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**WORLD BANK IN JHARKHAND:
ACCOUNTABILITY MECHANISMS & INDIGENOUS PEOPLES**

Xavier Dias



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WORLD BANK IN JHARKHAND – ACCOUNTABILITY MECHANISMS & INDIGENOUS PEOPLES

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TABLE OF CONTENT

| | | |
|---|--------------------------------------|----|
| 1 | Backdrop to the Inspection Panel | 73 |
| 2 | The World Bank Loan | 73 |
| 3 | The Inspection Panel Report | 74 |
| 4 | The Violations | 74 |
| | 4.1 Income Restoration | 74 |
| | 4.2 On Land for Land | 76 |
| | 4.3 On the Option of Self Employment | 76 |
| | 4.4 On Cash Compensation | 77 |
| | 4.5 Regarding Land Compensation | 77 |
| | 4.6 On House Compensation | 77 |
| | 4.7 Resettlement Housing Sites | 77 |
| | 4.8 On Transparency | 78 |
| | 4.9 Final Diagnosis | 78 |
| 5 | Conclusion | 79 |

World Bank decides if I have the right to live

Pano Devi, a basket weaver woman
evicted from Turi tola Parej¹

1

BACKDROP TO THE INSPECTION PANEL

Over the past two decades, indigenous peoples all around the world have brought to public attention the many violations of their cultural heritage and political rights caused by World Bank funded projects. In numerous memorandums they have affirmed that the destruction to their homelands is a threat to their very survival. As a remedial measure the World Bank set up its own accountability mechanism known as the Inspection Panel. It was meant to serve as a means of creating change in the way human and environmental factors are dealt with in World Bank funded projects.

Corporations too responded with the new idea of ‘Business Partners’ where, partnership, engagement and codes of conduct would bring in better ‘corporate social responsibility’. Structural and behavioural changes were promised in the way corporations run our planet. The centrepiece of these initiatives expounds a win-win theory, where industry and affected communities can be partners in sustainable development.

In June 2001, a small group of Adivasis² from the Hazaribagh Coal Belt in Jharkhand,³ under the banner of Chottanagpur Adivasi Seva Samiti (CASS)⁴ wrote a letter to the World Bank Inspection Panel (Panel) drawing its attention to the violations at the East Parej Coal Mines, by Coal

India Ltd (CIL)⁵ of World Bank policies and procedures.⁶ The policies mentioned included OD 4.30 on involuntary resettlement, OD 4.20 on indigenous peoples, OD 4.01 on environmental assessment, OD 13.05 on project supervision, BP 17.05 on disclosure of information and OPN 11.03 on the management of cultural property. CASS as an affected party sincerely, systematically and painstakingly walked the last mile to have their grievances addressed and get justice for their people. This report documents the process, the outcome and the consequences.

2

THE WORLD BANK LOAN

In the mid 1990s CIL made a request to the World Bank for a loan to execute their worker retrenchment programme as part of the structural reform process and expansion of the coal sector. Since the World Bank does not fund worker retrenchment programmes, it offered instead to provide finance for rehabilitation work due to expansion at twenty-five coalmines of CIL. In September 1997, a US \$530 million loan, the Coal Sector Rehabilitation Project (CSR), was thus sanctioned. Related to this, and specifically to assist CIL to mitigate the environmental and social impacts of the expansion funded by the CSR, in July 1996 another loan of US\$ 63 million was given for the Coal Sector Environmental Social Mitigation Project (CSESMP)⁷. It was classified as a Category A project for

[1] In the video documentary ‘Do I have the right to live?’ by CASS.

[2] The indigenous peoples of peninsular India prefer to call themselves Adivasi which means first people,

[3] Jharkhand, a State of Adivasi peoples stretches across the central plateau region of India.

[4] Service Committee of Chotanagpur Adivasis.

[5] India’s largest coal producer owned by the Central Government.

[6] See IFC Environment and Social Policies: <http://www.ifc.org/ifcext/enviro.nsf/Content/PoliciesandGuidelines>, and A Citizen’s Guide to the World Bank Inspection Panel: <http://www.ciel.org/Publications/citizensguide.pdf>, for a complete description of policies and procedures.

