and entitlement and dealt with relief and rehabilitation. The court so it seems abdicated its responsibility to those that have been affected by the Narmada Project. Suneet Kumar Dwivedi and Pradeep Kashyap's 'Environmental Protection Law and Policy in India'<sup>8</sup> was another study examined during the process; the paper focuses on the sources of pollution in India and how statutes attempt to address these concerns. It also looks at how the Indian judiciary tackles environmental concerns, making it a valuable resource for learning about the role of jurisprudence in environmental legislation. Els Reynaers Kini and Gautambala Nandeshwar, M V Kini offered an outline of environmental regulations in India and how they are enforced in their essay 'Environmental Law and Practice in India: Overview.'<sup>9</sup> The article, written in the form of a questionnaire, addresses the most common questions that emerge during environmental law research. 'Environmental protection Laws in India A critical study of judicial trends'<sup>10</sup> by Som Dutt Bharadwaj is a research article that delves deeply into environmental law. The study investigates the various judicial viewpoints on environmental legislations, as well as the function of constitutional provisions in circumstances where pollution has harmed citizens.

## **What Are Social Movements**

The greater importance of social movements can be attributed to the increasing awareness of alternative social and political futures that can be a result of these movements. It can also be the start of building the desire to facilitate vivid renditions of understanding the interconnectedness between power, resistance and the state. Social movements are seen as an entity existing beyond the power of the state and are an excellent method of bringing forth the needs of society against the power mechanism of the state that challenge the rigidities of the state. Moving forward with a narrower view of social movement, rural social movement also becomes a strong opposing factor to the state since the current notion of privatisation of resources adversely affects the population living in the rural areas. India plays an important role in the international rural struggles because a majority of the population, 72% as per the 2001 Census is heavily dependent on agriculture as their livelihood and faces the pressures of increasing trends of liberalised markets, privatisation and new technologies.<sup>11</sup> Social movements like the Narmada Bachao Andolan re-strategize the rural social movement by putting pressures to oppose the power of the state and private firms and negotiate sustainable development keeping in mind the needs of the primary stakeholders and affected parties.

To define social movements that is not only consensual to the different movements but also inclusive all the different types of resistance movements is especially difficult. The reason being that almost all forms of collective action ranging from local vigils to international revolutions with various historical or contemporary contexts come under the spectrum of social movements. Recent years have seen the development of 'New Social Movements'; however,

<sup>7</sup> Mathew John, *Interpreting Narmada Judgment*, 36 ECONOMIC AND POLITICAL WEEKLY 3030–3034 (2001).

<sup>8</sup> Suneet Kumar Dwivedi & Pradeep Kashyap SSRN, *Environmental Protection Law and policy in India*, May 2013,

<sup>9</sup> Els Reynaers Kini and Gautambala Nandeshwar, M V Kini, Thomson Reuters, *Environmental Law and Practice in India: Overview*, December 2021.

<sup>10</sup> Som Dutt Bharadwaj, Maharishi Dayanand University, *Environmental protection Laws in India A critical study of judicial trends*, December 2008.

<sup>11</sup> Baviskar A. (1995) *In the Belly of the River: Tribal Conflicts Other Development in the Narmada Valley Delhi*: Oxford University Press.

the concept still is as volatile as social movements. Post-industrialist and capitalist society denote the new structural themes of the new social movements that includes movements about civil liberties, democratic rights, women's equality, student's rights and

environmental conservation movements. The primary change in this genre of social movements is that these refer to mindsets and lifestyles rather than over material goods. If we keep in mind the Indian context then new social movements will include the women's movement that emerged in the late 1970s, the Dalit movement and the Adivasi movement that worked towards cultural and regional autonomy and identity, environmental conservation movements that promoted sustainable development and farmer movements in the 1980s that demanded fair prices for the farm outputs and lower prices for agricultural inputs.<sup>12</sup> This newness in these movements is that these movements arose outside party related political formations. They were outside the purview of institutional political parties and were even put of the trade union and peasant politics. These movements aimed at redefining politics and articulating alternative forms of governance.

