

Development
or
Developmental Terrorism

**A Report on the Police Firings in Kathikund and the
controversial Power and Dam Project in
Amgachi-Pokharia**

Dumka, Jharkhand

Background:

Santhal Paraganas, the land of freedom struggle by the adivasi leaders such as Sidhu Kanu in the 19th century is even today known for the struggle of adivasi rights and fights against the mighty state. The rich natural resources as an endowment here include the evergreen Sal forests and the perennially flowing river, Brahmani that has its domain full of tributaries, Guma and Gumra. The paddy fields with only Kharif crop to harvest are the main sources of staple diet and livelihood, both. The diversity in the eco-system is only to be investigated to know the various forest produce including millets and maize as well as vegetables that even a child from a local family can count and name. Women, the backbone of the economy as in every adivasi area have a special status due to their access to the resources and its sale in the Hat, with the own significant labour contribution to the local economy. Their strength comes not just from a rich food, but rich culture of integrity and empowerment at the base of their role and relevance to the life in their self-reliant families and community.

While the basic needs are fulfilled by the natural environs, which is like a 'non-interest lender and supplier' of food, fuel, water and fodder there is no doubt that the people have to resort to migration for seasonal employment to West Bengal, Bihar, Punjab and other northern states and even to Mumbai. With minimum facilities like school and hand pumps for drinking water in the communities, the simple life of the adivasis also exhibit self-reliance with minimum or no dependence on the State. The State also has not been too keen or generous to extend itself to these interior parts of the adivasi region, not even to support and facilitate lifting and distributing river waters and to irrigate lands or providing electricity from the grids or energy out of solar boon!

A rich cultural heritage, however, is seen in the systems of sharing and co-operation among the adivasis as well as the non-adivasis etc. The traditional Gram Sabhas which dwell on communitarian life style involve Madait, meaning a practice of assistance to those in agriculture who need it with only afternoon meal as compensation. The Hat is not a market place, but a weekly festival where the villagers meet and exchange goods. Here also, a person who does not have anything to exchange, is given the required food grains, which may be returned in the future, when such an exchange is possible.

The history of Santhal Paraganas is full of the adivasi rebellion against the British Raj which sought to impose their Permanent Land Settlement which would have disintegrated the communitarian lifestyle of the Santhal Peoples and removed their community land from their possession. "What rights have you to tax the land which is given to us by Singh Bonga (the Sun God)"? Asked Tilka Manjhi who rebelled against the British long before the "first freedom struggle." of 1857.

The struggle for right to resources: Jharkhand, until eight years ago was a part of the state on Bihar state and on separation has become a richer state with concentration of forest and mineral resources. It is also the only state with not one, but three laws that protect the indigenous people's rights to common property resource and from alienation by non-adivasi population / entities, including the State. These laws are thus favourable to the integrated way of the community life based on natural resources, but these are in conflict with the legal regime of British legacy whereby the State is the omnipotent owner of the land and can use the power and principle of eminent domain to acquire any land and everything attached to it i.e. water, forest, minerals or aquatic wealth. The vast store of minerals especially coal, iron, uranium has thus become a bone of trouble since the State finds it important to extract the sub-

surface wealth and harness it, while the adivasis who value land for agriculture don't see this as an activity of priority nor do they benefit from it, since the development benefits are partially and inequitably grabbed by the urban-industrial population and the investors of monetary resources.

Investors of the land and the economic resources are on the other hand only counted as mere 'displaced' or 'affected' and beyond recognizing their sacrifice, if at all, their losses, are valued for one time compensation in cash, not even an alternative source of livelihood or a permanent source of income. The plight of the displaced that have invariably become destitute is obvious from the deprivation and disintegration of social units faced by the people affected by Damodar Valley Project – dams such as Mithon, Panchet or Tenughat. They could never have any legal rights to the resources which the State has intended and planned to take over for a 'public purpose' project. Adivasis questioned the 'public' and 'purpose' through not laws and legal action, but mass actions and protests. Displacement has thus become the issue taken up and fought against by the adivasis, not individuals, but communities posing a challenge to the current paradigm of development and planning which doesn't care for the community rights, cultural heritage, social institutions and democratic processes.

Santhal Paraganas Tenancy Act at a glance:

The Santhal Paraganas Tenancy Act (SPTA), which was enacted 150 years ago as resulted of the Santhal Hul (Rebellion) against the British Imperialists who later signed a treaty with the Santhal Nation (not nation state) has a clear provision of protecting adivasi community land. The enactment provides protection to adivasi community land in the Santhal Paraganas against takeover by non-adivasis. The Act specifically provides protection of this adivasi community land of all the different adivasi communities in the Santhal Paraganas, which also came into existence along with the implementation of the Act.

Under SPTA the Deputy Commissioner of the Santhal Paraganas is the steward or the protector of the adivasi community land and all disputes under the Act come to the Deputy Commissioner if referred to by the disputing parties. The disputing parties have to first try and resolve the disputes within the various traditional governance systems, whether Manjhi, Mode Manjhi, Manjhi Pargainait or Dishum Manjhi.

