

Before the Deluge: Human Rights Abuses at India's Narmada Dam

Introduction

Since 1988 rural activists and social and political action groups in western India have campaigned against the construction of a series of dams on the Narmada river, one of the largest of which is known as the Sardar Sarovar Project (SSP). Activists associated with these groups, particularly those from the Narmada Bachao Andolan (NBA, Save the Narmada Movement)¹ who have organized or participated in demonstrations against the project have been subjected to arbitrary arrest, illegal detention, beatings and other forms of physical abuse. These abuses appear to be part of an increasingly repressive campaign by the state governments involved to prevent the groups from organizing support for the protests in villages affected by the dam and disseminating information about the environmental and social consequences of the project.

In 1985, the World Bank approved a loan of \$450 million² for the construction of the Sardar Sarovar dam,³ the first large dam of the series. Growing criticism about the project inside India and from international organizations prompted World Bank authorities to take the unprecedented step of sending an independent team⁴ to visit the dam site and villages in the submergence zone in late 1991 and early 1992 to evaluate concerns raised about the environmental and social impact of the project. The team's report is due to be released on June 18, 1992.

¹ A loose affiliation of groups from all over India, with the core comprising three groups from each of the affected states: Narmada Dharangrastha Samiti (Organization of the Narmada Dam-Affected People) from Maharashtra, Narmada Navnirman Samiti (Organization for a New Life on the Narmada) in Madhya Pradesh, and Narmada Asargrastha Samiti (Organization of People Affected by the Narmada Dam) in Gujarat.

² According to Asia Watch sources, \$148 million of that amount has been disbursed to date.

³ This constitutes approximately 11 percent of the total amount needed for the dam.

⁴ The Independent Review Team is chaired by Bradford Morse, a former member of the United States Congress, and former United Nations Under Secretary and administrator of the UNDP. The other members are Thomas Berger, a lawyer and member of the International Commission of Jurists, Hugh Brody, an anthropologist, and Don Gamble, a specialist on environmental policy and assessment.

The other major foreign funder, Japan, decided to withdraw its Official Development Assistance funding in May 1990. The decision, which was also unprecedented, was the result of a campaign by Japanese environmental groups highlighting the adverse social and environmental effects of the project.⁵

Despite these developments, construction of the dam has continued. The main concerns of those opposed to the project have centered on the problem of displacement and rehabilitation of those living in the submergence zone,⁶ and the failure of government and dam authorities to adhere to regulations and agreements governing both adequate compensation and access to information for those affected by the project.

Groups associated with the NBA have organized to publicize these concerns through meetings with villagers in the affected areas, and have organized mass rallies, sometimes attracting thousands of people. The police have routinely responded to these demonstrations with excessive use of force, breaking up large rallies by beating the protesters and detaining leading activists. The police have also used force during attempted evictions of village residents.

Such abuses constitute violations of freedom of expression and freedom of association, particularly as they appear to be designed to prevent those opposed to the dam from organizing opposition to the project and disseminating information critical about the project to those affected. As one lawyer told Asia Watch, "Freedom of speech is always a casualty of big development projects. How can you debate and discuss if you cannot find out about it?"

Other protests have centered on acts of civil disobedience, such as blocking roads to prevent surveyors from entering villages or forests. During such demonstrations, activists have courted arrest as a form of protest. Persons detained during peaceful protests or acts of civil disobedience are routinely subjected to abuse in custody. In many cases, they have been detained for periods ranging from several days or longer without being produced before a magistrate as required under Indian law. Detainees who have been beaten or otherwise assaulted by police have been denied access to medical care.

The police also routinely charge detainees with serious criminal offenses as a form of intimidation. Although the detentions are short-term, generally lasting no longer than several days, the police then use the pending charges as a pretext to detain the person repeatedly. Activists have also been banned from entering villages in the affected area. According to Asia Watch sources, by mid-1992, more than 1,000 people in the Narmada valley have been detained

⁵ According to a report in *Tokyo Shimbun* on May 23, 1990, "a discontinuation of ODA after construction has already begun is exceptional. The decision is due in part to a review of the carelessness of environmental and cultural impact assessments conducted prior to the project's start." Asia Watch sources believe Japan is reconsidering funding for the project in 1992.

⁶ Asia Watch does not take a position on the questions of resettlement and compensation *per se*. We have summarized the concerns of those groups who, because they have criticized government policy on these issues, have become the targets of the state governments' abuse of freedom of expression and association rights.

for periods ranging from several days to several weeks.

Since construction of the dam began, labor unions have been denied access to the dam construction workers, and workers who attempted to organize or raise concerns about violations of labor laws have been threatened by government officials and police. Workers who joined the union have been dismissed.

The first submergence of villages in Maharashtra and Gujarat is scheduled to begin with the onset of the monsoon in July 1992. Manibeli, in Dhule district on the Gujarat border, is expected to be one of the first villages to be flooded. Because of its status, it has become the focus of demonstrations by those protesting the dam and the target of particularly blatant police abuse. Protests increased in July-August 1991 when officials came to villages telling residents that the submergence would begin ahead of schedule and that they would have to leave. Since then, the police have attempted to stop activists from entering the village, and have resorted to frequent detentions and intimidation of villagers. Asia Watch sources fear that in the months before the scheduled submergence, confrontations in Manibeli and other villages near the dam are likely to escalate, resulting in further human rights abuses.

Asia Watch calls on the U.S. and other donors to urge the World Bank to include specific human rights protections in any decision to continue funding the Sardar Sarovar Project. If human rights violations continue, the World Bank should suspend further disbursements of funds for the project.

Historical Background

The Narmada Valley Project, of which the Sardar Sarovar dam is a part, is one of the largest hydro-electric projects anywhere in the world. The entire project proposes the eventual construction of 30 large dams, 135 medium-sized dams and some 3,000 smaller dams along the Narmada river and its tributaries. The Sardar Sarovar Project will flood 33,947 acres of forest land, creating one of the world's largest artificially created lakes. An estimated 248 towns and villages are scheduled to be submerged, and at least 90,000⁷ people relocated by this dam alone.

The Narmada and its network of tributaries make up one of India's largest and most important river systems. The river lies in western India, flowing some 500 miles between the Vindhya and Satpura mountains from its origin in the state of Madhya Pradesh to empty into the Arabian Sea on the western coast of Gujarat. Much of the hilly and forested areas have traditionally provided a livelihood for several the tribal communities which inhabit the Narmada basin.⁸ Many other villagers subsist by farming. On the larger farms, cotton, wheat, mustard and lentils are the chief crops.

The Narmada Valley Project has been controversial from the outset. It was launched in 1946 when the governments of the Central Provinces and Berar and Bombay⁹ initiated a number of studies to explore the potential for electric power generation and irrigation on the Narmada river system. In 1961 the project, which was named the Sardar Sarovar Project (SSP) was inaugurated.¹⁰ Initial negotiations among the three states failed to resolve disputes over the height of the dam and the distribution of water and power. Continuing disagreements led the central government to establish the Narmada Water Disputes Tribunal (NWDT) to adjudicate water-sharing among the three states.

The NWDT submitted its report in August 1978. After hearing from the party states, in December 1979, the NWDT issued its final report, the decisions of which were binding on all

⁷ This number is the official estimate. Other groups have estimated that as many as 300,000 people may be displaced by afforestation projects, canals and other projects related to the dam who have not been counted in the government estimate.

⁸ The ethnic groups making up India's *adivasi*, or tribal population are generally believed to be the original inhabitants of the subcontinent. These "scheduled" tribes are considered economically disadvantaged, along with other so-called backward classes (including the "scheduled" castes, "harijans" or "dalits", and other low-caste groups). The largest tribal populations are found in the northeastern states of Nagaland and Assam. Other states with large tribal populations include Madhya Pradesh, Orissa and Rajasthan. The major groups inhabiting the Narmada valley are the Bhils, Bhilalas, Korku, Gonds, Pardhans, Bharia-Bhumia and Kol. See Paranjpye, p. 7.

⁹ Under British colonial rule, the present state of Madhya Pradesh was named the Central Provinces. Berar, which bordered the Central Provinces, was a "princely state", i.e. one of the nominally independent state ruled by Indian princes under the suzerainty of the British government. Like most such states in India, Berar was absorbed within the Indian union after independence.

¹⁰ The dam project was named after a prominent leader in India's independence movement from the area, Sardar Patel, who became India's first Home Minister.

party states.

The decisions related to the SSP included, *inter alia*, that Gujarat, the chief beneficiary state, was to pay for the cost of land acquisition and rehabilitation of all dislocated persons from Madhya Pradesh and Maharashtra, regardless of whether they were to be resettled in Gujarat or in their home state; any family losing more than 25 percent of its holding was entitled to five acres of irrigable land; and every 'major son' was to be treated as a separate family unit. The provisions were considered liberal, although they failed to provide for those forcibly relocated by the canal system linked to the dam and by the creation of the construction workers' colony at Kevadia, near the dam site.

