

A HOLISTIC APPROACH TO A JUST AND SUSTAINABLE SOCIETY

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COMMENT

The Enron struggle goes on and on. Though the court cases have been lost, the manipulations of the 'Connecticut Yankees' in India's courts is instructive, since it displays a singular subservience of the Indian system to TNCs. However, the agitation against the project, particularly by the local affected people has been vigorous.

So effective, in fact, have the agitations been that the rights of people to protest peacefully have had to be suppressed by the use of force.

The reports of three local human rights groups who have examined the situation are given in full, together with the recent report of Amnesty International on this topic.



ENRON REVISITED

Enron embodies practically all the dirty characteristics that critics of TNCs have been pointing out for decades. Enron has been exploitative, arrogant, supercilious, brushing aside the local peoples' needs and feelings, manipulating the bureaucrats and politicians, ...

Several examples of this behaviour have already been described in earlier articles. In this article, we list a few more derived from the documents appended to the *Writ Petition* filed by the Centre of Indian Trade Unions (CITU) and Abhay Mehta. Others have been emphasised by retired Governor of the Reserve Bank of India, S Venkitaramanan.

Enron's Clearances

The pressure used by Enron to obtain clearance of the project is evident in some of the documents submitted as part of the writ petition filed by CITU and Abhay Mehta. One of them shows that Dabhol Power Company had categorically refused to give details of part of the capital outlay when asked for it by the *Central Electrical Authority* (CEA). The DPC had the effrontery to write in a letter dated November 10, 1993 to the CEA; "Your request for more detailed project costs cannot be supported and is not deemed necessary. As mentioned earlier, the project assumes all capital risks and has agreed to a guaranteed tariff."



In a letter from the Ministry of Power to the CEA, dated December 23, 1994, the CEA secretary replies: "As you are aware, the cost of power has been found to be reasonable by the Ministry of Finance. The CEA feels that since the cost of power is to be derived from the capital costs, the capital costs of Dabhol project may be considered to be reasonable." A remarkable piece of circular logic.

It had been often pointed out by power experts that with the peculiar demands of Enron, the MSEB would have to back down its more cost-effective plants now producing power at 50 paise per unit against more than Rs 2 to Rs 3 per unit from Dabhol. The tariffs will inevitably have to go up - every year. The claim by the government that tariffs have been brought down is therefore false.

The Bombay High Court Order

The High Court's order in the writ petition filed by the CITU and Abhay Mehta was delivered on December 2, 1996. It was a curious order, to say the least, dismissing the petition, while at the same time castigating the Maharashtra politicians for their contradictory stands and Enron for its arrogance.

By including earlier writ petitions

which merely questioned the PPA, the bench was able to ignore the enormous quantity of new evidence that the CITU had been able to collect. This evidence showed the culpable negligence of the CEA and other organisations in the process of clearing the Dabhol project.

It has been specifically mentioned in the petition that the challenge is to the statutory clearances required by the project from the Central Electricity Authority and that the project has not been appraised or cleared from the techno-economic aspects as required by the *Electricity (Supply) Act*. The judgement, however, reads: "By these petitions the petitioners seek to challenge the power project agreement entered into between ..." And this mis-statement is used to dismiss the petition on principles of *Res Judicata* (meaning the issues of the petition have already been considered in earlier petitions once and for all).

Caustic comments were made on it by, among others, S Venkitaramanan.

Venkitaramanan wrote: 'It is not my intention to go into the merits or demerits of the case of the petitioners who, in my view, felt rightly that the country had been taken for a ride by those who promoted Dabhol. ... Unfortunately, for what the judges perceive as the need for finality, they



did not strike down the latest power purchase agreement (PPA) entered into with the Dabhol Power Company. ... What is, however, of interest to the public at large is the perceptive and enlightened comments of the judges on the behaviour of the Maharashtra government and its leaders'.

The judgement noted that the Munde Committee set up to examine the project said: "The entire negotiation with Enron is an illustration of how not to negotiate, not to take a weak position and how not to leave it to the other side to initiate". The Munde Committee had complained of the lack of competitive bidding from the Pawar government. It also hinted darkly at "several unseen factors and forces which seem to have worked to get Enron what it wanted... Whatever Enron wanted was granted without demur." It also questioned the denomination of the tariff in US dollars as unreasonable.