## **The Environment Movement**

“The theorisation of the Indian environment movement clearly reflects the conceptualisation of new social movements in developing nations as reflecting developmental crisis, as battles over resources and meanings, and as manifestations of pluralistic paradigms of development and governance. Unlike the environment movement in the advanced capitalist world, nature-related disputes and struggles have a strong material bias, stemming from the state's monopoly over resources like water, forests, and land, which serve as subsistence resources for the vast majority of the population. Though some scholars see such movements largely as resistance movements aimed at halting economic activities that harm the environment and impoverish local communities, others see them as having the potential to reshape development and economic values, as well as technological efficiency and scientific rationality. Scholars agree, however, that such movements have occurred as a result of the socio-ecological impact of a narrowly conceived development based solely on short-term commercial criteria of control and exploitation of natural resources, and which almost exclusively serves the needs and interests of the wealthy.”<sup>13</sup>

Environmental conflicts and movements are commonly associated with resource-intensive industrial activity and significant development initiatives. “Mineral resource exploitation, huge river valley projects, mechanised fishing, and state-controlled commercial forestry are all key areas that cause resource conflicts and, as a result, environmental movements. Along with large-scale destruction and/or transfer of natural resources, these activities and projects typically involve human displacement, incurring tremendous social and environmental costs and compromising the local residents' survival and subsistence portfolio. In other words, by their very nature, such constructive activities sow the seeds of conflict. In these times of strife, environmental movements serve as mediators. They could denote a redefinition of usufruct and control rights over the resource in question, an environmental response seeking correctives through legal and policy shifts, or, more radically, an ecological response rejecting the dominant development paradigm and seeking to fundamentally alter existing conceptions on

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<sup>12</sup> Omvedt G. (1993) Reinventing Revolution: New Social Movements and the Socialist Tradition in India. Armonk: M.E Sharpe.

<sup>13</sup> *Ibid.*

and modes of resource use, depending on their nature and intensity.”<sup>14</sup>

## **The Emergence Of The Andolan** **The Sardar Sarovar Project on the Narmada River**

“The Narmada River Sardar Sarovar Project, protest campaign might be considered a relatively recent chapter of a project that has spanned over five decades since the first technical studies on harnessing water from the Narmada were done in the 1940s, and sixteen sites for irrigation and hydro-electric projects were selected. In Gora, a terminal dam was designed and approved with a FRL (full reservoir level) of 161 feet, which was then upgraded to 320 feet in 1959. The construction of the project headquarters in Kevadia began in 1961, displacing roughly 5000 people from adjacent communities. The dam was moved slightly upstream to its current location in 1962, and it was enlarged to FRL 425 ft as according to the Bhopal agreement of 1963 between the chief ministers of Gujarat and Madhya Pradesh. The case was sent to a central government committee after the Madhya Pradesh administration refused to ratify the agreement. The Khosla committee advocated a FRL 500-foot height, which sparked outrage from the governments of Madhya Pradesh as well as Maharashtra. After failed negotiations, Gujarat filed a lawsuit under the Inter-state Water Disputes Act in 1968, and the Narmada Water Disputes Tribunal was established a year later. The Tribunal's decision was made in 1978 and was binding on all the state parties that were involved (Gujarat, Madhya Pradesh, Maharashtra and Rajasthan). The project's height was set at FRL 455 feet. The award also made ruling related to allocation of water and hydropower, dispersed costs among state governments, and established resettlement and rehabilitation principles and methods for individuals who would be displaced.”<sup>15</sup>

“The Sardar Sarovar Dam is the final dam in the Narmada Valley Development Project master plan, which calls for the construction of 30 major dams, 135 medium dams, and 3000 minor dams that will irrigate 4 to 5 million hectares of agricultural land, generate 2700 megawatts of hydropower, and provide water for domestic and industrial use. According to the most recent official projections, the Sardar Sarovar Project alone will irrigate 1.8 million hectares of land, provide potable water to 40 million people, and have an installed capacity of 1450 MW of power during the next thirty years. When fully filled, the projected reservoir would occupy 410 square kilometres of land and its main irrigation canal will be around 440 kilometres long.”<sup>16</sup>