In November 1978 the World Bank entered into negotiations with the Narmada Planning Group¹¹ and finalized an agreement to begin funding in 1985. The loan agreement between the Bank and the government of India and the state governments of Gujarat, Madhya Pradesh and Maharashtra included a number of important provisions protecting the rights of the landless and "encroacher oustees" -- those who had no legal title to land but who had worked the land for their livelihood. ("Oustee" is the common term for those scheduled to be displaced.) The Bank conditioned disbursement of the loans on the fulfillment of environmental impact assessment and rehabilitation plans on schedule,¹² and also stipulated conditions guaranteeing "the oustees improving or at least maintaining their standard of living after relocation; relocation of village sections or family units together, according to the oustees preference; full integration into the host community; and adequate compensation, and social and physical rehabilitation infrastructure, including community facilities and services."¹³ The Bank also provided separate loans for the rehabilitation component of the project.

In 1980, the government ordered additional studies to clear the project for "environmental soundness and sustainability," as required under the new Forest Conservation Act. In April 1986, the Ministry of Environment and Forests (MOEF) released a report which found that the project had not met the environmental requirements. The report, titled *Environmental Aspects of Narmada Sagar and Sardar Sarovar Multi-Purpose Projects*, argued that the necessary environmental impact assessments for the project would not be available for another two or three years and that the necessary land capability surveys of rehabilitation sites had not yet been

¹¹ The Narmada Planning Group was created on the advice of the World Bank. It included a number of outside experts as well as government officials. The central body with oversight for the development of the entire Narmada Valley Project is the Narmada Control Authority, which includes the Chief Ministers of the four affected states of Gujarat, Maharashtra, Madhya Pradesh and Rajasthan. It is responsible to the central government's Ministry of Water Resources. (The Secretary of the Ministry of Water Resources, Madhav Chitele, is Chairman of the NCA). The Sardar Sarovar Nigam Ltd. is a government of India corporation established to implement the SSP. It is responsible to the NCA.

¹² Vijay Paranjpye, *High Dams on the Narmada*, Indian National Trust for Art and Cultural Heritage, June 1990, pp.25-26.

¹³ As cited in a writ petition filed in June 1991, before the Delhi High Court: *Kishan Mehta and Arvind Adarkar vs. state of Maharashtra; Narmada Control Authority; Sardar Sarovar Narmada Nigam, Ltd; state of Gujarat and the union of India*.

done.¹⁴ Nevertheless, in June 1987 the MOEF, which had come under severe political pressure from politicians of the state and central governments, gave clearance for construction of the two largest dams, Sardar Sarovar and Narmada Sagar, subject to the fulfillment of a number of conditions. These included carrying out field surveys, completing the rehabilitation plan and determining the seismicity of the site.

The MOEF's decision provoked protests from a wide spectrum of social and political action groups who called for a review of the whole project on the grounds that the government had violated the provisions of the NWDT and its own laws in the manner in which the project had received clearance. The groups also demanded that the World Bank cease funding the project until the concerns were addressed.

Those opposed to the SSP cite the state governments' failure to devise adequate resettlement plans and to follow through with them, and to fully disclose the details of these plans and other relevant information to those affected and to involve them in the decision making process. In addition, representatives of oustee organizations have argued that the official number of those designated as project-affected does not include those displaced by creation of the construction workers colony in Kevadia or by the creation of a canal network for the reservoir and other dam-related projects. These groups have maintained that existing policies have not provided for compensation to these categories of displaced people.

Field surveys conducted in the Narmada valley in September 1987 by MARG (Multiple Action Research Group), a social research organization based in New Delhi, provided further evidence of problems with the resettlement plans. The purpose of the surveys was to "assess the extent of information communicated to the inhabitants of these villages by the concerned authorities and how far the information conveyed was accurate." MARG concluded that the project authorities had "clearly avoided communicating full and timely information to the project affected persons and that the villagers have remained largely ignorant of the implication of the dams on their livelihood and existence."¹⁵

In November 1988 the World Bank responded to increased criticism of the governments' failure to address the concerns of the affected communities by setting a March 31, 1989 deadline for improvements in communication, providing information and completing the resettlement plan. The Bank also requested that all environmental studies be completed by that date. After the March 31 deadline had passed, the Bank sent another mission to assess the status of the improvements. Following that mission, the Bank set down additional conditions requiring the state governments of Maharashtra and Madhya Pradesh to promulgate official policies on resettlement and rehabilitation to comply with the provisions of the NWDT Award and the World Bank agreements with the government of India. Despite the fact that the states failed to

¹⁴ Paranjpye, p. 26.

¹⁵ Ibid, pp. 27-28.

meet either of the deadlines, or to comply with the conditions, the Bank did not suspend disbursements.

In August 1990, the Environment Subgroup of the Narmada Control Authority concluded that, "In the absence of a definite time frame for each of these studies, surveys or action plans, the implementation of the requisite safeguards and action plans *pari-passu* with the construction of engineering works would obviously not be possible. Under the circumstances, the approval granted must be deemed to have lapsed." In January 1991, the MOEF issued a statement threatening to withdraw its clearance for the project. Nevertheless, work on the project continued.

By June 1991, construction of the Sardar Sarovar dam had proceeded to a point where inundation of some villages during the monsoon was believed likely. Environmental and social organizations concerned about the threat of premature flooding petitioned the Bombay High Court to prevent the forced eviction of residents in villages scheduled to be submerged who had not been provided adequate compensation under the terms agreed to by the three state governments under the NWDT Award and the provisions of the World Bank agreement. The 1991 inundation did not occur, but is expected to take place during the 1992 monsoon.

Since mid-1991, growing frustration with government and dam authorities' refusal to consider the demands for a thorough review of the entire project and their failure to deliver on conditions provided under the NWDT Award and Bank agreements has prompted organizations representing the oustees to expand their campaign of demonstrations and grass-roots mobilization against the project to include acts of civil disobedience against government officials and the corporation administering the SSP. The governments' response to the campaign has resulted in widespread abuses against activists and villagers in the affected area.

Abuses Against Activists and Villagers in the Dam Project Site

Leading activists and representatives of organizations representing tribal villagers, particularly those associated with Narmada Bachao Andolan, have been subjected to repeated short-term detention and abuse in custody by police of all three affected states. Most frequently those detained have been held under laws which provide for preventive detention. In many cases, they have been detained for periods ranging from several days or longer without being produced before a magistrate as required under Indian law. During mass arrests at demonstrations and rallies in villages surrounding the dam site, protesters have been beaten with canes (*lathis*), or otherwise assaulted by the police, in some cases sustaining severe injuries. Police have also tear-gassed peaceful demonstrations.

Asia Watch respects the government's right to counter any legitimate threat to public order and is also aware that some of the charges brought against activists associated with the anti-dam movement include acts of violence.¹⁶ However, in the vast majority of cases, the police of the three state governments involved have routinely resorted to the use of excessive force to break up legitimate, peaceful gatherings and intimidate activists and local villagers involved in the opposition campaign. They have also misused preventive detention laws to detain people for the peaceful expression of their views. These arrests violate the internationally recognized rights of freedom of expression and association. Even in cases where the police have had grounds to arrest persons engaged in acts of civil disobedience, they have routinely abused detainees in custody and have violated laws requiring detainees to be produced promptly before a magistrate and allowing them access to family and legal counsel.

In addition, since October 1988, the Official Secrets Act (OSA) has been in force in 12 villages in the submergence zone and around the dam construction site. The OSA makes it an offense for anyone to be in the prohibited area "with the purpose of creating an obstacle." Communicating information about the project -- even from outside the prohibited area -- also constitutes an offense under the OSA.¹⁷ Activists have also been banned from entering villages in the affected area, labor unions have been denied access to the dam construction workers and labor activists threatened by government officials.

¹⁶ For example Asia Watch is aware of reports that on April 9 or 10, 1992, police who threatened to shoot a tribal woman in the village of Chimalkhedhi were told by the other residents that if he did so, no police would leave the village alive. Following the exchange, another woman reportedly threw stones, although none apparently struck any police officer. In August 1991, officials reported that a number of police were injured when demonstrators threw stones. Again, to Asia Watch's knowledge, none of those detained was ever prosecuted for throwing stones. For more on the incident, *see* p. 16.

¹⁷ In January 1989 the government of Gujarat charged 18 activists with violations of the OSA. After coming under severe criticism, the government dropped the case in March 1989. To Asia Watch's knowledge, no other cases under the OSA have been prosecuted. However, according to a senior lawyer interviewed by Asia Watch, the OSA has not been withdrawn.

Arrests and Beatings of Demonstrators

The campaign by the Narmada Bachao Andolan and other groups to oppose the dam project has led to increased arrests and police brutality against activists and villagers participating in demonstrations, rallies and acts of civil disobedience, such as sit down strikes (*dharna*) to block roads or construction sites and forming human chains around government offices or officials (*gherao*). The major incidents in the Narmada valley since 1989-90 demonstrate a pattern of detentions, beatings and intimidation.