After independence and with Jharkhand continuing to be part of Bihar, the DCs who took charge of the Santhal Paraganas, allowed non-adivasis to take over adivasi community land on one's pretext or the other. There is ample evidence in the records

Dumka Struggle: Assertion of Constitutional Rights in a legal way

The Provisions of Panchayats (Extension to Scheduled Areas) Act {PESA Act} brought out as late as in 1996-97, which is an extension of the provisions of the Constitution (73rd amendment), requires that whatever may be the state's plan to harness water or land or minerals, or any of the resources belonging to the community, the latter should be consulted through their respective Gram Sabhas. Schedule V of the Indian Constitution itself guarantees nothing less than 'Peace and Good Governance' to the scheduled areas spread all over the Santhal Paraganas and grants powers to the Governor of the state to direct the State against execution of any law that would go against the two goals.

It's in this legal-constitutional context, but more with a deep cultural strength and eco-political perspective that the people of Jharkhand have been questioning the state's role and its plans; be it the Netrahat struggle against the military firing Range Project or the struggle against thermal power plant and mining in Hazaribagh. The projects ; dams to mines – in the last five decades since independence has led the adivasis to challenge displacement and not beg for rehabilitation. There has been no state level policy of rehabilitation in Jharkhand (to check) and in any case, the qualitative loss to the natural resource based communities, is far from being valued and compensated. In spite of voices of protest, the Government of one party to another have gone ahead and signed MOUs with corporate investors for coal mining to thermal power plants. Where they have pushed the projects ahead, either with repression or intimidation, illegalities have been noted by many experts and advocates of people's rights and violations of environmental laws and preventing pollution and destruction of forests. The socio economic impact on the adivasis, farmers and fish workers has also been recorded and reported by the researchers, scholars as also sensitive and progressive journalists. The state politics have certainly taken cognizance of the people's struggles to the extent that many a project and implementation of MOUs are either delayed or suspended, providing 'space' and time to the adivasis and other local communities.

Globalization and corporatization with accompanying competition and profit-mongering has given a boost to investment by the corporate giants and to insensitive bureaucracy and politicians both, who are queuing up to help the corporate sector. The haste and the interest in pushing projects ahead has taken a toll of even the minimum norms and pre conditional processes that might otherwise be followed, such as consultation with the people, allowing them to raise objections, making the information on the project public or even an inadvertent political dialogue that might offer the common people to be affected, space and time for asserting their rights and dues. The more than 101 MOUs signed by the Government of Jharkhand in the last four years indicate this. The details of the MOUs are annexed to this Report.

The contentious Project in Dumka: Dynamics between corporates, State and people:

The Thermal Power Plant by CESC-RPG Group of Companies to come up in Kathikund and Shikaripara in Dumka district is one of the many MOUs signed (on 15-09-2005) between the state of Jharkhand and different corporate giants. This particular MoU has been extended on 18-01-2007 and again on 14-11-2007. There is also a dam that is planned on the confluence (Sangam) of the two tributaries of Brahmani River in village Bhilaiander and Bhugatanadi. It's surprising that no information such as a Detailed Project Report, (DPR) a proposal for approval, Memorandum of Understanding (MOUs), Environmental Impact Assessment (EIA) or survey and identification of the affected villages and families and rehabilitation policy and plan is available with the affected people and their organizations, the Jharkhand Ulgulan Manch (JUM) and Jharkhand Hulgulan Mahila Manch (JHMM) so far. On inquiry, the activists drew a sad picture of no or little response to RTI mechanisms in Jharkhand.

All that is known from some press news and knowledgeable persons is that a Thermal Power Plant of 1000 MW generation capacity is to come up near Amgachi village and will affect about 1000 acres of land, including 350 acres of agricultural land and the rest, Government waste and forest land. Out of 1000 MW, 250 MW power would remain in Jharkhand grid for distribution within the state and the remaining 750 MW would go to the national grid. The tentative commissioning schedule as per the MoU signed is; April 2010 for Phase - I and December 2011 for Phase - II. There would be three Units:

two of 250 MW proposed power generation capacity (PGC) and one of 500 MW (PGC). There is no clear and reliable information about whether or not the Project is studied from the point of view of social and environmental impact, whether EIA is made, whether formal public hearing as per MOEF's Notification of 1994 (revised in 2006) was held in the affected region, whether clearance for diversion of forest land (under Forest Conservation Act, 1980) was granted, whether the approval of the Planning Commission was received etc.

As regards land acquisition, the Notification for land acquisition were once issued in 2008, when the people in large numbers had submitted their objections to the then Deputy Commissioner Mastaram Meena who then came to the Gram Sabha and sought people's views. The whole of the community objected to the acquisition, which was recorded in the Gram Sabha minutes, signed also by the Deputy Commissioner. We were told that when the Deputy Commissioner accepted the unanimous opposition, the same became news and within a week since then, he was transferred to District Deoghar! The Notices were altogether issued twice, but are lapsed due to delay in further legal proceedings, as per a senior advocate in Dumka. On the other hand, a team of Government officials (and may be some corporate employees) came to the area for a survey of resources including land and apparently people gheraoed and sent them back. As per the Deputy Commissioner Prashant Kumar and SP of Dumka, the leaders should not have prevented them from holding a dialogue with the villagers, but they did not refer to the fact that the while the erstwhile DC was allowed an entry and interface and why it was not so in their case!