## **Phases Of The Narmada Struggle**

“The anti-SSP movement's history may be divided into three different phases. During the first phase, from 1979 to 1984, protests against the Sardar Sarovar project took many various forms, involving a variety of people. After the Narmada Water Disputes Tribunal (NWDI) issued its final judgement on August 16th 1979, the Nimad plains saw the first wave of protests against the Sardar Sarovar Project. The 'Narmada Bachao-Nimad Bachao Sangharsh Samiti' (Save Narmada, Save Nimad Struggle Committee) was formed by the afflicted Nimad villages and received immediate backing from the Congress Party, the opposition in the Madhya Pradesh Legislative Assembly. Several protests, bandhs, and roadblocks were held in August and September, primarily in Bhopal, Indore, Badwani, and Kukshi. While the agitation was great in

<sup>14</sup> Shiva V. and J. Bandyopadhyay (1959) 'Political Economy of Ecology Movements', IFDA Dossier 71: 37-60.

<sup>15</sup> TISS (1993) 'Sardar Sarovar Project: Review of Resettlement and Rehabilitation in Maharashtra, Economic and Political Weekly, Aug. 21, pp 1705-14.

<sup>16</sup> *Ibid.*

the Nimad plains, the adivasi areas affected by the submergence, especially in the Jhabua district, were not represented in the struggle. Despite the fact that the Tribunal Award was binding on the four impacted states of Gujarat, M.P., Maharashtra, and Rajasthan, the Madhya Pradesh government issued remarks stating that it will make efforts to resolve the issue of the height of the Navagam Dam (FRL 455 ft.).”<sup>17</sup>

“While the protest created a widespread perception that Madhya Pradesh had lost in the Tribunal Award, the focus of the first phase of the battle was on renegotiating the height of the Navagam Dam (the name given to the terminal dam) in order to spare several Nimad villages from being flooded. In many ways, Madhya Pradesh was a loser. The majority of the flooding was expected to happen in the state, including fertile agricultural area in the Nimad belt. Furthermore, the proposed sites for two Madhya Pradesh government projects were within the Sardar Sarovar Project's submergence area. As a result, the Madhya Pradesh Congress party framed the Navagam Dam issue as a struggle between the interests of Gujarat and Madhya Pradesh. After winning power in Madhya Pradesh and elsewhere in the 1980 elections, the Congress party withdrew its support for the movement.”<sup>18</sup>

Environmentalists and environmental groups were key in launching a campaign against big dams in the early 1980s. The Narmada Bachao Andolan would later be shaped in part by these NGO-led initiatives. However, it wasn't until 1984 that the valley saw a large-scale mobilisation of project-affected residents.

From 1984 forward, the local impacted populace was part of a series of collective activities. This period of the conflict was defined by two distinct characteristics. “For starters, clear demands for improved resettlement and rehabilitation provisions were made. Second, tribal villages in both Gujarat and Maharashtra were mobilised for the first time. The financing agreement with the Bank was concluded between 1984 and 1987, the Planning Commission gave financial approval, and the Ministry of Forests and Environment gave conditional environmental approval to the project. The project's conditional environmental clearance, granted in June 1987, set off a chain reaction. Outside the valley, environmentalists and non-governmental organisations (NGOs) criticised the government's decision to authorise the projects when insufficient studies on the project's environmental and social impact had not been begun, and those that had been started had not yet been finished. In 1987, Medha Patkar, together with a number of other organisations, presented a number of demands for relocation and rehabilitation. Outside the valley, environmentalists and non-governmental organisations (NGOs) criticised the government's decision to authorise the projects when studies on the project's environmental and social impact had not even begun, and those that had been started had not yet been finished. In 1987, Medha Patkar, together with a number of other organisations, presented a number of demands for relocation and rehabilitation. These demands included the right to information on the dam's technical aspects, the extent and timing of submergence, land availability, including the amount, location, quality, and legal status of land selected for compensation; new land surveys to include areas not covered by previous surveys; and the extension of rehabilitation benefits to those impacted by the project headquarters in Kevadia, the canal network in Gujarat, and the compensatory afforestation programme.”<sup>19</sup>

“The Gandhian social worker Baba Amte convened a gathering of social workers and

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<sup>17</sup> MJ Peterson, Narmada Dams Controversy - Case Summary, International Dimensions of Ethics Education in Science and Engineering, Version 1; September 2010.