Most frequently, demonstrators have been subjected to repeated short-term detentions under preventive detention laws (section 151 of the Indian Penal Code or 107 of the Criminal Procedure Code). Under these laws, the detained person is required to provide collateral, and if the offense is committed the collateral is forfeited. The evidence Asia Watch gathered indicate that the police frequently resort to these these laws to obstruct meetings and prevent activists from participating in them. According to a lawyer interviewed by Asia Watch,

The police routinely file criminal cases against activists as a form of harassment. They then have to spend time on their defense. The first or second time you are charged you may be released on bail. The third time the magistrate may impose conditions, such as restricting the person from visiting the area. In order to get bail the person must accept the conditions, or be jailed, sometimes for years.

It is not unusual for for leading activists to have many such criminal charges pending against them dating back several years. The police may then use these charges as a pretext to arrest the person again at a later date. To Asia Watch's knowledge, no one charged with a criminal offense has been prosecuted.

In addition, the police routinely disregard laws requiring them to inform the detainee of the charges, and whether they are bailable or non-bailable; or permit the detainee to contact his or her family or lawyer. The police also frequently transfer detainees from one jail to another, making it difficult to trace where anyone is being held. In other cases the police simply resort to the use of force to break up peaceful gatherings, beating and otherwise physically assaulting demonstrators.

* **The February 1989 Demonstration in Kevadia.** One of the largest demonstrations of the campaign was held in the Narmada valley on February 22, 1989. The demonstration attracted several thousand supporters. Although the participants applied for permission to hold the rally in Kevadia from the district superintendent of police of Bharuch district, they received no reply.

On the day of the rally, two groups of protesters, numbering about eight thousand in total, walked to Kevadia from the villages of Manibeli, Maharashtra, and Alirajpur, Madhya Pradesh. When the protesters from Madhya Pradesh crossed into the prohibited area near the dam site, they were stopped by the police. The police told them that Section 144 of the Code of Criminal

Procedure (CPC) and the Bombay Police Act had been invoked in the area, and that the assembly was prohibited under these laws. The protesters refused to disperse and some 5,000 were detained and sent to the Rajjipla police station.

When they arrived in Rajjipla at about 7:00 p.m., they were taken to the Wadia Palace compound where they were detained. At about 8:30 p.m. the detainees were informed that they had been released and ordered to leave the compound. Several leading activists, including Medha Patkar, one of the leaders of the NBA, and Girish Patel, a senior advocate and former dean of the Gujarat University law school, objected, arguing that many of the detainees who had come to the rally on foot could not return home from Rajjipla at night, and that the police were obligated to provide food to them.

Girish Patel told Asia Watch that the police surrounded those protesting and began to beat them. He was thrown into a police jeep. Five others were beaten with canes and dragged to the jeep. They were driven to the police station, and then returned to the compound. When they returned, they and other leading activists presented a list of demands to the police requiring them to provide food, to allow the five men who were beaten to file a complaint, to inform all of the detainees in writing of the reasons for their arrest, and to provide vehicles to take the detainees back. The police conceded the demands and by 1:00 a.m. on February 23 all of the detainees had been released and taken back. The next morning, the five men who had been beaten filed their complaint with the police and had medical examinations by doctors at the civil hospital in Rajjipla.

On the evening of March 24, Medha Patkar, Girish Patel, and other NBA activists received a message from Father Mathew of the Rajjipla Social Service Society that the Rajjipla police had registered a case against eight of the activists, including the five men who had been beaten, on charges of "unlawful assembly", "rioting", and "assault or use of criminal force to deter a public servant from his duty." However, the First Information Report (FIR)¹⁸ stated that the offenses occurred at 7:00 p.m., at which time the detainees were already in the Wadia Palace compound in Rajjipla. The eight petitioned the court for bail and were released on personal bonds. Lok Adhikar Sangh (People's Rights Committee, a human rights group based in Ahmedabad, Gujarat) filed a petition in the Gujarat High Court in March 1989 on behalf of the eight activists, calling on the police to withdraw the charges. Although the police did not drop the charges, they took no further action against the activists at that time.

* **January 1990.** On January 17, 1990, demonstrators gathered in Kevadia village to protest against the dam contractor's failure to pay compensation to workers injured in an accident the month before. Before the protest, NBA activists spoke with the subdivisional magistrate in Rajjipla who assured them that the police would not block the protest. However, at 10:00 a.m. the police cordoned off the group just as the meeting started. Twenty people, including Father Joseph, a Catholic priest from Rajjipla Social Services, and Medha Patkar were detained under

¹⁸ A First Information Report, which is recorded by the police, is the starting point for any investigation of a crime.

section 151 of the IPC. They were taken to Rajpipla and released later that day.

* **The Bombay Fast.** Between March 29 and April 5, 1990, Medha Patkar and a number of other activists from villages in the Narmada valley participated in a fast in Bombay to protest the failure by government authorities and officials of the dam corporation to provide detailed plans of the resettlement schedule to residents of the affected villages.

The protest was prompted by fears that some of the villages in the Narmada valley would be submerged during the 1990 monsoon. Under the provisions of the NWDT award, the government of Gujarat is obligated to inform Maharashtra and Madhya Pradesh of any area to be submerged eighteen months ahead of time. Those living in the affected area are permitted to remain there until notified by the respective state no later than six months before the submergence begins. At the time of the protest, no notification had been made even though the possibility of the submergence was discussed by S. Daithankar, the secretary for rehabilitation in the government of Maharashtra and D. M. Sukhtankar, then chief secretary for the government of Maharashtra, during two meetings of the Narmada Control Authority in December 1989 and January 1990.¹⁹

The fast was called off when the Chief Minister of Maharashtra, Sharad Pawar, provided the protesters with a written statement guaranteeing that no land would be submerged until a complete resettlement plan was prepared and adequate land made available. As noted in the writ petition, the guarantees were in accordance with the NWDT Award which stated,

in no event shall any areas in Madhya Pradesh and Maharashtra be submerged under Sardar Sarovar unless all payments of compensation, expenses and costs as aforesaid is made for the acquisition of land and properties and arrangements are made for the rehabilitation of the oustees therefrom in accordance in accordance with these directions and intimated to the oustees.²⁰

At a subsequent visit to the dam site Pawar also promised to send an official communication to this effect to the government of Gujarat and to the Narmada Control Authority.

* **April 6, 1990.** On April 6, 1990, in Barwani, a small town on the Narmada river which has become a center for much of the anti-dam movement, activists launched a demonstration at the NBA office in support of the previous days' fast by NBA activists in Bombay. At around noon, the subdivisional magistrate ordered them to disperse, but they refused. The police charged into the assembly and began arresting protesters and beating them with canes. Some were dragged to the police jeeps. As one who was detained told Asia Watch, "The officials were

¹⁹ As cited in a writ petition filed in June 1991, before the Delhi High Court: *Kishan Mehta and Arvind Adarkar vs. state of Maharashtra; Narmada Control Authority; Sardar Sarovar Narmada Nigam, Ltd; state of Gujarat and the union of India.*

²⁰ Ibid.

saying, 'We'll bury you all.' Now we have been hit so often we no longer care." In all, 150 people were detained, including Baba Amte, the 76-year-old social worker and spiritual leader of the movement, who is reported to be in frail health and was taken to the hospital after the incident. All were released that night, but one man was hospitalized for an eye injury sustained during the beatings, another for an injury to the skull.

* **September 1990.** On September 26, 1990, a demonstration was held in the village of Kasravad to commemorate the anniversary of a massive anti-dam rally held in the nearby village of Harsud in 1989. Activists told Asia Watch that although they had first obtained the permission of the subdivisional magistrate for the rally, police began arresting leading activists from the area on the night of September 25 and held them under section 151 of the IPC. The next day, a large number of police moved into the area and blocked all the roads, preventing people from reaching their homes. The activists Asia Watch interviewed believed that the police were trying to prevent Medha Patkar, one of the leading members of the NBA, from addressing the rally. Two other prominent activists associated with the NBA, Swami Agnivesh and the former Education Minister of Madhya Pradesh, Om Prakash Rawal, were detained and prevented from reaching the site of the rally. A number of other activists went into hiding to avoid arrest. Patkar, who managed to reach the village in spite of the police presence, was detained when she arrived in Kasravad. In all several hundred people, most of whom were from local tribal communities, were detained. All were released after three or four days.

* **October 1990.** On October 2, 1990, the Chief Minister of Madhya Pradesh, Sunderlal Patwa, arrived in the town of Kukshi to address a public meeting. Before his arrival, police arrested scores of activists in Alirajpur and other villages in the submergence area under section 151 of the IPC. In the nearby village of Kasravad, where the local people had blocked construction of a bridge related to the dam, the main activists in the area, including Ismailbhai, were beaten and accused of "attacking the police." They were held for three or four days in the Barwani police station before being released.