This had led to a cold war and people who got organized under the JHM and JMHM fearing loss of their land and livelihood sooner or later started staging protests – rallies, sit-ins and so on. People complained to us that the present Dy. Commissioner is not interested in hearing them and respecting their views while the latter had a grievance against the leader Munni Hansda who didn't allow the DC to have a free and fair dialogue with the community and came in their way. People deny this, accepting that they are organized and they, who fear and experience the Government, using all tactics to 'divide and rule' are for dealing with the State as communities, not individuals, which is their right and tradition, both.

The Ruse of the State: Quelling lawful resistance through unlawful cases-arrests:

The days-long agitation outside SP's office was to be a point of departure when militancy became the characteristic of the movement. However, the Government that didn't and couldn't act against the thousands on the peaceful sit-in at the SP's office also probably planned a strategy and arrested leading adivasis and activists in small groups later. It was the arrest of three leaders, Hopna Baskey, husband of the Manjhi Pradhan, Phulo Marandi of Amgachi; Munni Hansda, the woman leader of indomitable courage and capacity to mobilize; Charan Kumar along with Raj Charan under Section 147, 149, 524, 120-B IPC etc. filed against four others including Amelia Hansda that clinched a stronger protest of 'Jail Bharo' planned by the JUM and JHMM jointly.

December 6th: State turns peaceful Satyagraha into Black Day:

December 6th, the first day of the protest witnessed not less than 8000-10000 adivasis and other

villagers including Mahtos, Muslim community brethren, coming out on the streets to court arrest. That they, including women were carrying agricultural equipments such as axes and sickles, bows, arrows and sticks became a point of objection by the DC who claimed the struggle to be a violent one of Naxalites or Maoists. It may, however, be noted that it has been the tradition of all people's struggles in Jharkhand, including those led by the present CM, to carry such traditional equipments, in spite of which the struggle had remained peaceful. "Even when the State had shot dead 7 adivasis agitating against Koel-Karo Project, there was no revengeful retaliation from the adivasis", people remind us.

On the 6th, the people's march no doubt violated Section 144 clamped to prevent their gathering in front of a large police contingent. It's also shocking that heavily armed police were kept in attention with rifles pointed at the target, masses walking with women and youth at the front, as always is the case with every protest. The people's version which was consistent, as we heard from many women and men was that the police molested, manhandled the women at the forefront which led the people getting agitated and few young adivasis tried to stop the policemen who were pushing young women and children and suddenly the people saw a bus hired by the police burning with only the police in uniform around as per the eye witnesses, including Baijnath, a leading activist of the JUM and one of the National Conveners of NAPM. The DC denied this and alleged the people of damaging state property for which all the accused are charged too. He told us that the truth would be seen from a video recorded by an 'impartial media person' The video, in pieces, obviously edited, didn't show who put the bus to arson and showed a picture of burning bus with no one around!

Firing was heard by the adivasis, said Phulo Marandi, and suddenly they found one after the other adivasis being shot. The first ever bullet hit Saigat Marandi on the chest and he fell down. Shivalal Soren lost his eye. Ravan Soren felt the bullet enter his shoulder and pass out from near the armpit. There are others wounded too. While some rounds might have been fired in the air, the norm of firing below the waist was visibly not followed. Lathis (sticks) too were used to beat women and men, both, brutally. We could see the women with large blue and black patches on the hind legs and backs. It is now confirmed that Shivalal Soren was chained to his bed at RIMS for more than one week at the Ranchi Institute of Medical Sciences (RIMS). It was only when activist Rajendra Singh visited the Hospital was he set free. According to the people, this led to using arrows by some from the disturbed and angry crowd, hitting three policemen, two in their hands and one near the chest. The official video shows these policemen conspicuously, who are also interviewed by a police department employee (plainclothesman) as against the DC's claim that one independent media person did the shooting!

The video showed Saigat being picked up, but not all the wounded. Lakhiram Tudu was killed due to firing when he was trying to fetch water for the wounded and help them! He was shot at the upper leg but died due to profuse bleeding. In fact, in the video we could see the wounded persons being made to walk and climb the police vehicle in severe pain. A dead body was shown lying in the pick up used for carrying police men. The video did not show who killed and how nor did it show who burnt the vehicle. An investigation may bring out the truth. Where the march was proceeding, one may ask. The SP, Dumka gave a story of the plan to occupy / destroy the Dumra Thana at a distance of 60 Kms, while others would court arrest. Hence the action: the mob was stopped from reaching Sidhu-Kanu statue!