<sup>18</sup> Mathew John, *Interpreting Narmada Judgment*, 36 ECONOMIC AND POLITICAL WEEKLY 3030–3034 (2001).

<sup>19</sup> Daine Seirra Jacob, Narmada Bachao Andolan, International Journal of Advance Research, Ideas and Innovations in Technology, Volume 3, Issue 5.

environmentalists in July 1988, which resulted in the adoption of the "Anandwan Declaration Against Large Dams." The rationale for opposing the entire project was twofold: first, proper rehabilitation of all those who would be displaced was impossible because the governments had no real idea of the scope and impact of displacement; and second, the SSP's extremely high environmental costs had not been assessed or properly accounted for in the cost benefit analysis, and the governments had no action plans to mitigate these costs."<sup>20</sup>

## **The Emergence Of The Narmada Bachao Andolan**

The gathering at Harsud on September 28th marked a turning moment in the anti-Sardar Sarovar Project struggle. "Baba Amte proposed the idea during a meeting of activists in Hemalkasa in April of that year. The rally demanded a halt to all projects that ruin the environment and destroy people's livelihoods, as well as the adoption of a socially just and environmentally sustainable development pattern."<sup>21</sup> It signalled the start of the Narmada Bachao Andolan's political effort, which was no longer limited to the Sardar Sarovar Project. The Sardar Sarovar Project was merely a manifestation of a development paradigm that rewards a few at the expense of huge misery for the afflicted populace and massive exploitation and destruction of the surrounding resources, according to its new terminology. Although the Andolan had the backing of those who would be displaced in the valley, its strategy had shifted to appeal to the general public, particularly the middle-class intelligentsia. After the Harsud period, the Andolan began to devote significant efforts to establishing a mass base in the Narmada valley. The years 1990-1993 were crucial in NBA history since they saw the strengthening of the no-dam movement and resulted in significant accomplishments for the Andolan. During this time, the Andolan garnered a lot of foreign support and ramped up its campaign against the World Bank's backing for the project.

The pressure on the Bank grew stronger as international backing grew. The Bank took the unprecedented step of appointing an Independent Review Mission in June 1991 to "review the implementation of the relocation and rehabilitation of the displaced/affected population, as well as the amelioration of the environmental impact of all components of the projects." Despite the fact that the Andolan was just a few years old at the time, this was merely the beginning of the gains it would make during this time.

"In terms of valley politics, the post-Harsud period saw a heightened level of agitation. The NBA's organisational structure was established with the formation of a Samanvaya Samiti (Coordinating Committee) that coordinated several protest activities, including obstructing the construction of bridges across the Narmada, erecting roadblocks at strategic points, organising demonstrations and rallies, gheraoing officials from the Narmada Control Authority and the World Bank, and uprooting stone markers from the propaganda. The Andolan's most prominent protest tools were dharnas and hunger strikes. The 'Narmada Bachao Andolan led by Medha Patkar and Baba Amte' received the Right Livelihood Award in October 1991 for their steadfast opposition to the ecologically and socially disastrous Narmada Dams - the world's largest river development project - and their clear articulation of an alternative water and energy strategy that would benefit both the rural poor and the natural environment."<sup>22</sup>

The Independent Review Committee's report, which stated that the World Bank should

<sup>20</sup> Pratyusha Basu, *Scale, Place and Social Movements: Strategies of Resistenace Along India's Narmada River*.

<sup>21</sup> Sethi H. (1993a) 'Action Groups in the New Politics' in P. Wignaraja (ed) *New Social Movements in the South: Empowering the People*. London: Zed.