* **November 1990.** Another rally was planned for November 9, 1990. NBA activists told Asia Watch that after the authorities were informed of the event, several activists, including Alok Kumar, Jaganath Patekar from Kuldia, and Kalvram Yadav from Dhanura were arrested on November 5 and held for four days under section 151 of the IPC. When they were released they were informed that they would have to report to the police station every month for the next six months.

* **The Long March.** According to local activists, physical assaults by the police on demonstrators increased markedly after the "Long March" -- a month-long demonstration during which protestors walked the length of the valley from the eastern-most point of the submergence area to the Gujarat border.

The Long March lasted from December 25, 1990, to January 31, 1991. In the first days of the march there was little interference from the police. On December 28, however, four

journalists -- Manjeet Singh, Rajan Singh, Ranvir Nayar and Arun Vinayak -- who were covering the march were detained for one and a half hours in the village of Kunwat by the Madhya Pradesh police.²¹

The demonstrators had intended to march to the dam site, but were blocked by the Gujarat police when they reached the state border. On December 28, some 2,000 tribal participants in the march were turned back by the Gujarat police when they reached the state line and threatened with "dire consequences" if they tried to cross over.²² Across the border in Gujarat, dam supporters rallied and threatened to stop any activists from entering the state. On January 4, some who had managed to cross the border were pushed back, and 140 were detained.²³ NBA activists in New Delhi filed a *habeas corpus* petition in the High Court arguing that the police action violated the protesters' fundamental rights of freedom of movement and association.²⁴ On January 25, police from Maharashtra and Gujarat charged into the group, arresting scores of demonstrators and beating them with canes.

On the same day, there were arrests and beatings of demonstrators at other sites in the valley and wanton destruction of private property. One activist interviewed by Asia Watch described the events in Barwani, where local activists staged a support program to protest the lack of response from the government:

Women were beaten on their private parts and dragged by the hair on the road. Two or three people were hospitalized. On January 25, Shri Ram from Bagat received a severe head injury from a policeman's blow. He was hospitalized, and the policemen ordered him to be chained to his bed. In all, 41 people were arrested from Barwani that day. The police also broke bullock carts, bicycles, motorscooters. Bullocks were driven off. People went out to sit on the road. There were some 150 police there, including many women and some children. The Dhar Collector, Inder Kumar Sharma, came down from his car and ordered the police to charge. The police pulled one boy, Ambala, from a wheelchair and beat him. When the demonstrators fled into nearby houses, the police followed and pulled them out of the houses to beat them.

There was also a protest in the town of Chikeldha on the same day. Although no order for a charge was given, activists reported similar incidents of beatings of the demonstrators. The police arrested seven in Chikeldha and brought them to the Barwani jail. Among the group was a

²¹ See "4 Scribes Held, Tribals Sent Back," *Free Press*, (Indore), December 12, 1990.

²² Ibid.

²³ See "140 Anti-Narmada Activists Arrested," *Times of India*, January 5, 1991.

²⁴ The case was never decided however, because the court allowed the government three weeks to reply and by then the march had ended.

75-year-old man, Sadashir Patwari. All seven were struck with canes while being arrested and were also beaten on their legs and backs in the police jeep along the way. The seven were charged under section 151. In addition, they were charged with "wrongful restraint" and "criminal intimidation", for which they had to report to the police station every several months and had to provide a surety of Rs. 5000 [U.S.\$200]

* **1991 Census.** During the census of February-March 1991, the Madhya Pradesh government notified those living in villages in the submergence zone that they "did not belong to state." As a result, when the census takers came, people in all the affected villages of Madhya Pradesh and Maharashtra organized a boycott. After that the police filed charges against people who had participated from these villages for "coming in the way of government work."

* **April 1991.** On April 18, 1991, at about 5:30 or 6:00 p.m. eight NBA activists received a report that two people from the village of Narmada Nagar had been hospitalized at the Barwani hospital after the police had broken up a demonstration. The activists were on their way to Barwani when the police stopped them. According to a young woman activist, N.:

There were six jeeps, with about fifty police in all. Two of us got off our scooter and the superintendent raised his lathi as if to hit me, but I told him that he could not hit me. So he ordered a woman officer to arrest me. But in the police jeep, the police still hit me with their lathis and pulled my hair pulled and slapped me on the way to the Kukshi police station.

Two other male activists who were detained were also hit with canes. When they reached the police station, the two men were ordered to strip and were kept in the jail only in their underwear. That night they were transferred to the Dhar jail and charged under section 151 of the IPC. At 1:00 all three were produced before the magistrate. However, N. refused food and water and demanded a medical exam. She told Asia Watch,

At first the subdivisional magistrate of Kukshi, Ravi Dafaria, refused but then he ordered the exam. But the doctor would not tell me what he had written. Under 151 a detainee has the right to be released on a personal bond, but we were held for seven days.

During this time the two men who had been detained were kept in handcuffs. When they told the subdivisional magistrate that the Supreme Court had prohibited keeping detainees in handcuffs, he told them, "The courts keep on giving a lot of directives but we don't have to follow them."

Repression in Manibeli, August 1991. The village of Manibeli, on the Maharashtra border with Gujarat, has a population that is predominantly tribal. Because of the village's position near the dam site, villagers have been subjected to increased pressure from government authorities to accept relocation. Because of this pressure, the NBA has stepped up its activities to oppose government efforts to relocate villagers refusing to leave. The authorities have responded

by forcibly attempting to evict villagers, breaking up demonstrations and detaining activists.

The campaign to resist the evictions began after May 15, 1991, when dam officials issued notices to residents of the villages of Gadher and Vadgam, in Gujarat, telling they would have to move out. No such notices were given to the villages across the river in Maharashtra. On June 19, the NBA and leading members of environmental and social organizations in Bombay petitioned the Bombay High Court to order the government to explain the premature submergence and its failure to notify the residents of the villages of Manibeli, Dhankhedi, Jangthi, Chimalkhedi, Sinduri, Gaman, Bamni, Dandel, Mokhdi, and Mandva, all of which are in Dhule district, Maharashtra. The petition stated that despite repeated requests since May 1988, the government authorities and officials of the corporation building the dam had not provided information about resettlement plans to organizations representing the affected villagers. Through July, 1991, NBA activists and villagers organized meetings against the planned submergence. By the end of the month, rising water reached within several meters of Manibeli's Shoolpaneshwar temple on the river bank.

On August 3, 1991, 600-700 police entered Manibeli and arrested 79 activists, including three women. Asia Watch interviewed one, A., who described the arrests:

We were arrested at 5:30 pm. I was dragged over to the police van and my clothes got ripped. We were taken to Kevadia colony, Gujarat because that was the closest police station even though the arresting police were from Maharashtra. I kept telling them I needed some clothes to wear but they refused to let anyone bring me any.

At 3:00 a.m. the detainees were brought to Dhulia jail. The next day they were produced in court.

According to detainees interviewed by Asia Watch, tribal detainees were separated from non-tribals despite protests by other detainees.²⁵ The police reportedly told the other detainees that the tribal detainees had accepted bail, thereby admitting to an offense. Sources interviewed by Asia Watch stated that, in fact, those who had accepted bail had been forced to put their thumbprints on the bail papers. Four of those released were immediately rearrested and brought back to the jail in handcuffs, where they were kept separate from the other detainees. As A. told Asia Watch:

I was in Dhulia jail for seven days before I was able to see my lawyer or get a change of clothes. Then I was transferred to the city jail for another seven days. All of us there kept asking where the four tribal detainees were being held but they would not tell us. In the end they were held for twelve days without anyone

²⁵ Activists in the Narmada valley contend that the local authorities have tried to intimidate tribal villagers involved in the protests in an effort to claim that the opposition is generated by outsiders.

being told where they were. The rest of us were arrested under sections 151 and 144. Some of those detained also had older charges still pending. We were never produced before a magistrate. We were finally released on a court order at about 1:00 a.m. But I was immediately rearrested, even though the police are not permitted to arrest a woman after 6:00 p.m. or to arrest someone from within the jail compound.

According to press reports, on the same day in Barwani, "police created a nuisance by shouting obscenities and curses throughout the night of August 3 outside Baba Amte's hut....he was followed by police and open threats were hurled over loud speakers fitted on police jeeps."²⁶

Despite widespread publicity about abuses against the demonstrators during this period, in his August 26 letter to M. A. Chitale, chairman of the NCA and secretary of the Ministry of Water Resources, Michael Baxter, chief of the Agriculture Unit of World Bank's Resident Mission in India, included as an "area of concern" the "weak efforts to overcome hostility to the project and R & R [resettlement and rehabilitation] in Madhya Pradesh and Maharashtra."