[7] See International Bank for Reconstruction and Development, Management Report and Recommendation in Response to the Inspection Panel Investigation Report No. 24000 (25 July 2003) [hereafter Management Report] at p. 3, § 14: ‘The CSESMP became effective in July 1996, nearly two years earlier than the CSR, in order to provide time for CIL to establish the necessary institutional and human resources capacity for environmental and social mitigation...’. See also p.1, § 1-2.

purposes of OD 4.01 on environmental impact assessment, which is meant to contribute to preventing, minimizing, mitigating, or compensating for negative environmental and social impact.⁸

3

THE INSPECTION PANEL REPORT

In their letter to the Panel, CASS had raised the question of income restoration and economic rehabilitation of those evicted by CIL at the East Parej Mine⁹. Income restoration is an especially important factor when dealing with indigenous communities whose skills and livelihood resources are land and forest based and not part of the money economy. The CASS questions were well within the World Bank's policy statement that 'displaced persons are assisted to improve, or at least restore, their former living standards, income earning capacity, and production levels'.¹⁰

Visits were made from Washington to assess the allegations in the CASS complaint letter. On finding sufficient ground for an investigation by the Panel, East Parej was taken up as a case for investigation. The Panel visited Parej on two occasions, met relevant people, did extensive enquiries, and released its report in November 2002.¹¹ The report lists over 30 violations of the World Bank's own policies, with a further 10 issues of serious concern. The procedure requires the Panel to first submit the report to the Bank Management - the project supervisors in this case - who in turn have to submit their responses to the World Bank Board with suggestions for remedial action.

[8] See International Finance Corporation, OP 4.01: Operational Policies, Environmental Assessment, October 1998, p. 1: [http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_EnvAssessment/\\$FILE/OP401_EnvironmentalAssessment.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_EnvAssessment/$FILE/OP401_EnvironmentalAssessment.pdf).

[9] Evicted is a more appropriate term instead of the World Bank preferred term, displaced.

[10] World Bank Policy Statement, OD 4.30, paragraph 3(b)(iii).

[11] The Inspection Panel, Report NO. 24000 – Investigation Report/India: Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN) (November 25, 2002): http://www-wds.worldbank.org/servlet/WDSContentServer?WDSPath=/IB/2003/07/30/000160016_20030730172120/Rendered/PDF/240001IPR0re0India0Coal.pdf [hereafter Inspection Panel Report].

¹² At both stages these two bodies may accept or reject all or any part of the report. In this case there has been an inordinate delay of over five months beyond the stipulated period in getting the Executive Directors' approval. The Panel's report – 241 pages including appendices- is damning. Below is just a selection of the violations highlighted by the Panel and reported to the Bank Management, together with the responses of the latter.

4

THE VIOLATIONS

4.1 Income Restoration

Paragraph 3 of OD 4.30 states that the objective of the policy on involuntary resettlement is to ensure that

'[t]he population displaced by a project receives benefits from it'. With respect to income restoration, paragraph 3(b) (iii) states that the displaced people must be 'assisted in improving their former living standards, income earning capacity and production levels, or at least in restoring them' and adds that 'Particular attention should be paid to the needs of the poorest groups to be resettled'.¹³

The Panel found that there had been a clear violation of the rights of project affected people (PAPs): '[T]hese objectives have not been achieved in Parej East and, as a result, PAPs have been harmed and continue to suffer harm'.¹⁴ 'The Panel also found that 'as Management itself recognises, it is not in compliance with paragraphs 3(b)(iii) of OD 4.30 since, according to the April 2002 management response, the income of at least 21 percent of [project-af-

[12] 'Management' refers to World Bank officials responsible for appraisal, reviewing, approving, negotiating and supervising the two loans. 'Requesters' refers to the people and the supporting NGO, CASS, which made the claim to the World Bank's Inspection Panel - 'the Panel'.

[13] Inspection Panel Report, note 11 above at p. 52, § 205.

[14] *Id.* at p. 53, § 210. PAPs stands for 'project-affected persons'.

fectured persons entitled to economic rehabilitation assistance] in the Parej East subproject had not been improved, still less restored'.¹⁵ It also found that a major continuing problem was the failure of income restoration.

*Because of the inadequacy of the income restoration programs, some of [the PAPs] have been forced to spend whatever remains of their compensation simply to survive. This is an extremely urgent matter. It should not happen in a Bank-financed project. Steps should be taken to ensure compensation of these PAPs, not only because they have spent their original compensation for their assets on survival, but also for the losses and harm suffered due to delays in restoring their income potential.*¹⁶

The Bank Management response questioned the validity of the facts reported by the Panel by claiming that it did not have access to the latest data:

*The latest evidence seems to suggest that the incomes of the PAPs have actually increased significantly... The objective of CIL's R&R [resettlement and rehabilitation] Policy is to improve or at least restore the livelihoods and incomes of PAPs. As of March-April 2002, 87.1 percent of all PAPs entitled to income restoration assistance had met this objective ... it may be too early to draw final conclusions regarding the impacts of the income restoration measures.*¹⁷

