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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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INDIA: Gates of Justice Being Closed for the People of Narmada Valley

The Asian Legal Resource Centre (ALRC) draws the attention of the Human Rights Council to the imminent decision of Government of India to close the gates of the Sardar Sarovar Dam on the Narmada River. The decision of constructing the dam to its full height of 139 meters has violated various orders of the Narmada Water Disputes Tribunal Award, state rehabilitation policies, as well as Supreme Court judgments delivered in 1991, 2000, 2002, 2005, and 2011.

The Supreme Court has repeatedly disallowed construction of the dam before complete rehabilitation of the project affected people, who are spread over three states in western India, i.e. Madhya Pradesh, Maharashtra, and Gujarat. The closure of the gates will submerge around 245 villages and 376 square kilometers of land and destroy the lives and livelihood opportunities of more than 50,000 families in the submergence zone of the dam's reservoirs. It will also internally displace around 300,000 people.

Over the approximately 30 years of construction of the dam, and the opposition to it, only about 14,000 families have received resettlement and rehabilitation. Most of these families are from Gujarat and Maharashtra. The Government of Madhya Pradesh, however, has rehabilitated and resettled mere 40-50 families, citing lack of lands as a primary reason. It has evicted 4,374 projected affected families residing in the submergence zone first, and then 15,900 families, without giving them compensation and rehabilitating them in accord with the norms set by the courts and other authorities involved in the process. Consequently, many of these families continue to live in their villages, which will be submerged by the closure of the gates.

Even the piecemeal resettlement and rehabilitation that is intrinsically against the interest of a majority of project affected families – particularly the landless, marginalized, and tribal families – has been marred by massive corruption estimated at over INR 1,000 Crore, i.e. 148.5 Million USD.

The findings of the Interim Report of the Justice S.S. Jha Commission, constituted under orders of the Madhya Pradesh High Court, in response to the Narmada Bachao Andolan's writ petition W.P. No. 14765/2007, corroborate the allegations. Incensed at the massive corruption in relief and rehabilitation, the Narmada Bachao Andolan pleaded for a Commission of Inquiry to investigate the theft of public money, particularly in areas of fake registries, sub-standard construction at Rehabilitation and Resettlement sites, irregularities in disbursement of house plots, livelihood grants, declaration of oustees, and so on, which was collectively resulting in massive loot of public money and deprivation of oustees from their right to rehabilitation. The number of fake registries exposed stands at more than 3,000.

Similarly, corruption has affected the construction of at least 88 rehabilitation sites, in allotment of land deeds to the project affected families, denying the families status as the project affected people while granting the same to those not affected, duping project affected families into accepting cash payments in lieu of land and so on.

The Government of Madhya Pradesh has tried every delay tactic to stall the Final Report of the Justice S.S. Jha Commission from coming out in public domain. It first appealed against the Madhya Pradesh High Court Order that mandated the giving of a copy of the Report to all parties concerned, on the ground that getting the report was the prerogative of the legislature. Yet, after getting the nod from the Supreme Court of India for the same, it has neither presented the Report in the state assembly for discussion nor given copies to members of the state legislature. The GoMP's reluctance to bring the report in the public domain shows that it has a lot to hide.

Furthermore, the Government of Madhya Pradesh and the Narmada Control Authority have been giving "false" affidavits in the Supreme Court of India, claiming for many years that there is "Zero" balance for Rehabilitation, and based on these "false affidavits", the Supreme Court of India permitted the construction of Dam, which in turn resulted in injustice to the people. Now the Narmada Controlling Authority in 2014 has itself accepted that all families have not been rehabilitated. In such a situation, there is an urgent need to investigate the reality of the affidavits filed by Government of Madhya Pradesh from time to time. This investigation should be done under the direction of Chief Justice of India, as it involves the role of 3 state governments and the government of India.

Closing the gates in these circumstances will submerge the villages and affect at least 50,000 families abandoned by the GoMP without relief and rehabilitation as per the policy. Submerging their villages would therefore violate their right to life as well as their livelihood rights under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In addition to violating these laws and the rights of the PAPs, the closure of gates and submergence of the lands of the people also stands in contravention to the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, and the Indigenous and Tribal People's Convention, 1989, of the ILO.

The Asian Legal Resource Centre therefore urges the Council to:

- a. Ask the Government of India to abandon any plans to close the gates and submerge the lands before the rehabilitation of all project-affected families in the letter and spirit of the Supreme Court orders;
- b. Ask the Government of India to ensure that the Land Acquisition, Rehabilitation and Resettlement Act, 2013, is implemented in entirety and fair compensation is ensured for all project affected families;
- c. Ask the Government of India to form a Committee under the Chief Justice of India to investigate the affidavits filed by the government of Madhya Pradesh and the Narmada Control Authority on the basis of which the Supreme Court made its decisions.
- d. Ask the government of Madhya Pradesh to place the Justice S. S. Commission Report for discussion in the legislature immediately and act on its recommendations.
- e. Ask the government of Madhya Pradesh to refrain from evicting project affected families until the report of the Commission comes into the public domain and exposes the realities of the relief and rehabilitation of the project affected families. The state government must also ensure that the project-affected families cheated by such corruption are given their legitimate rights.
- f. Ask the government affected families to identify and prosecute those who indulged in corrupt practices.
- g. Ask the government of India for a comprehensive review of the project and the impact in order to study what it has cost and will cost the lives of the people and their habitat. Such a review must involve all the concerned government agencies, the UNHRC, representatives of the people's movement in the Valley raising the cause of displaced over the past 3 decades, and members of civil society, experts, and independent social & human rights bodies. The international community, in particular the UNHCR, the International Labour Organization, various UN human rights bodies, must facilitate such a comprehensive review of the Project and send their Special Rapporteurs on Housing Rights, Human Rights, Internal Displacement, Rights of Indigenous Communities, and UNWOMEN to visit the affected areas of Sardar Sarovar Project immediately to assess the situation.