* **Abuses in Kasravad, August 1991.** On August 30, 1991, a demonstration was held in Kasravad against the construction of a bridge in connection with the Sardar Sarovar dam. Leading activists of the NBA as well as local activists from neighboring villages, including many women in children, had come to Kasravad for the demonstration. When the group requested permission from the police to talk to the workers at the bridge construction site, the police refused and launched charge into the group, beating the demonstrators with canes. An activist named Tulsirambhai and another man were injured in the head. According to activists interviewed by Asia Watch, many others were beaten and some were taken to the hospital. By 4:00 p.m., 90 people had been detained. They were not held inside the jail but were kept instead on the grounds outside the Barwani jail overnight despite a monsoon rain. They were then transferred to the Kargoan jail and held for 12 days. One of the detainees told Asia Watch that they were given any food until after they were transferred to Kargoan jail, and that for the first two or three days after their transfer the police would not tell relatives and others who inquired where they had been taken. According to press reports,

Several were badly beaten and had to be taken to hospital. Over 80 people were arrested. Mounted police then entered Kasravad village, threatened everyone with dire consequences, and dragged women out of their houses by their hair.²⁷

After the 90 had been arrested, a large deployment of police entered Kasravad. According to local activists, the police detained the wife of a leading activist named Ismailbhai, saying, "If

²⁶ *Economic Times* (Bombay) September 5, 1991.

²⁷ *Ibid.*

we take her to jail he'll have to follow." The superintendent, Ram Nivas, ordered her to go in the police jeep along with her son. Ram Nivas then drove with them in the jeep to Baba Amte's house and told him, "I would have ordered my men to shoot on sight; I would have seen the blood of those people." Then he released Ismailbhai's wife and son on the road to walk back to Kasravad.

The 90 detainees were held under section 151. In addition, 33 were charged with "rioting", "unlawful assembly", "wrongful restraint", "mischief", "attempted murder" and "criminal intimidation." The police also alleged that some people had thrown stones. However, none of those detained were so charged and no one else was later charged with throwing stones although the police were awarded Rs. 500 [U.S.\$ 20]. Following the incident, section 144 of the CPC was imposed, prohibiting public assemblies in Kasravad and all 33 villages of the submergence zone for a month. After the August 1991 arrests, several activists associated with the NBA were banned from the submergence area for the next two months. However, many of the activists defied the ban to continue to work in the area. The ban was lifted after the monsoon.

* **November, 1991.** On November 17, 1991, Medha Patkar was arrested by the Maharashtra police in Dhulia shortly before she was supposed to depart for Stockholm to accept the Right Livelihood Award on behalf of the NBA. She was informed that she had been arrested on charges pending against her in connection with NBA demonstrations since 1990. These included "unlawful assembly", "instigating people" and "committing outrage against government officials." Patkar was released on November 19 but the charges are still pending.

* **Arrests in Kothra in November 1991.** Government surveyors have been a focus of the civil disobedience campaign in the Narmada valley because the surveys of villages in the submergence zone were required to have been carried out before construction began. Activists have obstructed survey working by preventing the surveyors from access to the sites. Asia Watch does not question the government's right to arrest persons illegally obstructing roads and other public facilities. However, in many cases the arrests of those protesting the government surveys have been accompanied by the excessive use of force by the police, beatings and other forms of physical abuse and humiliating treatment in custody. The police have also illegally denied those detained access to lawyers and medical care.

* **Protests Against Surveys, November 1991.** On November 21, 1991, when government surveyors arrived in Kothra, Dharampuri, a group of 26 men and 26 women began a sit-down strike to block the roads. The police ordered them to disperse. When they refused, they were arrested and taken to Dhar jail. On November 22 demonstrators gathered to oppose the detention and staged a protest rally several miles from the survey site. Armed police charged the demonstrators, beating a number of protesters, some severely. The police arrested seven women - including two elderly women -- and 35 men and took them to Dhar jail. NBA activists then began another sit-down strike to protest the fact that none of the detainees had been produced before a magistrate. Asia Watch interviewed one of the activists, who described what happened next:

Five hundred of us went to the town of Tavlai on the main road. At about 9:00 a.m. we sat down in the road to demand the release of all the detainees and an end to the surveying if they were conducted by force and terror. At about 1:00 p.m. the SDM [subdivisional magistrate] came. He said, "We'll tell you what can be done." He left and returned at about 4:00 p.m. with hundreds of armed police and ordered us to disperse. We told him he could arrest us but our demands still stood. After about five minutes the police formed a cordon around the group and began to beat people and drag them to the police vans, even though we had told them we would go voluntarily. Eighteen women and about 70 men were arrested. Then they had no more room in the vans so they just kept beating the other people. I was dragged by my hair and pushed to the ground. Policemen kicked me in the shoulder and back and hit me with their lathis on my back and arm and slapped me. Then they threw me in the van. They continued to beat us in the vans. They even hit an 82 year old woman, Ratnabhai, from Jalkara village, who fainted. When we asked for water they refused to give us any. One woman, Tarabhen from Katla village, suffered a lot of lathi blows. Another girl, Rakesh, who was 16, was badly beaten. The police threatened to push the lathi down her throat and into her vagina. They said to her: "You want to be leaders -- we'll see to it that you can't even speak. We'll see to it that you stop thinking of yourselves as leaders." We learned later that the men had been beaten as well and the police had not permitted them to relieve themselves. We had all been arrested about 4:00 p.m. and the men were not permitted to get down to urinate until 2:00 a.m.

The detainees arrived were taken to the Dharampuri police station. There they were given documents to sign which they were not permitted to read. One of those who had been detained told Asia Watch:

I told them we refused to sign unless they told us what we were being charged with. Then they hit me and some others who were refusing to sign. Then I said to the SDO [subdivisional officer], Radhe Shayam Saket, that he could not make us sign, that he must produce us before a magistrate, and that we had the right to see a medical officer. He said "You are trying to teach me the law?" and ordered one of the women police officers to take me to the van. The MLA [member of the legislative assembly] Mr. Jingalal, had been informed and came to the police station and demanded to see me and Dr. Chauhan, another activist. We were permitted to see him. He demanded that the police produce us before a magistrate and have us medically examined, but the police did not do so.

At 10:00 p.m. the detainees were transferred to Dhar jail. By then there were 165 detained at Dhar jail, including those who had been arrested earlier. None had been produced before a magistrate. On the evening of November 24 several detainees filed a *habeas corpus* petition on their own behalf and FIRs against the police. Asia Watch interviewed one of the detainees who had drafted the petition:

The Dhar jail officials gave us the papers. We submitted them to the jailer. But he didn't give us a receipt for them, so two of us began a hunger strike. On November 25 the Dhar jailer told us he wanted to get us transferred to the Indore jail. I demanded a copy of the *habeas corpus* petition and his signature acknowledging receipt of the petition and the FIR. He refused. We were then taken to Indore jail without even being able to tell the others detained where we were going. We were afraid the petition we had submitted would never be filed so we submitted another one from Indore jail. I later found out that the Dhar jailer had told the others that he had given me copies of the other petition.

The detainees who had been transferred to Indore jail were finally produced before the High Court magistrate on November 28. The High Court ordered that they be medically examined. The remaining 163 detainees were not produced until December 1. Those arrested on the November 21 were charged with "threatening government and police officers" under sections 146, 138, 426, and 341, "obstructing a government function." Those arrested on November 22 were charged under section 151 of the IPC, although eight of them were also charged under section 341. All were released on December 11 but required to report to the police station at monthly intervals. Two reporters from Talwai who were taking photos of the demonstration were detained for a day.

*** Protests Against Surveys and Evictions, December 1991.** On December 2, 1991, 42 people were arrested in the village of Gangly for preventing government officials from carrying out a survey of the submergence area. Some of the protestors were beaten while being arrested. According to activists interviewed by Asia Watch, one man had his arm broken, another required stitches in his head. On December 3, demonstrators assembled at the neighboring village of Ekelbari to oppose government survey work there. When the police charged the group, the demonstrators fled. On December 6, 20 people were arrested in Bawaria during a protest against survey work there. All were charged under section 151 of the IPC. On December 12, 250 people were arrested in villages along the Narmada river in Madhya Pradesh during government survey work.

On December 31, 1991, residents of Manibeli were served notices to vacate the village by January 31, 1992. At the same time, 27 families in Manibeli returned lease papers assigning them to alternative lands for relocation. Activists with the NBA argue that the provisions of the original NWDT award stipulated that notice must be given 18 months before the scheduled submergence. The families have challenged the eviction notices in court, and the case is pending.

*** Arrests of Returnees, March 1992.** Villagers who have rejected the alternative lands provided in compensation have also been detained. According to a report in the *Indian Express*, in March 1992, ten people were reportedly detained as they returned to their village of Vadgam after rejecting a site in the village of Malu, in Vadodara district, where they had been relocated in

1989. It is not known whether any charges were brought against the detainees or when they were released. Others who also returned stated that the police stopped them and told them that rallies were not allowed. Those who have returned have stated that they did so because conditions at the site were poor and were not what had been promised to them.²⁸

* **Arrests in Manibeli, March - April, 1992.** In March 1992, some 150 villagers and activists in Manibeli, Maharashtra were detained during a government operation to relocate residents of the village, which is scheduled for submergence in mid-1992. According to residents, village representatives and activists with the NBA reportedly first attempted to negotiate an agreement to assist those who wanted to leave so that the police would not have to enter the village. Despite the agreement, a large deployment of uniformed Maharashtra police, plainclothes Gujarati police and Maharashtra government officials entered the village on March 26, ostensibly to provide protection for families they claimed had agreed to be relocated. At about 2:00 p.m., the police surrounded 150 people and told them they were under arrest. They were released at 7:00 p.m.