Venkitaramanan continued: 'The judges pointed out how on assumption of office the Joshi government had leveled serious allegations against the initial agreement, urging that corruption, bribery, fraud and misrepresentation had led to the same being concluded. However, as the Court almost helplessly observed, "An

unprecedented situation has arisen in this case. Before this court, the state government has totally back-tracked on the corruption and bribery issue. The counsel for the state stated that the allegations of corruption, bribery, fraud and misrepresentation (made by the state itself) were wholly unfounded and baseless.'" These allegations were made by the present government only with a view to scrapping the project in terms of its promise to the voters. The counsel also stated that "The statements

made about the project were merely political rhetoric."



'The court

points out further that "though an impression was given by the state government to the people that the deal with Enron had been scrapped, it was in fact never scrapped for reasons best known to government." "It is as if," says the court, "from the very beginning the PPA was never intended to be scrapped." The court has left the issue open for consideration as to whether certain actions of government, indeed, amounted to perjury.'

Regarding the subsequent process of negotiation by the Joshi-Munde government with Enron, Venkitaramanan continues: 'Commenting on





the "speed" with which the negotiating group set up by the present Maharashtra government functioned, the judges observe: "The speed with which the negotiating group studied the project, made a proposal for renegotiation which was accepted by Dabhol, and submitted its report, is unprecedented. The negotiating group was constituted by the government of Maharashtra on November 8, 1995. It was asked to submit its report to the state government by December 7, 1995. The committee, we are told, examined the project, collected data on various similar other projects as well as internal bids, including data on a similar project executed by Enron in the UK, held considerable negotiations, settled the terms of the revival of the project, got the consent of Enron and Dabhol to the same on November 15, 1995, (just within a week of its constitution,) and submitted its exhaustive report along with data and details to the government of Maharashtra on November 19, 1995, (just 11 days after its formation,) ..."

The original agreement had conceded only the first stage of the Dabhol project, but 'the negotiating committee pulled the wool over the eyes of the consumers and public and enlarged clearance to a larger

project'. The judges emphasised, however, that "One thing is obvious that at every stage it is the common man who has been taken for a ride during the elections by making Enron an election issue and after coming into power by scrapping the project".

The judges commented on the Enron representative's patronising statement that "Enron spent an enormous amount of its own money approximately \$20 million on education and the project development process alone, not including any project costs". The judges lash out at Enron's role in vitiating the atmosphere: "In our opinion, the multinationals who want to invest in developing countries should not indulge in tall talk about educating the people of these countries. The decision to invest is based on the lucrative return".

[Solomon's judgment, *S Venkitaramanan*,
Times of India 12.1.97]

* * *



THE SPECIAL LEAVE PETITION

Abhay Mehta

Given the unsatisfactory nature of the High Court judgement, the Petitioners filed a *Special Leave Petition* (SLP) before the Supreme Court the basis of which has been summarised in the Synopsis given:

The petitioners had filed *Writ Petition* 2456 of 1996 which, (for convenience) can be classified as being filed on and restricted to the following broad grounds:

That the purported mandatory clearance/concurrence to the project by the Central Electricity Authority (the 'CEA') was granted without compliance with the provisions of the *Electricity (Supply) Act, 1948*;

That the renegotiated project required fresh notification and concurrence under the *Electricity (Supply) Act, 1948* since the changes to the project pursuant to the renegotiation were major;

That, having charged the Dabhol Power Company (the 'DPC') and Enron with fraud, misrepresentation, corruption and bribery; it was not open to the Government of Maharashtra (the 'GOM') to negotiate and purport to contract with the said DPC/Enron.

The petitioner's concern is the manner in which this was done in subversion of statute and law.

The project has been approved without subjecting this project to scrutiny required by statute, in fact, by deliberately undermining the statute.

To sustain this dishonest agreement, the respondents have colluded to subvert any honest scrutiny of the project. It is this subversion that the petitioners challenge. The Petitioners are particularly concerned with the effect of the subversion and failure of the statutory processes particularly bearing in mind that contractually binding payments committed on the "renegotiated" contract, total over US\$ 35,000 million (Rs 1,25,000 crores) and make this project the single largest contract in this country's history. This is for a "privately" negotiated contract at prices that are admittedly "very very high".