The police position seems to be strange and contradictory. If the procession or the organisers had violent intentions, they would not have kept women and children at the head of the procession. The high handed

'crime' of the police is being covered by a concocted thesis that the processionists had the intention of attacking another police station. How could the police read their minds? These organisers, the police knows it well, do not belong to the Maoists stream in any case. This 'speculation' never proved true. Just to cover up, the police are making false allegations and making false claims that our Jharkhand organisations are front organisations of Maoists. All political opinions, including that of the Chief Minister, have criticized this tendency of the police, attributing every protest to Maoists so that they can escape accountability for their mistakes.

According to women and men we inquired with, there was no other plan, whatsoever! What was more than evident was the DC's and SP's understanding of the situation and the agitators. We heard them narrate the whole story and their analytical position in the meeting they had called, of many eminent persons, including advocates, academicians, media persons, leaders of all political parties, authorities such as Members of the State Commission for Women. Among the officials present were the SDM and Public Relations Officer too.

Senior officials were confident to allege that the agitators have links with Naxals and Maoists. One wondered whether the difference (ideology and strategies) was clear to them. Let's presume it was. The officials were linking the struggle of November – December to the incident of Shikaripada which occurred about 6 months ago, while the organizations concerned say it is baseless. It's not impossible that some persons believing in the 'armed struggle' had resorted to the violent attack in which a Police inspector was killed or may be not! Two of the protesters were apparently murdered in the 'encounter' that followed. We can't vouch either, without an inquiry but the far fetched linkage drawn seems to us, hypothetical as also strategically.

Meeting the people, inhaling the spirit:

The NAPM has been associated with and extending solidarity to the struggle in Dumka. We had written letters to the district administration and the Chief Minister calling upon them to respect and follow the constitutional mandate of safeguarding adivasi rights and interests. The incident of December 6th came as a shock to us and we rushed to the villages where, after the firing the people had declared a Janata Curfew forbidding outsiders from entering the area without their permission. They all, women and men, elderly and youth were standing at the village boundary apparently annoyed and depressed, but not losing hope.

This was our first impression when we smilingly inquired as to whether we can come in! We didn't have to spare an extra moment before we could hear sobbing voices and had Lakhiram's old mother; silvery haired, dark complexioned and sister visibly shattered, taking our hands into theirs. His wife, Puku and son Benson could gather strength to murmur a few words but couldn't narrate anything of what happened. A few words of consolation and we realized that they wouldn't stay back but march with others to Amgachi.

Walking tens of furlongs, we became a part of the crowd that was peaceful yet disturbed, as was obvious from the slogans 'Amar Rahe Amar Rahe!' 'Long Live Lakhiram Tudu!' The people converged at the martyr's memorial tomb; heap of earth which was built by the people themselves. A few flowers.....more slogans rent the air... They all appeared deeply agitated and anguished. We walked across the road to the

mango orchid where we could count at least 5000 and more walking and sitting with obvious perseverance and courage. As Amelia rose to her feet and an old little battery with a short wire and a half broken hand cart was collected as the only equipments, the large public meeting commenced. It was unlike what the Chief Minister experienced and felt upset with, a few days later on December 17th. He had hardly any people to call it a large gathering to address, which was widely reported and analyzed in the press as a sign for serious stock taking by Shibu Soren and the JMM. The CM himself is reported to have chided his cadres for not reaching out to the adivasis in each hamlet, seeing them and instilling confidence.

We were witnessing before us a congregation of more than five to seven thousand people. It was indeed an 'experience' to see the disciplined gathering. One by one, they spoke with Phulo Marandi, the Pradhan of Amgachi-Pokharia setting the ball rolling. A plain description of what happened came from her, breaking the pin drop silence. There was no confusion in anyone's mind or in the self-explanatory slogans: "Jal, Jungle, Jamin, Hamri Hamari"! "Power Plant Nahi Banega"! "Andhere men Teen Prakash - Gandhi, Lohia, Jaiprakash! The people expressed their determination not to give away their land. They knew about the plight of the earlier displaced especially the pathetic conditions of the Panem coal mines affected in Pachuwada nearby. They were clear that the sickle or stick is brought along as a tradition and not for attacking anyone. The martyrdom of Lakhiram Tudu shook them but not their confidence in the struggle.

They were proud of Jharkhand but not of its Governments – past or present. They were welcoming and thankful for the support from struggles of adivasis all over including Narmada and were expressing their solidarity with all movements. There was no parochialism and regionalism in their view and perspective. They rather shared their vision of development saying, "we want food to eat and not coal or thermal plants". We spoke in support of their vision and their demands, nay their pledge. We visited a village nearby where the Pradhan himself was lying wounded with bullets and treated by the local doctors! He had no faith in the police and hence didn't desire to come out even for treatment. We then reached the DC's house in Dumka, where he sent a message inviting us to a meeting in Suchana Bhavan. Upon reaching there we found a large gathering of eminent persons, including members of the state Commission for Women, Chairman, Municipal Corporation of Dumka, representatives of political parties, a few advocates etc.