Early the next morning, protests again erupted when bulldozers were brought into the village. Villagers complained that the bulldozers were ruining their fields despite a court order blocking the police from damaging the property of those who refused to leave. At about 10:30 a.m., a group of protesters sat down in the road to block the entry of the bulldozer. The police surrounded the protesters and beat a number of them. Five women were detained in Shurpan, a village across the river from Manibeli until 4:00 p.m. The police also arrested 55 men who were taken to a school in the town of Rajpipla, some 40 kilometers away, and detained for 12 hours without food. They were then taken to Kevadia, about 16 kilometers from Manibeli. No charges were filed against them, and around midnight they were released and had to walk home.

On March 28, when bulldozers damaged the compounds of two of the families who had refused to leave the village, Narayan Chima and Kadwa Gaba. In protest, the villagers began a sit-down strike. The police charged the demonstrators, beating at least ten protesters. The police also reportedly dragged some women from the site by their hair. The police took the camera of one activist who attempted to take photographs of the police breaking up the protest. The camera was returned but the film had been exposed. At least 51 men and women were arrested and taken to a temple across the border in Gujarat. Some of the detainees who had been beaten requested medical treatment but were refused. At midnight the group was taken to Kevadia and released. The group proceeded to the Kevadia Colony police station to file a FIR about what had happened. According to Asia Watch source, when one of the activists attempted to fill out the form, Subinspector Handa told her that she could sign what he wrote or "get out." The group left without filing the FIR.

Protests continued on March 30, when bulldozers damaged the fields of two Manibeli

²⁸ Bharat Desai, "Oustees Abandon Alternative Land," *Indian Express* (Bardoda edition), March 4, 1992; Shubha, "The Long March of the Dispossessed," *The Independent*, (Bombay), March 21, 1992.

residents, Kasubhai and Nadwarbhai. Since then, a deployment of several hundred police has set up camp in Manibeli. On April 1, the Dhulia court issued a stay order on the use of police for further relocation work in Manibeli. Despite the stay order, a large police deployment has established permanent camps in some twenty villages in the submergence area.

According to NBA activists, during protests in Manibeli on April 11, 20 villagers were arrested, a number of whom were reportedly beaten by police. One activist, Mangleya from the village of Bhadal, suffered a broken nose as a result of the beatings. Strikes and protests continued until April 16, when police surrounded the protesters, injuring at least 33 people, including some children who were later treated for their injuries by doctors in the nearby town of Dhulia. Several women alleged that they were sexually molested by the police while being arrested. NBA activists were arrested from their office in their village. A woman activist, A., was reportedly dragged from the office and struck on the mouth. R., another activist was reportedly stripped to his underwear and beaten. On April 22, the police dismantled their camp and withdrew from Manibeli. Over the next several days, police officers accompanied by forest officials returned to mark trees for cutting as part of a planned forest clearance before the submergence. When villagers, many of whom depend of the forest for their livelihood, protested and requested a meeting with the forest officials, the police arrested eight leading activists, including Medha Patkar. They were ordered into a forestry department truck, driven a short distance from the village. They were then returned to the village and were told that they had not been arrested.

In response to reports of the excessive use of force by the police in Manibeli, the state minister for rehabilitation, Anantrao Thopte, stated before the state legislature that "only after the affected people who wanted to shift asked for police protection were the police sent to the village."²⁹

However, a fact-finding mission led by retired Justice H. Suresh of the Maharashtra High Court which visited Manibeli on April 21-22 to look into the recent incidents reached different conclusions. The team found that "the local population had never any objection to [the former residents] removing any of their belongings." In its report, the team observed that the pattern of arrests by the Maharashtra police presented a "uniform picture":

The police has [sic] been rounding up a number of persons including women and children, no charges are framed and [they] are later released late at night in Kevadia in Gujarat area. More often than not they [are] not provided any charge-sheet, no tea or food provided and even ladies [are] freed at Kevadia at midnight, against all rules and regulations. The locals have been staging silent protest against uncalled-for outside interference. In return they have been beaten up, their belongings damaged and looted and even women beaten up by male police.

²⁹ "No Evictions in Manibeli," *Times of India* (Bombay), March 29, 1992.

On April 22, the team met with the Additional Collector of the Dhule police, M.S. Gill, about the charges that had been made against the police. Gill reportedly stated that he could not comment because he had not read the reports and that the Supreme Court was the proper place to hear these concerns. To Asia Watch's knowledge, there has been no investigation of the charges brought against the police.

The Official Secrets Act

On October 18, 1988, the Official Secrets Act was invoked to declare 12 villages around the construction site of the Narmada Dam as prohibited areas. Under this law, the central or state government may declare any place to be "prohibited" if it considers that "information with respect thereto or the destruction or obstruction thereof or interference therewith would be useful to an enemy." Offenses punishable with up to 14 years imprisonment include approaching, inspecting, passing over or being in the vicinity of and prohibited place "for any purpose prejudicial to the safety or interests of the State." The Act also makes "the disclosure, communication, possession or receipt of any official information" with imprisonment up to three years, or a fine, or both. What is meant by "official information" may cover any "sketch, plan, model article, note, document or information which relates to or is used in a prohibited place or relates to anything in such a place." While Asia Watch respects the government's right to preserve the confidentiality of information genuinely related to national security, the provisions of the Official Secrets Act are so broad and vaguely defined so as to violate internationally guaranteed rights of free expression. On its face, the law violates Article 19 of the International Covenant on Civil and Political Rights which guarantees the right to "seek, receive and impart information and ideas of all kinds."

The Official Secrets Act was promulgated in 1923 during British rule. The act is modeled on Britain's 1911 Official Secrets Act which bans disclosures about the security and intelligence services, no matter how trivial, and material relating to Britain's international relations if it is deemed to "endanger the interests of the United Kingdom abroad."³⁰

Girish Patel, who has challenged the Act's validity, observed that

The Act can be used to deny people's access to useful information, documents, studies, reports, etc. about the Sardar Sarovar Project like many other projects. ... Before the notification dated 18th October 1988, the actual dam site and construction area were declared as prohibited places ... Now the government has declared 12 villages as 'prohibited places.' ... The people involved are constantly meeting mainly in Kevadia to discuss all issues related to their movement, to exchange information, to gather new information, records, memorandum etc. ... We do not know which information, which plan, which document etc. will bring

³⁰ The act, which was amended in 1989, remains in force today. For more on the British Official Secrets Act, see Fund for Free Expression/Helsinki Watch, *Restricted Subjects: Freedom of Expression in the United Kingdom* (New York: 1991).

us under the clutches of the Act.

Shortly after the Act was promulgated, a meeting was organized in Kevadia by villagers who would be displaced by the dam. They invited some 60 activists, environmentalists, and scientists to meet at the home of the village *sarpanch* (headman), Muljibhai Vasava. Weeks before the meeting, the police began visiting the sarpanch at his home, calling him to the police station and asking about the people who had been invited to the meeting. On the day of the meeting, which was to begin in the evening, the police summoned Vasava to the police station and informed him no meeting could be held or outsiders visit the place, and that if he went ahead he would be committing a serious offense. That afternoon, the police came to the house where some of the participants had already gathered and informed the group that the gathering was illegal. Several of the participants, including Girish Patel, then met with the deputy superintendent of police in Kevadia.

We asked for a copy of the notification so that we might know what we could do and could not do legally. They did not have a copy of it. During our discussion, we were told that our entry in Kevadia itself would be illegal, no meeting could be held, dam sites could not be visited, etc. We asked, "From where do all these prohibitions follow?" No satisfactory answer was forthcoming.

Patel stated that the police referred sometimes to the Official Secrets Act and sometimes to section 144 of the Criminal Procedure Code, under which a magistrate may issue such orders "as he may deem necessary" in "urgent cases of ... apprehended danger," including prohibiting public meetings or other assemblies, generally of more than four persons. Patel told the police that section 144 could not be used to prohibit meetings in private houses. In the end, the meeting was held without disruption. However, as Patel observed

Our discussion with the DSP confirmed our apprehensions that the authorities are using or abusing the provisions of the Official Secrets Act to inhibit the democratic activities of the people in the project area.

On January 30, 1989, NBA activists organized a demonstration against the Official Secrets Act. Eighteen activists were arrested, including Girish Patel, and charged with offenses under the act. The charges were dropped a few months later before the case went to trial. Even though there have been no prosecutions of anyone else for offenses under the OSA, the Act remains in force. As one activist told Asia Watch, "It hangs over us like a sword."