On 3rd August 1995, GOM announced the cancellation/scrapping the project on the basis that it was unsustainable, that it would "adversely affect Maharashtra", that it was "against Public Policy" and "public interest" and "against the interest of the state" and came to a clear conclusion that it was procured through corruption.





This was followed by a suit on 6th September 1995 wherein the GOM submitted to the Hon'ble Bombay High Court, on oath, that the project and/or the power purchase agreement was induced through fraud, misrepresentation and corruption and claimed that "the said Agreement is null and void ab-initio inter-alia, on account of its being violative of several statutory provisions, public policy, consumer interest, public interest and interest of the state, suffers from the vice of misrepresentation by the 1st Defendant and/or its principal shareholder ENRON and is conceived in fraud."

Thereafter, in an abrupt change in its stand, it then purported to renegotiate the deal which renegotiation process has been severely castigated by the Hon'ble High Court in the impugned judgment.

The 'renegotiated' project concedes far more to Enron without any corresponding benefit. The GOM misrepresented facts and data. It claimed reduction in tariff, when there was none (admitted by the parties: no reduction in phase I tariff. Phase II was non binding and its tariff had not been negotiated). The renegotiated deal increased the size of the project from 695 MW (the then contractually binding size) to 2184

MW thereby increasing, in absolute terms, the commitments to pay. These contractually binding commitments increased from US\$ 400 million/Rs 1380 crores annually to US\$ 1,450 million/Rs 5,200 crores annually. The purported renegotiation is a demonstrable sham and a fraud upon the people.

The renegotiation was castigated in the impugned judgment as lacking in transparency, done with great speed "which was unprecedented". The Hon'ble Court observed that "This case has highlighted to the people as to how even after 50 years of independence, political considerations outweigh the public interest and the interest of the State and to what extent the Government only can go to justify its actions and not only before the public but even before the Courts of law".

Further, even after purportedly renegotiating the contract, the project has simply been pushed through. There has been absolutely no examination on the merits of the matter at all.

Absolutely no heed has been given to the advice, and warnings given by, or addressing any of the fundamental concerns raised by, inter alia, The GOI (including the Ministry of Finance and the Central Electricity Authority), two Parliamentary



Committees, the GOM itself as well as the finance Dept. of the GOM, the World Bank, The Asian Development Bank etc., nor has there been any compliance with the Audit report on the contract from office of the Accountant General.

The project is, to the knowledge of the respondents so grossly dishonest that there has been express discussion between the respondents seeking to put this project outside the purview of public and judicial scrutiny. All attempts at an examination of the merits and repercussions of the project, of magnitude hitherto unprecedented, have been scuttled by the respondents acting in concert, going to the extent of fraudulently and perjuringly misleading Courts.

In the circumstances, the petitioners are particularly concerned about

- a) The magnitude of amounts involved and the gravity of the consequences in face of the self-admitted 'irresponsibility' of the state, its "reprehensible" behaviour as observed by the Hon'ble Court itself.
- b) The abdication of responsible governance.
- c) The repeated failures of all institutional, statutory and constitutional mechanisms.



The SLP was filed in early March, and came up for hearing on April 21, 1997. Further hearings were postponed till May 2, 1997.

On 2nd May, the Supreme Court confirmed the Bombay High Court order. It simply refused to consider the mass of indisputable and admitted evidence, inter alia, that the project did not have any clearance from the CEA at all. The CEA's clearance is a necessary precondition as per the law. Further the Supreme Court did not take cognisance of the fact that laws were broken, that Enron was guilty of fraud and misrepresentation, and other facts.

The Supreme Court, however, decided that it would go into the question of the accountability of the Maharashtra government. Further, it appointed Shanti Bhushan, counsel for the petitioners, as amicus curiae, to aid the court in the matter.

It is to be hoped that this may lead to the Court reconsidering all the evidence.



ANTI-ENRON AGITATIONS

Mangesh Chavan

*(For information on earlier agitations,
please refer to previous Indranet issues.)*

OCTOBER 28, 1996

More than 3500 villagers from over twenty villages, under the non-political banner 'Guhagar Taluka Enron Vaa Salagna Prakalp Virodhi Sangharsh Samiti' (Sangharsh Samiti) (an organisation of local people opposing Enron and other related projects) marched to the district sub-division office in Guhagar. They peacefully demanded the cancellation of the Enron and Hindustan Petroleum Corporation Ltd's West Coast refinery projects, and the proposed acquisition of 18,000 acres of land for these and other projects. They submitted a memorandum to the Chief Minister of Maharashtra.