The Collector and SP narrated a short version of the incidents of the 6th, with some background and comments and we responded. Our views and analysis of the dialogue there is reflected elsewhere in this Report. We also note that the city dwellers were certainly not happy with the conflict. Some had a feeling of injustice done to the adivasis and others were questioning their position and strategies both! There was threat felt of the 'radical left' having entered the district and made a plea for their combat. Others knew the organizations JUM, JHMM and JUDAV etc. and only demanded an inquiry. There was thumping of desks by some and a political leader said, "Whatever it is, we need power and power plants". "Who said no, but ... we explained our position in detail. Some gave us valuable information in confidence during informal conversations, such as:

- Stephen Marandi and the CM's son were probably partners in the Project
- People didn't have any plan to go violent and were committed only to a 'Jail Bharo'.
- Video referred to by the DC was probably shot by the police not by any 'individual source'.

Interface with the Chief Minister: Response to the incident and the struggle:

Our meeting with the Chief Minister Shri Shibu Sorenji alias Guruji began with his denial of receiving the letter from NAPM signed and endorsed by Medha Patkar, Sandeep Pandey, Ulka Mahajan and numerous other social activists from across India on the 4th of December. His Secretary, however, accepted having received the letter which indicated that Guruji was not conveyed the message of our appeal before the 6th as well as the protest after the 6th when we wrote another letter condemning the police violence and demanded legal action and compensation.

Guruji was keen to convey that he had spent 4 full decades in Jharkhand and in Andolan and hence knew about the interests of the adivasis and their rights, both. He was categorical about not using the agricultural land for industries and appeared supportive of the cause and struggles such as in Singur. 'Khet Chalo' has been his message to the bureaucrats, not only to others, as is already made public. He also conveyed to us that he was unaware of the why and what of the incidents of the December 6th and if the administration had committed any mistakes, he would surely look into the same.

He appeared keen to have a dialogue with us, the delegation including Shri Ram Dayal Munda, Former University Vice Chancellor, Ranchi, Dayamani Barla, a senior social activist in Jharkhand, Medha Patkar and few others apart from ourselves. The CM was open, if not defensive in the presence of Stephen Marandi and Bandhu Tirkey, the Ministers for Home and Education respectively.

We only had to clarify the misgivings when he seemed to agree that there was no truth in the allegations that Ghanshyam and his colleagues or the activists of JUM & JHMM being Maoist or Naxals. We did not have to plead much, but only put forth our demands on behalf of hundreds of adivasis and dalits who had gathered to protest under the banner of Daman Virodhi Manch that the cases should be forthrightly withdrawn and the arrested be released unconditionally.

We supported his view that no thermal power plant should come up on the agricultural land and insisted upon a democratic process of consulting and seeking consent from the Gram Sabhas within the legal and constitutional framework before any project is carried out. The CM did not seem to be against either of those.

Stifling democratic dissent: Branding non-violent protests as violent is the new mantra:

It's indeed a political move on the part of the democratic governments, including that of Jharkhand, to declare the non-governmental organizations and movements as not only 'undemocratic' but 'unconstitutional', 'Maoist' or 'Naxalite'. While 'Naxalism' or 'Maoism' is not banned in the country, the belief in the same can't be declared 'illegitimate' or per se 'criminal act'. On what grounds can it be condemned or defamed, boycotted and followers arrested? However much more aggrieved one feels when those having faith in democracy, but direct popular democracy are falsely accused to corner and get marginalized. Its not Maoism but mass-ism, the mass strength and action of the marginalized communities that scares the rulers as experienced in state after state, be it in West Bengal, Madhya

Pradesh, Chattisgarh, Orissa or Jharkhand! Dr. Binayak Sen is behind bars for more than 18 months now, only because he took an unflinching position against the notorious Salwa Judum; the falsely touted 'people's war against Naxalites' and didn't take to weapons and exposed State violence and displacement-inducing development, peacefully yet in thread bare manner in one incident after another.

The perversion by the State is obvious in the case of Bhimlal Sahu, an activist who was arrested on December 6th, while carrying the wounded people in a jeep, unarmed and without a handbag, which was later accused of carrying Naxalite literature in his handbag. The facts are different. He was sent to custody only due to his prime role and participation in the peaceful mass action at the SP's office in late November! The office of the Ulgulan Manch in Dumka was targeted and a few activists arrested there to get it abandoned during the peak of the struggle. Munni Hansda, the woman leader with a staunch commitment to the adivasi cause was arrested under, if not fake, perverted allegations of 'robbing property in judicial custody', as said by none else but the DC himself in our meeting. None of those present, including ourselves, could respond to the allegation off hand then, but upon enquiry, we found out that it was only taking back the motor bike of Munni's husband who works for the Election Commission, which was picked up by the police from road side and was not being returned in spite of they producing relevant papers, asking for return. After a hassle over the deliberate delaying tactics, Munni had taken it back in front of the police men, we were told. It's this 'robbery' that Munni Hansda was and is arrested for, as per the DC and SP and they also felt sorry that while this is a simple legal criminal action, adivasis, 'who have nothing to do with any development project or displacement' came out on the streets only to get them released. Many an eminent person, including politicians of Dumka seemed to be feeling not just sad, but upset on such an 'unjustifiable' action! There was no other side presented as 'people in the protest' were not represented.

