

# Human Rights & Development Planning

Guest Speaker: Professor Balakrishnan Rajagopal, Urban Studies & Planning

Class Outline for November 4, 2009:

- Discussion of *Drowned Out*
- Presentation by Balakrishnan Rajagopal

## Discussion of *Drowned Out*:

Class starts off by dividing into country teams. Each group is asked to discuss a theme from the film *Drowned Out* and come up with at least one question for today's speaker. The themes that students discuss include:

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| • Class   | • Voice/Agency   |
| • Human Cost  | • Education  |
| • Politics  | • Representation and Preventing Marginalization – How? |
| • Equity vs. Efficiency   | • Corruption of Centralized Power                      |
| • Accountability of Government, Multilateral Organizations, Private Sector... | • Rhetoric of Poverty Alleviation                      |
| • International Pressure from Human Rights Organizations, World Bank...       | • Tribal Rights  |
| • Protesting & Power of the Masses  | • Heritage   |
| • Power of the Media  | • Eminent Domain                                       |

Eminent domain is an important concept in urban studies which refers to when government takes land away from the owners in order to do something for the “public good.” It can be controversial, because “public good” can mean different things to different people.

Questions that the class comes up with included:

- How can the international community use their leverage to affect situations like this? How can they affect policy?
- What checks can be put on the government to ensure accountability? Where can the checks come from? In a democratic government, the theory is that this should come from the people. Can we build them into a country's own governmental structure? If the checks do not come from within the country, what can the international community do?

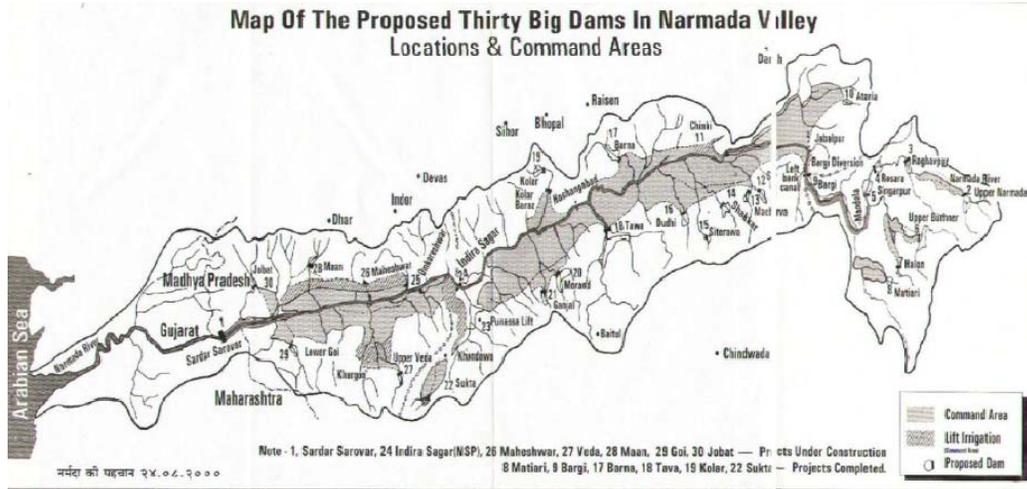
## Presentation by Balakrishnan Rajagopal:

[Please Note: The opinions expressed here are the views of the guest speaker and do not necessarily reflect the views and opinions of D-Lab.]

Professor Balakrishnan Rajagopal is part of the International Development Group (IDG) in the Department of Urban Studies and Planning (DUSP). In the past, he assisted the World Commission on Dams to develop a legal and policy framework on the human rights implications of large dams and has consulted with UNDP on the articulation of a human rights approach to development planning and policy. He formerly served with the United Nations High Commissioner for Human Rights in Cambodia between 1992-97. He has lectured on economic and social rights at the Institute for International Judges and on housing rights in Porto Alegre, Brazil. His research is focused primarily on South and Southeast Asia and also on the legal

systems of Brazil and South Africa. His caveat for this presentation on the Narmada Dam is that 50 minutes is not enough time to fully discuss a case of this complexity.

In the dry states of India, there is an interest in damming rivers to provide drinking water and irrigation. The states were in dispute about water rights and usage, so they had to go to an interstate water dispute tribunal. 82% of India's river water is in the form of interstate river basins. States have generally been able to meet and arrive at their own consensus on how to share the water, but the constitution provides a special tribunal that issues a binding ruling in the case of disputes.



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Several massive dam projects were planned since before India gained its independence, but the first foundation stones were laid in the early 1950s. These dams were transnational projects at the start, with the involvement of many international organizations and corporations. Hundreds of dams were being built along the same river, mainly in the states of Madhya Pradesh and Maharashtra. The majority of the flooding would occur in Madhya Pradesh. Initially, people living in the affected valleys were only requesting information. They wanted to see the project documents for the dams, understand where the flooding was coming from and learn about compensation packages. The government spoke much of rehabilitation and resettlement (R&R) of displaced peoples, but those affected were met with complete refusal from the states about sharing plans. This hardened the resolve of the local people at risk of displacement.

Why has there been so much controversy? For that we need to go back to some basic issues. The first issue has to do with the place of dams in developing countries, such as India. India saw dams as one of the main ways to achieve growth and economic development in the post-independence era. Prime Minister Nehru called the dams “temples of modern development.” They provided a sense of nationalism, a sense of wanting to use development to build the nation. This would be a high stakes controversy, where people on both sides are full of passion. In India, any criticism of large dams is often considered to be anti-nationalism. Any open support for large dams, however, could also be considered to be repression and almost Fascist.