DECEMBER 17, 1996

Two trucks carrying cement to the project site were burnt on December 17, at around 4.00 a.m. near Pawarsakhari. Mangesh Pawar, president of the Sangharsh Samiti and ten other villagers, who were nowhere near the scene of the incident and were not involved in any manner with the incident, were later arrested. They were charged under

Sections 147, 148, 149, 323, 324, 336, 341 and 435 of the Indian Penal Code (IPC). All were later released on bail by the judicial magistrate, Chiplun. The case has not yet come up for hearing.

JANUARY 13-18, 1997

Non-violent protests were carried out at the project site by different batches of about 25 villagers every day, from Anjanvel, Ranvi and Veldur. These villagers were arrested for violating prohibitory orders and charged under *Sections 37 (1), 37 (3) and 135 of Bombay Police Act, 1951. (BPA)*. Each batch of protesters was produced before the judicial magistrate, Chiplun on the day of arrest. They were released on personal bonds. About 120 villagers were arrested in all. The cases have not come up for hearing.

JANUARY 29, 1997

Seven members of the Sangharsh Samiti and two villagers were arrested when they went to the police station to lodge a complaint. They complained that rumours were being spread that there was going to be police firing on the next day. They were arrested under *Section 151 (3) of CrPC, (Criminal Procedure Code)* as a preventive measure and transferred that same night to Chiplun jail. They were released in the evening of the next day on



personal bonds. Since the arrests were preventive, the case was deemed to have concluded.

JANUARY 30, 1997

In Guhagar town more than 1,800 people gathered in the police station compound, breaking a barricade that had been put up by the police and held a peaceful meeting. Four hundred and fifty of the agitators were arrested by the police. On the same day, about 1,500 people from the villages where land is to be acquired for the West Coast Refinery blocked the Guhagar-Chiplun road for three hours at Margtamhane. The police beat the villagers and fired tear gas shells at them as they marched to the Enron project site. Seventeen women and five men were injured. In all 679 persons were charged for violating prohibitory orders under *Sections 37 (1), 37 (3) and 135 of the BPA*. The arrested were subjected to harassment of various kinds by the police, including lack of food and medical treatment, and detention without charge beyond the statutory time limit. A majority of the arrested were women. They were produced before the judicial magistrate, Chiplun on January 30, and January 31, in batches and released on personal bonds. The case has not yet come up for hearing. Justice Kolse-Patil was also present

at the site. He was also taken to the police station though he was not arrested on that day, but on February 28.

FEBRUARY 7, 1997

Enron's EIA had stated that water for the construction work would be taken directly from the Modkagar reservoir. However, water is being supplied to the Enron site from the dam at Aareygaon on the outflow of Modkagar reservoir. The Aareygaon reservoir supplies water to Aareygaon and its surrounding villages for drinking and irrigation, which the supply to Enron has drastically reduced. Around 100 villagers from Aareygaon, led by Justice Kolse-Patil (retired Bombay High Court Judge), went to the dam and stopped the pumps that supplied water to Enron.

FEBRUARY 17, 1997

A Major of the SRP assaulted a road maintenance supervisor, Sanjay Pawar, after Sanjay requested him not to drive past his worksite at high speed. Sanjay, a handicapped youth, received an injury to his skull, and was taken to the Enron site for treatment. As the news spread, villagers blocked the Pawarsakhari road in protest. Justice Kolse-Patil who coincidentally came into Pawarsakhari was asked by the





police to intervene. The judge got the police to agree to the demand of the villagers that Sanjay be brought back from the Enron site and taken to the Government hospital in Guhagar for a medical checkup.

Sanjay Pawar was arrested on February 20 and charged under *Sections 341, 353, 504* of the *IPC* for attempting to assault an SRP. He was produced before the judicial magistrate, Chiplun on February 20 who released Pawar on bail of Rs 1,000. The case has not yet come up for hearing.