Hence, there was no question raised about the charges under which Munni Hansda, Charan Kumar, Hopna Baskey, Bhimlal Sahu, Gopal Mahto(Driver), Gaina Hansda, Sunil Marandi, Rambilash Hembram, Saga Marandi, Sangram Hansda, Bhola Pal and Sivlal Soren(under police custody-treatment in hospital). The sections clamped on them include Sec 147, 148, 149, 353, 452, 188, 427, 504, 333, 341, 342, 25(1-B)/27 of the Arms Act/17CL Act. FIRs also been lunched against Baijanath Prasad Beju, Sidhheswar, SalgeMardi, Sumitra Barla, RajKumar, Banku Yadav, Jonathan Hembram, Amelia Hansda, Anne Tudu, Babulal Murmu, Budh Ray, Nehru Hansda, Nirmal Marandi and Satan Besra. FIRs were filed on the 2nd day of action at Dumka SP's office i.e. on August 26th, 2008 against not just Munni but 320 of about 7000 protestors including Munni, Amelia Hansda, Anne Tudu, Bhimlal Sahu, Banku, Sunita, Jonathan, Babulal, Raj Charan, Rajesh and others who were amongst the 'police targets'. The arrest of 27th November of Munni and others had this context. The action in August on the other hand was in relation to the FIR filed against more than 900 adivasis who had held a traditional Panchayat (Gram Sabha) 'Mode Manjhi' in April where police officials had suddenly reached. People from Domanpur, Bilkaikandar, Bada Jhalaki, Amgachi, Pokharia, Daladali, Jangla, Pandan Pahadi, Bandarpani, Amarpani, Saraipani, Panchwahini, Jagatpur, Haldi Pahadi, Chaipani, Mahulbona, Chirudiha and other villages gathered to decide upon the Thermal Power Plant and their view on the Project as well related land acquisition. It is a law that requires the State to consult the adivasis in each village before administering any notice even under Section 4 of the age-old Act. Instead of following this religiously, the people were compelled to face 'legal' police action with what people unanimously declare 'a false charge of taking the police to hostage'. The people's vivid narration of this

incident, a perfectly legitimate mass gathering of the indigenous community indicates that the unanimity and mass determination without any violent action impressed the police official Topno, an adivasi himself, who was calmed down and explained the people's view point. Topno probably changed after he went away and when he spoke to the media as a representative of the State. There is no fair move to investigate the truth and hence false cases and fabricated charges, no doubt induce and instigate people into action. The State's use of or threat of force seem to work also towards compelling people to get mobilized and organized, awaken and act!

JUM, JHMM & JUDAV: Peaceful Resistance Movements:

We know quite well that the core activists and supporters of the JUM, JHMM and JUDAV: the organization carrying out the tasks of documentation, research, constructive work on various indigenous and other marginalized issues not just in Dumka but in development related projects all over Jharkhand and even in Bihar have no faith in violence as the way to bring in transformation towards equity and justice.

Ghanshyam, the leading activist of JUDAV is the senior most and has emerged out of his participation in the Sampurna Kranti Movement as well as the Jharkhand movement. He has shared dais and actions with Shibu Sorenji and many of his colleagues. It was in fact the Chief Minister who said in our meeting on December 10th afternoon that he knew Ghanshyam better than us and that he would inquire into the administrative lapses. He expressed his disapproval of branding all who questioned the present system as 'Maoists' as is happening across the country and wished Ghanshyam had just given him a call to inform and explain!

Solidarity and support across the board

It is also remarkable to note that support for the movement has come in from various quarters ranging from organizations of Gandhians to the Marxists-Leninists (Liberation) of Chatra Yuva Sangharsh Wahini (CYSV) as also various intellectuals, academicians, professionals and others.

Who fears a democratic dialogue? The State or the people?

"Is all this necessary?" one may ask. Not at all, is an answer from all the parties to the conflict. The DC showed willingness to have a dialogue and added, "Even if Munni Hansda wishes, she can participate". "So, bail out all of them", we replied, but his response was just a smile. Munni and others are not so much for bail as they assert, "all charges are fake and should be repealed". But people too are for dialogue, provided it's truly legal, constitutional and democratic. What else, but the Gram Sabha, community's right to resources and role in development planning can be the best framework for dialogue?

One may note again, that the Santhal Paraganas Tenancy Act as well as the PESA Act, Schedule V and Article 243 of the Constitution (73rd amendment incorporated in 1992) provide adequate legal scope for the practical articulation of the rights of the adivasi community resources, their livelihood and right to self-reliant development. The third party, the corporate investors too seem to be favouring 'dialogue' as conveyed to us over the phone (after our return from Dumka) by a Green Field Consultant to the CESC

/ R.P. Goenka Group of Companies, who called us and promised to send the documents and showed readiness for a dialogue which we are clear should take place with the Government and communities. We have, however, promised to look into the documents and their perspective. There has been no further step from their side, as yet.