The official purpose of the Narmada dam was described as a mixture of flood control, drinking water provision and irrigation. We must also recognize that there was another unstated purpose here that was connected to the political economy of the region: supporting industries that may be very water-intensive. For example, the “golden corridor” in Gujarat has many pharmaceuticals and chemical production companies. Most of the dam water used in Gujarat is

actually used for industrial purposes and diverted to the cities, even though the dam construction was sold as a project for rural development.

There are also complicated dynamics playing out in different places of the world. For example, Greenpeace in Japan has been putting pressure on the Japanese government to back off on extending the loan for generators on the project. The World Bank has been a major international funder and technical supporter of the project since the 1980s. Local involvement is very complex as well. The first dam has been the source of the most political conflict on the ground. Virtually every dam built afterward has faced similar conflicts and issues in implementation.

There are governments of various levels that have overlapping responsibilities concerning dam construction. Water provision is often done by state governments, but the federal government has control over interstate water systems. Resettlement is managed by state governments because they have control of land allocation, but the federal government answers to international donors such as the World Bank. It is not easy to get political consensus in a country that diverts political structure. In 1979, there was a progressive tribunal ruling that said for the first time that people displaced by the construction would receive land for land, as opposed to cash compensation. This is significant for a country with a substantial rural population that depends on land for cultivation. Cash is much harder for them to utilize, and many people who receive cash end up migrating and living with the urban poor.



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The construction of the Narmada dam has raised concerns over:

- Hydrology
- Health
- Safety
- Environment
- Human Rights

Hydrology deals with the question of how much water is there to share. It turns out that even scientists cannot really agree on a precise number in this case. On the other hand, the measured data for Narmada is not sufficient for an accurate prediction, especially for a region with such variance in water flows. The states that stand to benefit the most from the river, like Gujarat, of course want to keep the number small so there is less to share. The states that wish to receive water want to use the highest scientifically defensible number in negotiations for sharing.

As for health, there are studies pointing out that the shift in the flow of the river could lead to an increase in malaria transmission through mosquitoes.

The safety issue is always there, and technically speaking it has not been resolved. In 2001, there was a massive earthquake where thousands died. We do not know what will happen from building hundreds of dams in a small area where millions of people live.

When it comes to the environment, the government is concerned with threats to the many fish species. It was said that this could be mitigated through constructing special features to allow the passage of fish.

With human rights, there is the question of what to do with Project-Affected People (PAPs). Who counts as a PAP? In the most obvious cases, this includes people who were flooded out and people who own property titles in the flood area. The problem is that this does not include landless people who do service jobs in the flood area, such as laborers who pick corn seasonally for small farmers or fishermen. How do you compensate people appropriately? Who is considered displaced/affected? How do you give people land for land, when some people do not own land in the first place? They need access to work and rights to their livelihood. The other question is who are the owners? A lot of people who "own" the property have lived in the tribal areas for several generations. There is community recognition of ownership, so there is no need for formal property deeds. This leads to tribal people being unable to prove ownership of ancestral homes to the government. According to the government provisions, which are more observed in their breach, tribal lands cannot be touched without the pre-informed consent of the residing tribal people. People ask what is the use of "land for land" if the land received is 30 km away from the forests where they gather herbs for medicine? The concept of land here is connected with the surrounding ecology. Often, the relocation area does not have the same ecology as the original land. Part of the problem is that people do not even know what dams are coming and which regions will be flooded.

The rest of the lecture is about recent developments and the current status of the Narmada Dam. In 1994, the Indian Supreme Court issued a stay on construction, but reversed its decision and allowed the project to continue in 2000. Complaints have continued to be raised to the Supreme Court. In 2005, the Supreme Court clarified its ruling to include a method for states to hear and process complaints. People argue that the Environmental Impact Assessment/Report (EIA/EIR) filed by the Indian government was not properly done and if a true EIA/EIR had been completed, the project would not have been approved by the World Bank.

The World Bank has violated its own policies when it approved the project the first place. The rules of the World Bank are that R&R needs to be considered beforehand, (specifically, resettlement land needs to be identified before the project commences) and that the number of people displaced needs to be minimized. With the Narmada case, quality land has not been readily available and available land is sold at market prices, which are unaffordable for the government to buy. The World Bank also stipulates that detailed surveys and community consultations need to be completed for effective planning. To these considerations, Balakrishna add the need for exploring alternatives which do not involve so much risk to the environment and human rights.

Due to international criticism, the World Bank ended up ordering an independent evaluation of its own project for the first time and delivered a scathing criticism. Its own conclusion drawn up for the OED report is that the Bank's performance was "unsatisfactory." This has changed the organization of the World Bank. A World Bank Complaints Panel was established in 1994

to allow the Bank to communicate with the people who are affected by projects. In 2000, The World Commission issued a report on how to plan for large dams, including best practices. The World Bank even pulled out of its own project in 2003. These may seem like weak responses, but they would never have happened otherwise.

Large dams have provided immense benefits, but these benefits have not always been what was promised and often come at unacceptable and unnecessary consequences. So, do we stop building dams? Maybe we cannot stop entirely, but we can build them in a smarter way.

Every large scale dam project in Balakrishna's experience has resulted in administration/political paralysis on the ground, overrun budgets/schedules, failure to deliver all the benefits promised, and serious unintended consequences. Balakrishna says he is personally a skeptic when it comes to very large dam projects, but he does believe that sizeable dams have a place. Small dams done by the community themselves may not achieve the scale necessary for countries with large population, demands and needs. Sometimes you need large dams for drinking water in dry regions or for larger scale irrigation to produce enough food. The trick is how to balance all the interests. There are ways to improve project planning and implementation to pose less of a threat to the environment and human rights.

Balakrishna invites students to attend his office hours if they want to discuss this case in more detail, or talk about other development issues.

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