Further information is given in the Bank Management response to the effect that a large proportion of PAPs' income increased significantly, especially the income of women.¹⁸

Ironically the World Bank questions the validity of the data pertaining to the Panel report, but fails to give the source for their progressive data. The Bank Management response also reflects an ignorance of the sociology of communities, particularly where the Bank Management asserts that PAPs who have migrated no longer require economic rehabilitation assistance: in closely knit communities in India, the homeless get refuge in relative's homes and/or work as coolie labour in coal haulage or scavenging on coal waste

etc.¹⁹ The ability to take the role of the good Samaritan is a result of the strength of one's cultural background. Therefore it is interesting to see the World Bank cashing on something they have not done, and thus expropriating the last asset left with communities, their culture.

The Panel report indicated that a very misleading message was being given to the PAPs. The Bank supervision team reported that there seemed to have been a problem and that

*'[T]he previous mine manager had given PAPs promises of jobs that were not available'. [O]nly during the updated census of PAPs, carried out in 1997, were the majority of Parej East PAPs presented with the fact that they would not get a mine job, and must instead choose a self-employment income restoration scheme. In the Panel's view, it is understandable that PAPs who opted for jobs in June 1994 should naturally expect to receive those jobs. (...) It must have been a shock for them to discover otherwise when finally presented with the reality of their situation in early 1997.*²⁰

The Bank Management response states that, despite six consultative meetings with PAPs, they continued to press for provision of additional mine jobs because of the obvious economic security provided by such jobs. The Bank Management response thus places the blame on the PAPs themselves rather than taking CIL to task for deceiving them.²¹

[15] *Id.* at p. 54, § 212.

[16] Inspection Panel Report, note 11 above at p. 121, § 478.

[17] Management Report, note 7 above at p. 7, § 25.

[18] Inspection Panel Report, note 11 above at p. 7, § 25-28.

[19] The Inspection Panel, 'Annex 2, Management Response Request for Inspection (RQ 01/2), India: Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN) and Coal Sector Rehabilitation Project (Loan No. 4226-IN/ Management Response to the Inspection Panel (July 19, 2001)', Report and Recommendation on Request for Inspection / India: Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN), Coal Sector Rehabilitation Project (Loan No. 4226; Credit-No. 2986), p. 47, § 76: <http://siteresources.worldbank.org/EXT/INSPECTION/PANEL/Resources/IndiaCoalEligibilityReport.pdf>

[20] Inspection Panel Report, note 11 above at p. 56, § 224-227.

[21] Management Report, note 7 above at Annex 1, p. 12, § 21.

4.2 On Land for Land

The Investigation report indicates that this alternative was not offered to the PAPs. The Environmental and Social Review Panel visited some mines, including the Central Coalfields Ltd mines in 1997:

*They observed that, contrary to Bank policy, 'this [land for land] option has never been offered to PAPs in any of the Subsidiaries visited. Partly as a result, the question of the adequacy of compensation paid for land is an important source of discontent with landowners.'*²²

To this, the Bank Management response was that forty-four PAPs had purchased replacement land and that 54 percent of the PAPs were landless anyway. The action to be taken was to continue Bank supervision and to follow up on the issue of reclamation of previously mined lands.

In reality indigenous peoples when evicted not only lose their homesteads, but they are also deprived of the land and natural resources that constituted their survival base. Therefore it is not only the plot of land that they own, but the numerous other natural resources, such as rivers, common lands and forests that sustain them and are all crucial to their survival. Yet, though the Bank recognises the flaw in their income restoration policies as necessitating 'supplementation with (...) measures such as land based income generation',²³ the rehabilitation policy does not include these resources when computing reimbursements. Only once these resources are in the hands of the Company do they become assets. This, at times, results in the evicted Adivasis paying for resources that were expropriated from them.

4.3 On the Option of Self Employment

The Panel Investigation report states that in 1994 only 26 of 418 project affected persons entitled to economic rehabilitation assistance (EPAPs) expressed an interest in self-employment.