What then are the barriers? According to the DC, "Munni Hansda does not allow us to speak to the people directly! Not even on other issues, such as PDS". We doubt this, since the people narrated the story of the erstwhile Dy. Commissioner Matsaram Meena attending the Gram Sabha after issuing the Section 4 Notification and signed the minutes recorded there and then. When the region and people are so needy and deserve strict and fair execution of not just PDS but also other schemes, why would they prevent discussion on that? Munni couldn't be available for discussion but all said that she was only insisting on discussion at the community level and not with individuals. "Fair enough", should have been the DC's response. But the State Government transferred the former DC within a week, for his democratic act, surely could be a threatening menace. Is it not?

The Five Year plans formulated by the Planning Commission of India invariably promote organization and empowerment of masses, especially the downtrodden. This has been reflected in Plans over the years, in particular in Chapter 14 of the IX Five Year Plan. Why should then the process of assertion of community's role and privileges as socio-administrative units in development planning not be accepted? If and when this is not followed, the letter and spirit of the all constitutional guarantees, Panchayati Raj Act and Regulations get negated. Neither the Panchayat nor any small group or individual can ever represent or feel confident in facing the mighty State and giant Corporates especially when there is no level playing field as between the indigenous /adivasis (or even dalit) communities and the other investors. The Planning Commission too knows that without the Gram Sabhas and Ward Sabhas (in the metropolitan regions) developing their plans, there can be no district plans and hence the Chairman of the Planning Commission, Mr. Montek Singh Ahluwalia wrote to Chief Secretaries of all the states on to send thousands of plans from each state to the Planning Commission, before finalization of the XI Five Year Plan. This was not possible within the short time left for and hence was proved to be a mere mockery.

Free, Prior and Informed Consent (FPIC): A Non- Negotiable

The question is what are the preconditions for the dialogue? Other than recognizing and respecting the community as a unit, the dialogue should aim at ensuring the Free, Prior and Informed Consent (FPIC) as per the internationally accepted principles and practice especially with respect to the indigenous communities (as in the case of Philippines).

India has a greater and better tradition of community processes and role of organizations and institutions. The Santhals and other tribal communities have a long tradition of the same as is exhibited by the Mode Manjhi among the Santhals or Munda and Manaki traditions in the Kolhan region. When the three legislations of the British days that are still in place and applicable in Jharkhand provide space for these institutions, why not the sovereign nation state? The fact is that even if the state of Jharkhand has come into being because of identity crisis leading to identity politics and struggle by the Jharkhandis and with a vision of their right to resources, countering the exploitation by the Dikus (non-indigenous and the non-Jharkhandis at large), the new rulers too are not sensitive to the vision. The difference in

their vision is seen and expressed through him various Memoranda of Understanding that are more or less signed in a clandestine manner between the Corporates and the state. The FPIC principle on the other hand would be based on the premise that there can be a common understanding and 'Memorandum of Vision' between the people and the State.

This can go beyond the adivasis, including generations-old non-adivasis. As we see, the Muslims in the Amgachi-Pokharia region were feeding protesters on the day of Bakri-Id were as much part of the struggle. It can be the basis of attaining further unity and integrity. FPIC is also to be based on Right to Information Act. The RTI, which is an enactment today is still not being effectively implemented in Jharkhand, we are told.

It is, therefore, not surprising that people in Dumka don't have either of the following documents in their hands:

- *Detailed Project Report (DPR) of the Thermal Power Plant*
- *Detailed Project Report (DPR) of the proposed dam*
- *Environment Impact Assessment (EIA) for each of the above*
- *Social Impact Assessment (EIA) for each of the above and the Reports of surveys of the affected population.*
- *Maps of the projects and the affected areas*
- *Cost-benefit analysis done by an independent agency*
- *Report of the Public Hearing held under the 1994 EIA Notification (revised in 2006) of the MOEF.*
- *Environmental and Forest Diversion Clearance Letters from the MOEF.*
- *Rehabilitation Policy and Plan applicable to all the above projects.*
- *Copies of the Gram Sabha Resolutions in the process of consultation under the PESA Act, if any, etc.*
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It is absolutely necessary to insist upon making these documents available to all the parties at the earliest and it would not be out of place to suggest that those should at least be in Hindi, if not in the adivasi languages or other local dialects. It is only when the adivasi and other communities know the details of plans and impacts, costs and benefits of the proposed projects on the local populace and the region, can they make up their mind and give consent or dissent based on the facts and perspective of their own.