Abuses against Dam Workers

Like the activists and villagers who have organized against the dam, dam workers have been the targets of police abuse and other human right violations. Early on in the construction of SSP, the contractor for construction of the dam, Jayaprakash (J.P.) Associates³¹ blocked efforts

³¹ J.P. Associates was also the contractor for constructing New Delhi's enormous National Stadium, and the roads, hotels and other

by local trade unions to organize its workers. Since 1987, J.P. Associates has denied trade union representatives and lawyers for the workers access to the laborers' residential quarters, and intimidated and fired workers who joined the union.

Efforts to organize the dam workers,³² most of whom are migrant laborers from the poor states of Bihar and Uttar Pradesh, began in February 1987 when several workers first called the general secretary of the Vadodara Kamdar Union at its main office in Vadodara, Gujarat, asking to join the union. Many of them were drivers, who had been told they had to work twelve hours a day and had come to the union office with their complaints. When the men returned to the workers' camp in Kevadia colony, they were informed that they had been fired and ordered to leave the village immediately.

Again in September 1987, seven workers -- Fakir Mohmad, Shivkumar Sinh, Bharat Prasad, Rahim Ansari, Ghaneshwar Tewari, Daya Shankar Tewari and Shambhu Tewari -- were dismissed and ordered to leave the camp because of their contact with the union. They were not permitted to collect their belongings before being forced by security personnel hired by J.P. Associates to leave Kevadia. The men then sought the intervention of the local police without results. On January 4, 1988, Nageshwar Tewari, an active member of the union, was assaulted by security guards at the camp. When he attempted to register a complaint, the police refused to file it.

On February 7, 1988, some 300 members of the union organized a meeting near the camp. As soon as the workers had assembled there, Police Subinspector Jadeja from Kevadia arrived with several other police officers and stated that the place was "restricted" and no meetings could be held. He did not tell them under which law the restriction had been ordered. The general secretary of the union responded that the workers were all members of the union and therefore had a right to hold the meeting there. The police ordered the workers to disperse.

Following a strike at the camp on March 15, several workers who had joined the union, including Anil Kumar Singh, Satyanarayan Dubey, and Rohini Prasad Upadhyay were served notices that they had been transferred. When the three refused to accept the transfer, they were arrested. According to the petition filed by Lok Adhikar Sangh,

facilities for the 1982 Asian Games. In November 1981, the People's Union for Civil Liberties, a human rights organization, filed a petition in the Supreme Court charging the contractor with rampant violations of labor laws, including employing bonded labor. In May 1982, the Supreme Court ordered the government to ensure that the contractor paid workers the minimum wage and abided by other labor laws. The court also appointed three ombudspersons to investigate complaints by the workers. Similar human rights and labor rights abuses have been reported from other J.P. Associates construction projects. See Peoples' Union for Civil Liberties, *The Other Face of Asiad 82* (October 1982). The contractor for the network of canals linked to the dam is Mahalinga Shetty and Co.

³² From Special Civil Application No. 2116 of 1988, High Court of Gujarat; *Lok Adhikar Sangh & Others vs. State of Gujarat & Anr.*; and Bina Srinivasan, Rohit Prajapati and Wilfred D'Costa, "Dam Workers on Strike," *Economic and Political Weekly*, February 18, 1989, pp. 339-340; interviews with lawyers and activists in Ahmedabad.

Anil Kumar Singh, Satyanarayan Dube and Rohini Prasad Upadhyay were detained in different rooms of the office of the management. ... They [were] also threatened that they would be beaten and they were also sometimes offered temptations. For the whole day, these leaders were not allowed to meet anybody or to talk with anybody. ... Anil Kumar Singh was brought in the room where [a] deputy superintendent of police, subdivisional magistrate and police subinspector were present. He was threatened that he would be subjected to the charge of disloyalty to the state. [The three men] were asked to get out of the camp as early as possible there and then under the threat of a revolver. The subdivisional magistrate threatened them that they would be sent to jail on the charge of anti-state activities. The subdivisional magistrate prepared one writing with his own hand for the benefit of management and compelled Anil Kumar Singh, Rohini Prasad and Upadhyay and Satyanarayan Dube to sign on the paper. The household articles of these three leaders were brought out of their quarters and were put in the jeep and they were compelled to sit in the jeep ... There were police vans in front of and behind the jeep and they were left at Vadodara station at 10:00 in the night. Before this, they were not allowed to visit their quarters or to talk to the workers.

When the general secretary of the union came to the camp and attempted to meet with the workers, he was not permitted to see them and a police cordon was set up around the camp to prevent any workers from meeting with him.

According to a report on the incident in the *Times of India*, officials of J. P. Associates stated that the timing of the strike and the transfer orders for the three union leaders was "purely coincidental." The transfer order also violated an order by the assistant labor commissioner of Vadodara which had placed the workers on a "protected" list in response to complaints from the union. J.P. Associates denied knowledge of the list, although it was reportedly provided to the company's lawyer.³³

As part of the January 30, 1989, demonstration against the Official Secrets Act, 3,000 workers at the dam site in Kevadia Colony, Gujarat, went on strike. Their specific demands were that they be allowed to meet with representatives of the Vadodara Kamdar Union, that the prohibitory order under the Official Secrets Act be removed, and that J.P. Associates be required to abide by existing labor laws governing minimum wages, maximum working hours, and equal pay for equal work for women.

In February 1989 several human rights organizations based in Gujarat -- Lok Adhikar Sangh, Parivartan, and Sariyar, a women's rights group -- filed a petition in the Bombay High Court on behalf of the dam workers challenging the constitutionality of the Official Secrets Act on the grounds that it violated the fundamental rights of assembly, free movement and

³³ See "Sarovar Dam Firm Offers to Face Probe," *Times of India* (Ahmedabad), March 22, 1988.

communication of information.

In January 1992, Girish Patel, who represented the workers, told Asia Watch that:

When I wanted to go see my clients I was not permitted to meet with them. I argued that as their lawyer, I should not have to seek permission from the contractor in order to meet with them. So the court ruled that workers must be allowed to meet their lawyers. The court further ordered that the contractor must either remove the workers' quarters from the prohibited area and transport them to the site, or keep the entire area open. But the Narmada Nigam appealed the ruling, arguing that under OSA we have to get permission. I replied that the Act only states that if we enter the area with certain intent it is an offense. Then the Nigam argued that they have acquired the land so it is private property. I argued that a government cannot have private property, and in any case, fundamental rights apply. The case is pending. But meanwhile the strike died out and conditions remain the same. It is still very difficult to enter the worksite. The workers avoid the courts because they fear they will lose their jobs and be sent home. They say that the advantage of development is employment, but what kind of employment?

The Role of the World Bank

It is clear that the violations of free expression and association described above appear to be part of an systematic campaign on the part of the state governments involved to intimidate those opposed to the Sardar Sarovar Project. They also point to a serious disregard for the principle of "good governance" identified by the World Bank as essential to genuine development.

Among the important governance issues singled out by the World Bank³⁴ is concern for the rule of law, which the Bank has defined as a system of rules and institutions that ensures against arbitrariness and subjectivity in the application of laws.³⁵ In the donors' May 13, 1992 decision to suspend loans to Malawi, good governance was interpreted to include:

basic respect for human rights, release or trial of detainees, better conditions in the prisons, respect for the rule of law, an independent judiciary, public sector accountability and transparency, freedom of speech and press allowing free and open public participation and debate on policy issues and political options, and (indeed encouraging) ensuring free and open public participation and debate on policy issues and political options, and freedom of association. [The donors] stressed that these concerns are central to progress on poverty alleviation and, indeed, essential for equitable development and long-term sustainability of the reform process.³⁶

In other documents, the Bank has endorsed measures to "ensure adequate participation of the people affected by or benefitting from certain projects in the design and implementation of such projects." In a December 1990 paper, Bank officials stated that

[The Bank] now requires consultation with local non-governmental organizations (NGOs) in the borrowing country with respect to environment projects and plans and often provides for popular participation in social projects and rural development programs. This form of participation has been readily accepted as relevant to the success of the projects financed by the Bank.³⁷

An August 1991 World Bank paper on governance is even more explicit on this point.

³⁴ These issues are discussed in a World Bank paper, "Managing Development: The Governance Dimension," August 29, 1991.

³⁵ Ibid, p. 46.

³⁶ From the closing statement of Stephen Denning, Director of the Southern Africa Department of the World Bank, who presided as chairman of the Malawi Consultative Group meeting, May 11-13, 1992.

³⁷ Cited in "Issues of 'Governance' in Borrowing Members: The Extent of their Relevance Under the Bank's Articles of Agreement," Memorandum of the Vice President and General Counsel [of the World Bank], December 21, 1990, p. 53.

Popular participation is the process by which people, especially disadvantaged people, influence the decisions that affect them. ... "Participation" means influence on development decisions, not simply involvement in the implementation or benefits of a development activity ...³⁸

With respect to the SSP, the agreements the World Bank has made with the governments of the states of Gujarat, Maharashtra and Madhya Pradesh also stipulate conditions related to the participation of those to be resettled, including:

ensuring of the adequate participation of the oustees in the plans for resettlement and rehabilitation.³⁹

Another aspect of governance that the Bank identifies as within its purview relates to access to information.