*Yet, it is evident that three years later, in 1997, most EPAPs had to choose a self-employment option to restore their former standard of living. There is nothing in the 1994 Baseline Survey of the [Rehabilitation Action Plans] to indicate that the EPAPs were counselled about the implications of the self-employment option, and nothing to suggest that the EPAPs were aware of the implications of trying to become full time entrepreneurs.'*²⁴

The World Bank is fully aware that this cannot be an option for Indigenous communities for the simple fact that they come from an economy not dependent on surplus production and hence do not have entrepreneurial skills. Despite this well known fact it became the only option offered to them. The failure of self-employment opportunities was recognised by Management but the blame was placed on PAPs.²⁵ The Panel reports that it

*is surprised that Management would accuse those who never asked to be relocated of 'not making the necessary effort', to do something that was imposed upon them, by those who acknowledged that such schemes had mostly failed elsewhere.'*²⁶

[22] Inspection Panel Report, note 11 above at p. 58, § 231.

[23] The Inspection Panel, 'Annex 2, Management Response Request for Inspection (RQ 01/2), India: Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN) and Coal Sector Rehabilitation Project (Loan No. 4226-IN/ Management Response to the Inspection Panel (July 19, 2001)', Report and Recommendation on Request for Inspection / India: Coal Sector Environmental and Social Mitigation Project (Credit No. 2862-IN), Coal Sector Rehabilitation Project (Loan No. 4226; Credit-No. 2986), p. 47, § 78: <http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/IndiaCoalEligibilityReport.pdf>.

[24] Inspection Panel Report, note 11 above at p. 59, § 238.

[25] *Id.* at p. 63, § 257.

[26] *Id.* at p. 62, § 249.

4.4 On Cash Compensation

The basic principle of World Bank's OD 4.30 3b is that displaced persons should be compensated for their losses at full replacement cost prior to the actual move.²⁷ Such compensation applies to land, houses, and other non-moveable properties such as wells as acknowledged by the Panel report.

4.5 Regarding Land Compensation

The Panel reviews and confirms the difficulties regarding compensation and concludes that

- 'many of the displaced PAPs have not been and are not being compensated at full replacement cost, with the result that many of them have suffered and are still suffering harm',²⁸
- the system is well-known to provide inadequate compensation as middlemen take a share,²⁹
- it involves underreporting of sale-prices,³⁰
- even with the customary thirty percent solatium it is still less than replacement cost,³¹
- it is based on rates at the date of notification, not date of payment (sometimes a ten year difference),³² and

[27] According to World Bank Operational Manual OP 4.12, 'replacement cost' is the method of valuation of assets which helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For example, for houses it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. (OP 4.12 fn 12, Annex fn 1).

[28] Inspection Panel Report, note 11 above at p. 21, § 72.

[29] *Id.* at pp. 19, 20, §§ 65, 68.

[30] *Id.* at p. 19, § 66.

[31] *Id.* at p. 21, § 73.

[32] *Id.* at pp. 20, 21, § 71.

- there is lack of transparency with regard to itemised details of the compensation.³³

4.6 On House Compensation

The Panel report notes that the process and the basis of house compensation also lack transparency and are open to abuse, and raise serious questions.³⁴ Bank Management response merely repeats CIL policy, but again fails to address the fact that the ground implementation lacks transparency and that PAPs are at the mercy of officials and bureaucrats. The Panel does not call for any specific action to be taken.³⁵

4.7 Resettlement Housing Sites

In negotiating the loans from the World Bank, the Indian delegation reconfirmed its commitment to the requirements of World Bank policies and agreed to take necessary action to this effect.³⁶ However, necessary action was not taken, and the Panel reports that now, 'up to four years after the affected people have been involuntarily resettled they are still suffering the harm that results from lack of title, including a sense of insecurity (...) and an inability to borrow for self employment income restoration schemes'.³⁷

The Bank Management response points out that despite many efforts made to negotiate with the Law Ministry of the Government of India, the issue is still unresolved, and with regard to land titles, the World Bank will continue to monitor this issue until titles/long-term leases are issued to all PAPs by appropriate authorities. It has suggested to the Government of India that an Independent Monitoring Panel be established for the same. The irony of the situation regarding house plots is that the plots are on lands that the Company itself has taken on a thirty-year lease.

[33] *Id.* at pp. 21, 22, § 76.

[34] *Id.* at p. 23, § 82, 85.

[35] Management Report, note 7 above at Annex 1, p. 15, § 3.

[36] Inspection Panel Report, note 11 above at p. 34, § 135.

[37] *Id.* at p. 36, § 144.