<sup>22</sup> Prasenjit Maiti, *Till the Rivers All Run Dry: A Human Ecological Analysis of the Narmada Bachao Andolan*, *Electronic Green Journal*, 1(14) (2001).

withdraw from the project and reconsider it, was a significant victory for the Andolan. In addition, on March 29th, 1993, the Indian government declared its decision to end its contract with the World Bank, just two days before the Bank's six-month extension was set to expire. The Bank's withdrawal was a great success for the Andolans, who celebrated widely throughout the valley. It was now pressing the Indian government to do a complete evaluation of the project. When this demand was not met, the 1993 Manibeli Satyagraha was called. By this time, the dam's height had been increased to the point where 294 houses in eighteen villages in Maharashtra and Gujarat had been flooded. Medha Patkar and Deoram Bhai, residents of Kaparkheda village in Madhya Pradesh's Kukshi tehsil and Andolan activists, began a hunger strike in Bombay on June 2nd, seeking a comprehensive assessment of the project. The hunger strikers were arrested on the fourteenth day of their hunger strike. The hunger strike was put off after the administration committed to study the proposal. Representatives from the governments of India, M.P., Maharashtra, and the Andolan met on June 29th and 30th to discuss a wide range of topics pertaining to the SSP. However, after receiving no response from the government, the Andolan repeated its call for satyagraha at Manibeli, forming the Samarpit Dal, which included Medha Patkar and other Andolan activists. The Andolan determined that their Samarpit Dal would drown on August 6th because Manibeli and surrounding villages had been deemed a prohibited area. The Samarpit Dal went underground in the face of a state-wide crackdown on Andolan activists.

On August 3rd, the Government of India's Ministry of Water Resources formed a "five-member panel" to continue negotiations begun at the end of June 1993 on "all problems relating to the SSP." The FMG voiced deep concern on August 5th, in its preliminary meeting, "to hear that the NBA intends to proceed with its plan of jal samarpan, wanting to prevent such a tragic occurrence which may have incalculable consequences." It requested that the NBA postpone their jal samarpan, stating that it was "prepared to carefully consider any points or objections that the NBA may desire to bring." After the administration agreed to a review, the jal samarpan was called off.

## **Narmada Bachao Andolan V. Union Of India**

"Between the states of Rajasthan, Madhya Pradesh, and Gujarat, there was a water dispute over the river Narmada. The disagreement centred on the control, use, and distribution of the waters. The government of India established a tribunal for that purpose under section 4 of the interstate disputes act 1956, and the subject was referred to it. The dam's height was determined by this tribunal. The dam was to be built by the Gujarat state government. The award was given for forming the interstate administrative authority, i.e., the Narmada control authority, as well as the review committee that would assess the NCA's actions. NCA has established independent equipment for the environment subgroup. The closure of 10 construction sluices was ordered by the Ministry of Water Resources on April 23, 1994. The proposal should be reviewed by the petitioners of the writ petition for independent judicial authority. The petitioners' main points of dispute were Article 21 of the Indian constitution and ILO Convention No. 107. They also claimed that the catchment area treatment and rehabilitation programme needed to be completed well before the reservoir was filled."<sup>23</sup>

The issues that were presented before the Tribunal were:

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<sup>23</sup> Dr. Braham Parkash, Retrospect and Prospects of Narmada Bachao Andolan, 2018 JETIR June 2018, Volume 5, Issue 6

1. Whether the clearance issued by the Union of India was given without sufficient investigation, surveys, and evaluation of the environmental impact.
2. Whether or not the ministry of the environment's conditions was followed.
3. Whether the Narmada control authority, despite being an independent body, is biased in granting the award.

The main contentions of the Appellant were as follows:

- The environmental clearance was awarded without due consideration because the investigations were not completed at the time, in 1987, and hence the project should not be allowed to proceed.
- They suggested that additional submergence should be avoided and that the dam's height should be reduced because relief and restoration efforts were being hampered.
- Because it breached Article 21 of the Indian Constitution and ILO Convention No. 107, the Sardar Sarovar Project was not in the best national interest.
- Independent agencies should be created to assess the environmental cost and potential mitigation measures.
- The treatment of the catchment region was still incomplete, and it should have been completed before the reservoir was filled.