Economic efficiency requires that information about government policies and actions be available, that major processes of economic decision-making ... are reasonably transparent, and there is some opportunity for public comment or influence in the process of economic policy-making. ... The Bank has been primarily concerned to work with governments to ensure broad awareness and acceptance of economic reform programs ... Public disclosure of environmental assessments is one instrument that the Bank is encouraging governments to use as a way of ensuring greater accountability and transparency. This is particularly critical in ensuring that people involved in involuntary displacement by development projects (such as the Narmada and Upper Krishna river) are kept fully informed of the results of such assessments. ... The capacity of NGOs and institutions (professional associations, trade unions, business organizations, grass roots groups, research centers, universities and mass media) to articulate the needs of important constituencies, analyze policy requirements and contribute to policy formation is an important aspect of accountability.⁴⁰

Social and political action groups active on the Narmada issue have raised concerns about the Bank's involvement with the SSP on precisely these points -- concern for the rule of law, for the participation of those affected by the project to have influence on the decision-making process, and for them to have full access to all information about the project and plans that affect

³⁸ World Bank, "Managing Development: The Governance Dimension," p. 37.

³⁹ As cited in a writ petition filed in June 1991, before the Delhi High Court: *Kishan Mehta and Arvind Adarkar vs. state of Maharashtra; Narmada Control Authority; Sardar Sarovar Narmada Nigam, Ltd; state of Gujarat and the union of India.*

⁴⁰ *Ibid*, p.

them.

However, full participation and access to information have been notably lacking in the making of government policy toward the SSP. Despite the Bank's assurances of its concern for full disclosure, government officials have demonstrated their determination to withhold information, limit access to the dam site and affected villages, and intimidate those who have attempted to inform people living in the area about the effects of the project.

Bank officials have generally responded to concerns about the project by sending more frequent missions to the Narmada valley to investigate the problems.⁴¹ Following a mission in November 1988, then World Bank senior vice-president for operations, Moeen A. Qureshi wrote the following in a letter to attorneys at the U.S.-based Environmental Defense Fund (EDF) on December 16, 1988:

It is important that knowledgeable representatives of oustee organizations in the area be fully informed of, and closely involved with, the project decision making process, particularly on environment and resettlement aspects. This point has been made repeatedly in meetings with oustee representatives and with project authorities and we are hopeful that progress will be forthcoming.

Qureshi raised similar concerns in a November 28, 1988, letter to then Chief Minister of Madhya Pradesh, Arjun Singh, in which he stated that "perhaps we -- the concerned governments and the Bank -- have not been totally successful in making plain all that the public should know about the project and its impacts, and that in some instances we may not really have satisfactory answers yet." He went on to urge the Chief Minister to make public a resettlement policy that was comparable to plans in the other affected states, and informed him that approval of the extension of credit after March 31, 1989 would take into consideration progress on these issues. However, as noted above,⁴² the extension was granted even though the conditions were not met.

Even as late as August 26, 1991, Michael Baxter, Chief of the Agricultural Unit of the World Bank's Resident Mission in New Delhi, stated in his report on resettlement and rehabilitation that "the lack of progress in Madhya Pradesh is very serious." He specifically stated that the "NCA [Narmada Control Authority] should also make a recommendation to states how they can ensure the early, constructive review of R & R [resettlement and rehabilitation] plans by PAPs [project-affected people], NGOs and other concerned bodies, ... NCA should issue ...clear public statement[s] that give the expected flood and permanent submergence levels for that year ... "

⁴¹ Testimony of Lori Udall, staff attorney for the Environmental Defense Fund, at hearings before the House Subcommittee on Natural Resources, Agricultural Research and Environment, October 24, 1989.

⁴² See p. 5.

Baxter's recommendations may have been made in response to a report dated August 8, 1991 by S.M. Pai, secretary of the Narmada Control Authority, to F.S. Jasol, director of the Sardar Sarovar Narmada Nigam, Ltd, about complaints from "some 40 people from the submergence villages of Madhya Pradesh and Maharashtra on some of the actions taken by the Government of Gujarat in the recent past." Pai noted that, "If the points brought out by them are correct, it shows a dismal picture involving outright violation of the NWDT Award." He went on to describe the villagers' complaints:

1. GOG (government of Gujarat) has given notices to some 60-70 families in May 1991 giving them 4 days' notice to shift and also to pay GOG a huge amount. In this respect, ... the NWDT Award stipulates that: ... Gujarat shall at each successive stage of submergence at least 18 months in advance. ...
2. Some people were forcibly evicted from their present homes and shifted and put along with others without any facilities being provided.
3. When notices were issued in Gujarat, such notices were not issued in Maharashtra villages located at levels lower than those of Gujarat.

Despite Baxter's recommendations, complaints of this kind continued into 1992, accompanied by human rights abuses against those who have attempted to publicize them.

If the Bank is to credibly maintain its commitment to promoting good governance, it should take concrete steps to ensure that the state governments of Gujarat, Maharashtra and Madhya Pradesh, and India's central government fully respect the right to free expression of those people affected by the Sardar Sarovar project.

U.S. Policy

Although U.S. Treasury officials and U.S. representatives at the Bank have raised concerns about problems associated with the SSP, to date they have not publicly raised concerns about human rights in connection with the Bank's funding of the project.

Members of Congress have raised concerns publicly about the Sardar Sarovar Project. On October 24, 1989, the Subcommittee on Natural Resources, Agricultural Research and Environment held hearings on the project at which NBA activists testified. Following that hearing, members⁴³ of the subcommittee wrote to then World Bank president Barber Conable to express their concern about the failure to address serious environmental and human rights issues in the implementation of the SSP, and called for a cancellation of the loan. In the letter, the members observed that:

The credibility of the Bank's public commitment to environmentally and socially sound development is balanced on a precipice. Continued World Bank involvement in the Sardar Sarovar project sends a clear signal to borrower countries that the environmental and social conditions in the loan agreements are not enforced and bona fide established. In light of the overwhelming evidence of the unsoundness of this project, and its broader implications for the Bank, we believe it would be a gross misuse of public funds to consider an increased replenishment for an institution which has demonstrated its disregard for human rights and environmental concerns.

In February 1991, members⁴⁴ of the Senate Foreign Operations Subcommittee wrote to Conable, expressing concern about the environmental impact and resettlement problems associated with the project, and welcoming the establishment of the independent review team.

⁴³ They were James Scheuer, Claudine Schneider, Wayne Owens, Constance A. Morella, Frank Pallone, Jr., and George E. Brown, Jr.

⁴⁴ They were Robert Kasten, Patrick Leahy and David Obey.

Conclusions and Recommendations

Primary responsibility for protecting the human rights of critics of the Sardar Sarovar Project lies with the Indian government and the state governments of Gujarat, Madhya Pradesh and Maharashtra. It is they who ultimately must ensure that the rights of freedom of expression and association of those affected by the project, including the dam workers, are respected; that preventive detention laws are not abused to detain peaceful critics of the project; and that the police do not subject those detained for their protests to cruel, inhuman or degrading treatment.

But the World Bank has a crucial role to play in urging the Indian government to ensure that neither central government nor state government authorities restrict those affected from obtaining or communicating information about the project, or abuse the rights of those expressing opposition to it.

In this case, the Bank should use the opportunity of forthcoming meetings with Indian officials following the release of the Morse Commission report to issue a public statement expressing serious concern about human rights violations that have occurred in connection with the project. The statement should affirm the Bank's support for the right of the people affected by the project to peacefully and freely express their views without interference, harassment, unreasonable or illegal restrictions, or abuse by police or other government or project authorities. The Bank should call for an immediate end to human rights abuses against critics of the project and prosecution of those responsible. If human rights violations continue, the Bank should suspend further disbursements of funds.

More generally, the Bank and its Executive Directors should affirm that respect for human rights is an important aspect of "good governance." In accordance with its own guidelines guaranteeing access to information for communities affected by World Bank projects, the Bank should require governments to guarantee that information about the project will not be restricted by laws, such as the Official Secrets Act, or other means.

As a general principle, the World Bank and its Executive Directors, in discussing any proposed projects, should make it clear to government authorities concerned at both the central and state level that the use of force by local police to end disputes or stop peaceful protests over issues linked to the projects is unacceptable and would place further extension of credit for the project at risk.

The U.S. should use its influence to persuade other donors to support these human rights protections, both with respect to the Bank's principles of accountability and governance and with respect to the Sardar Sarovar Project. The U.S. should press for a supplemental agreement between the Bank and India's central and state governments which

includes human rights protections. The U.S. should make clear that without such an agreement, no further funding will be approved.

For Further Information:

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News from Asia Watch is a publication of Asia Watch, an independent organization created in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair of Asia Watch is Jack Greenberg and the Vice Chairs are Harriet Rabb and Orville Schell. Sidney Jones is Executive Director.

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