4.8 On Transparency

Based on its review of the documentation and interviews, the Panel reports that while Management ensured that the sectoral environmental impact assessment and Parej East environmental action plan and resettlement action plan were placed in the World Bank's public information centres in Washington and New Delhi before appraisal, it failed to ensure that the reports were available in Parej East at a public place accessible to affected groups and local NGOs for their review and comment, not even a summary of their conclusions 'in a form and language meaningful to the groups being consulted, as required by OD 4.01/BP 17.50. In the light of this the Panel finds that Bank Management was not in compliance with paragraph 21 of OD 4.01 and paragraph 12 of BP 17.50 in respect of disclosure.³⁸

The Bank response was that no action was needed. It argued that since the project was prepared, the Bank had taken measures to improve the disclosure of environmental impact assessments, resettlement action plans and indigenous peoples development plans in project-affected areas.³⁹

Of the thirty violations indicted in the report, the Bank Management responds with a 'no action to be taken' in twenty-four instances and for the rest with 'follow up and supervision' to be done.

4.9 Final Diagnosis

The Panel proposed that the Government of India should be advised on apparent entitlements for subsistence allowances as per the Parej East Resettlement Action Plan. This would have come in the form of a lump sum payment made to the 121 eligible PAPs to the sum of US\$ 300,000, to be disbursed by March 31, 2004. The Government of India rejected this.

The second recommendation was the setting up of an Independent Monitoring Panel (IMP) to follow up the various issues. A similar mechanism failed in the National Thermal Power Corporation (NTPC) in the Singrauli project where the Government undertaking resisted the IMP.

In a letter dated 12th May 2004 to CASS, the World Bank Country Director (India) called for a meeting between CIL, the World Bank representatives and CASS to discuss the recommendations of a November 2003 IMP report which mentions that PAPs of Parej have suffered a 'decrease in income'. This November report has not been made public, but the Country Director now calls for an External Monitoring Panel to rectify this.

Probably for the first time in its history, the World Bank has admitted that its involvement in such mega projects has caused poverty. It is telling for a Western agency perceived as missionaries of development to face up to this fact. Parej is now known as one of the World Bank's most-supervised projects ever. By 2001 the World Bank made 21 supervisory visits costing \$1.6 million, compared with the \$300,000 offered to the 121 PAPs' families. Commenting on this mission the Panel says 'the supervision team's knowledge of ground realities was limited, and for that reason, their efforts to resolve problems had virtually no impact on the ground'.⁴⁰

On 6 October 2004 World Bank representative, Ms. Samantha Forusz came down to Parej and met the PAPs at their resettlement colony in Pindra. The people were angry and demanded jobs. She told them categorically that no jobs can be given.

Ms Forusz has been on the different World Bank teams visiting Parej and is familiar with the people there. Pointing to one PAP wearing a Titan wrist watch she said: 'I see that you have a Titan watch, the last time I came you did not have one, how can you say that your condition has not improved?'

After Pindra she visited the CASS office, and when I asked her about the recommendations of the Panel report, she joined her index finger to her thumb and indicated a zero. In other words, the panel report is of no value. CASS activists pleaded with her to address the plight of a particular widow whose condition is serious. To which she replied that there were no jobs: 'we could try; remember... I am not promising; we could try to help them to grow chickens'.

[38] Inspection Panel Report, note 11 above at p. 99, § 394.

[39] Management Report, note 9 above at Annex 1, No 26.

[40] Inspection Panel Report, note 14 above at p. 114, § 458.

5

CONCLUSION

The World Bank has claimed that it has learnt many lessons from the Parej experience. A recent change in policy guidelines puts the onus on the host government for the human and environmental factors during World Bank funded projects. What then happens to the accountability mechanisms? They were designed as hybrids, as an answer to the litany we hear about the political system being corrupt, unable to deliver, non-workable, lazy third world bureaucracy. This is what is being sung to debt-ridden African countries today. Will the one dollar one vote principle still rule or could we expect more faith in democratic institutions?

A small group of Adivasis living in a village with no electricity and no sanitation, have taught a lesson to an institution struggling for credibility at least here, in Jharkhand. The World Bank and CIL both merge into a murky field, locally known as the coal-mafia where one covers for the other. What then happens to the accountability, business partners win-win promises? What conclusion should be drawn when the anointer of the scheme fails to play the game by the rules it sets for itself? Is it just like any other structure in the extractive industry cycle? What then happens to sustainable development?

The CASS team and the Adivasis of Jharkhand have come out of the whole process wiser. The lessons they have learnt and questions they ask are illuminating. Their songs, dance and art now tell this story. Images have been given to their impressions of the World Bank in large charcoal cartoon sketches on the outer walls of their houses. An experience in a history of injustice has taken a political expression of mass consciousness and acts as a new symbol as it merges into their traditional art form of decorating their dwellings.

What is the next step in this travesty? The World Bank has to make an Implementation Completion Report, for which it will undertake a census of PAP incomes. Another set-up, another budget, the business of accountability must continue.