The primary arguments of the defendant were as follows:

- The court should not revisit the decision because it is an administrative role. The court's role is to serve as a watchdog over basic rights.
- When two or more points of view are available, the government, after due deliberation and consideration, makes a judgement that should not be contested in court. The environmental impact is considered as a whole.
- Lowering the height will cause power generation to become seasonal, resulting in a loss of power generation.
- There was no need for any independent authority because the NCA was capable of making decisions and awarding prizes.
- As seen by the letters and documents accessible, the Indian government was highly concerned about environmental issues.

“Reference is made to the case of Sierra Club Et. V. Robert Froehlke, in which the construction of the project was halted despite the fact that a significant amount of work had been completed due to non-compliance with the national environmental policy of 1969, but since no such act existed in India and the clearance was an administrative function with necessary steps taken to

improve the ecology and environment, it was in no way a violation of article 21.”<sup>24</sup>

“The court discussed that forcible eviction of tribals and other marginal farmers from their land and other sources of income for a project that was not in the national or public interest was a violation of their fundamental rights under Article 21 of the Indian Constitution and ILO Convention 107, to which India is a signatory. Expounding on this point, it was argued that this Court had already found in a number of judgments that international treaties and covenants could be incorporated into domestic law and used by courts to clarify the meaning of fundamental rights provided by the Constitution.”<sup>25</sup> The court relied on the decisions and arguments made in *Gramophone Co. of India Ltd. V. B.B. Pandey*,<sup>26</sup> *PUCL V. Union of India*,<sup>27</sup> and *CERC Vs. Union of India*.<sup>28</sup> “In this regard, the court is reminded of ILO Convention 107, which states that tribal communities shall not be transferred from their lands without their free permission, save in line with national laws and regulations for grounds of national security or national economic development. It was also mentioned that under the terms of the said Convention, if the removal of this population is deemed essential as a last resort, they must be supplied with lands of at least equivalent quality to those previously occupied by them, suitable for their current requirements and future development.”<sup>29</sup>

The Court in its decision however, let the dam be allowed to be built.

The Court also stated in its judgment that while ensuring that people's rights are not harmed in any way, the Court must exercise extreme caution to ensure that it does not overstep its bounds. Our constitutional framework establishes a reasonably clear separation of powers. When the executive has attempted to override the Court's jurisdiction, the Court has reacted harshly.

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<sup>24</sup> 350b F Supp 1280(1973)

<sup>25</sup> Mathew John, *Interpreting Narmada Judgment*, 36 *ECONOMIC AND POLITICAL WEEKLY* 3030–3034 (2001).

<sup>26</sup> 1984(2) SCC 534

<sup>27</sup> 1997(3) SCC 433

<sup>28</sup> 1995(3) SCC 42.

<sup>29</sup> MJ Peterson, *Narmada Dams Controversy - Case Summary*, *International Dimensions of Ethics Education in Science and Engineering*, Version 1; September 2010.

## Conclusion

The Supreme Court issued guidelines for the construction of a dam with a height of up to 90 metres. The clearance has been granted up to that level by the Subgroup formed for that purpose. Any additional building will be subject to the permission of the environment group for environmental clearance. The NCA must grant further clearance for the dam's development. The reports of the grievance redressal authority would be accorded a lot of weight. For additional relevant orders, the grievance redressal authority will approach the review authority. One of the main reasons for the clearance could be because, even after 70 years of independence, water is not available in sufficient quantities to all of the country's population. This is an obvious violation of article 21 of the UN Charter and the UN Human Rights Resolution. The rivers of India have the capacity to improve the wretched situation that exists in India's dry regions when adequate rainfall is not available. There has been a need to bring India's variety closer together so that individuals who are socially outcasts can be integrated in the social milieu. The government should also offer fundamental contemporary amenities such as drinkable water, enough energy, irrigation, and restoration. In the absence of any unfavourable conditions, investigations or surveys demonstrating that the dam is damaging the ecology, the court issued the order.

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