Suspension of MOUs until community consent is obtained: Just, Possible and Necessary:

"What would happen to the MOUs already signed", can be a question that may be raised, to push the Project as a fait accompli. It's necessary to suggest as the most reasonable and rational move to keep the MOUs suspended (as it anyway happens when financial non-viability is faced), when the dialogue, fair and basic, can be returned to, as a precondition to undertake the state-corporate joint plan. The suggested PPP should indeed be between the Public (people) and the Public Sector before the third 'P' i.e. the private investors are brought in. It is this that can ensure that the constitutionally guaranteed rights of the people, especially in the adivasi regions, are safeguarded.

Latest developments:

The latest development is that the Chief Minister, Shri Shibu Soren visited the Kathikund Block on the 17th December, for the first time after the firing, which incident he seemed to be apologetic about and described as 'unfortunate'. What the CM said is indeed significant and needs to be taken cognizance of. Addressing a public gathering at village Natki in Kathikund police Range, Dumka which is to be his constituency for the upcoming bye-election on the 27th instance, he promised that his Government 'would not acquire agricultural land with force under any circumstance for industrialization'. He was supported, surprisingly, by Mr. Nalin Soren, the local MLA. This Meeting by Shibu Soren has been well-publicized and the point of his not being able to pull large crowds as usual has become the talk of the town. Moreover, he himself said this and challenged his cadres to go to the people and regain their faith.

He apparently said that compensation and one job employment would be given to the family of the martyr – Lakhiram Tudu. Beyond this, there has been no immediate step taken by either the local administration or any of the Ministers including the CM and the arrested continue to be on remand, with thousands on the streets and Janata Curfew on. The CM, however, did not visit Amgachi-Pokharia, which is just about 8 Kms from Kathikund, nor did he pay a visit to the bereaved family of Lakhiram Tudu.

Unlike during our personal meeting with him, he also made passing critical remarks on 'outsiders' who, he said, are 'taking advantage of the situation' and 'misleading and confusing' the people, though he did not nail down any person or group, which we would urge the CM to do. Though the Chief Minister has not gone so far as to brand us as 'Maoists', he surely appears to be unhappy with our intervention. We are informed that has not taken it well that 'some one from Maharashtra' would come and intervene or even support the Jharkhandi struggles. Guruji needs to know that if this is not acceptable, how and why should the adivasis accept someone in Ranchi or even in Delhi taking decisions affecting the life and livelihoods of the adivasis that too with and in favour of the Corporates, or why should the adivasis welcome the 'fleecing outsider investors'. The CM will have to be told that not being just a movement leader any more; he would have to be open to a statesmanship that demands a national perspective unlike the parochial regionalism of Raj Thackeray.

We, the people's movements, nonetheless, welcome his promise and hope it would be implemented in right earnest in the case of Dumka and all ongoing and subsequent development projects. The rightful demand in the situation is not only of a dialogue, but respect for the people's view(s) on the projects that cannot be crushed or bulldozed. One hopes that Guruji would look back and look forward to asserting his adivasi image y moving from being a crowd-puller to a leader who respects following the vision of non-displacing development with a an alternative paradigm.

We put forth the following conclusions and recommendations on the basis of our engagement with the struggle in Dumka, our visit to the affected areas and interactions with the people as well as the state officials and the Chief Minister himself after the incident.

CONCLUSIONS AND RECOMMENDATIONS

- 1) *It's obvious from our brief yet in-depth investigation and long standing knowledge of the organizations (JUM, JHMM & JUDAV) that the allegations and assumptions on the part of the Government of Jharkhand, police administration and politicians of the Jharkhand Mukti Morcha against them are false. These organizations are neither Maoists nor Naxalite, nor do they have any alliance with these.*
- 2) *The force used by the administration on December 6th is unjustifiable and a culmination of months-long harassment of the project affected people and the excesses have resulted in atrocities against the adivasis and other marginalized sections which should lead to an appropriate legal action against the concerned officials and others found responsible during an impartial investigation.*
- 3) *An enquiry should be conducted into the whole process of introducing projects / plans into the Amgachi - Pokharia area/Dumka leading to and inclusive of the event of December 6th, through a retired Supreme Court / High Court Judge acceptable to all the parties to the conflict, the state Government and people's organizations.*
- 4) *The National Human Rights Commission should take cognizance of and investigate the case and recommend actions to be promptly taken by the State Government and constitutional/statutory authorities whosever have the power and mandate to intervene in the situation to ensure justice to the affected.*
- 5) *All the information and documents related to all the Projects that have been prepared, signed, finalized by either the official agencies or the corporates relating to each of those should be furnished to each of the Gram Panchayats and Gram Sabhas in the to-be-affected region of the Thermal Power Plant and dam and other Projects.*
- 6) *All the cases against the activists and villagers, including local leaders like Munni Hansda and Hopna Baskey seem to be false and hence are unconditionally withdrawn and they be released to facilitate dialogue, free and fair.*
- 7) *The principle of development planning with no displacement or with 'minimum displacement' as stated in the National Rehabilitation Policy, 2007 should be strictly followed in development planning in Dumka and Santhal Paraganas.*
- 8) *All the legal bases such as the Santhal Paraganas Tenancy Act, The Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996, Schedule V and Article 243 of the Constitution should be respected and strictly followed and implemented.*