The police also filed a charge sheet on February 22 before the judicial magistrate against 64 villagers from Pawarsakhari and Justice Kolse-Patil for violating prohibitory orders and causing illegal obstruction on February 17. The villagers were charged under *Sections 37 (1), 37 (3) and 135* of the *BPA*, '51 and *Sections 143 and 341* of the *IPC*. Forty three of the charge sheeted villagers were produced before the magistrate on the same day. Another 15 of the remaining villagers were arrested on March 19 and produced before the judicial magistrate. All these villagers were released on personal bonds and asked to furnish surety bonds, which none of them have furnished. Justice Kolse-Patil was arrested on February 28 from Sagar lodge and charged

under *Sections 37 (1), 37(3) and 135* of the *BPA* and *Section 341* of the *IPC*. He was released on personal bond by the judicial magistrate on the same day.

FEBRUARY 19, 1997

The pump operator at the Aareygaon dam tried to restore the water supply. Some villagers from Aareygaon went and restrained him from doing so. The operator then filed a complaint at the police station and subsequently 7 villagers from Aareygaon were arrested on February 27, and another villager also from Aareygaon was arrested on March 15. The villagers were arrested under *Sections 37 (1), 37 (3) and 135* of the *BPA*, *Section 143* of the *IPC* and *Section 7* of the *Criminal Law Amendment Act, 1932*. They were released on bail of Rs 1,000 per person by the judicial magistrate when produced in the court on the day of their arrest. The case has not yet come up for hearing.

FEBRUARY 21, 1997

Villagers from Pawarsakhari blocked the road to prevent two state cabinet ministers, Ravindra Mane and Narayan Rane, from passing by. A battalion of SRP arrived and charged at the villagers with lathis. Several people were beaten and 96 people were arrested. They were produced



before the judicial magistrate, Chiplun on February 22, and charged under *Sections 37 (1), 37 (3) and 135 of the BPA, Sections 143 and 341 of the IPC and Section 7 of the Criminal Law Amendment Act, 1932*. They were released on personal bonds and asked to furnish surety bonds by March 6. No surety bonds have been furnished. The case has not yet come up for hearing.

FEBRUARY 22, 1997

Water supply from the Aareygaon dam was resumed to the Enron site under protection of a 250 strong SRP battalion, on instructions from two state cabinet ministers who visited the site on the previous day. When villagers, mainly women, protested by blocking the road in Guhagar, 176 of them were arrested. They were produced before the judicial magistrate, Chiplun on February 22, '97 and charged under *Sections 37 (1), 37 (3) and 135 of the BPA*. The magistrate released them on personal bonds and asked them to furnish surety bonds. The surety bonds have not been furnished and the case has not yet come up for hearing. To date the SRP, although in smaller numbers, remain stationed at Aareygaon dam.

FEBRUARY 28, 1997

More than 500 villagers from

Guhagar, Veldur, Ranvi, Anjanvel, Kathalwadi and Pawarsakhari went on a hunger strike at the Guhagar police station to protest against police atrocities. Two hundred and twenty five villagers, mainly women, were arrested for violating prohibitory orders and charged under *Sections 37 (1), 37 (3) and 135 of the BPA*. The judicial magistrate, Chiplun released them on the same day on personal bonds and asked them to furnish surety bonds by March 15. No surety bonds have been furnished and case has not yet come up for hearing.

Earlier in the morning on February 28, Justice Kolse-Patil, Mangesh Pawar and Prof Sadanand Pawar (President and General Secretary of the *Sangharsh Samiti*) were arrested. The arrests were actually to prevent them from participating in the hunger strike. Justice Kolse-Patil was produced before the judicial magistrate, Chiplun in the morning on the same day. He has been arrested for participating in the agitation on January 30 and the February 17 incident in Pawarsakhari. The magistrate released him on personal bond as mentioned earlier.

Mangesh Pawar and Sadanand Pawar, who were arrested under *Sections 151 (1) and (3) of CrPC*, were remanded to judicial custody





for ten days on charges that they were inflaming public passions by spreading false information against the government and asking people to boycott the district council (*Gram Panchayat*) elections which were to be held in the first week of March. On March 6 they were released by the Sessions Judge, Ratnagiri, but were externed from Chiplun and Guhagar talukas till March 31.

APRIL 1, 1997

In Kathalwadi, four Enron supporters attacked some of the anti-Enron group with swords, acid bulbs and soda bottles. When pursued by the angry villagers they fled into Enron's fuel jetty complex and were given shelter there. The villagers discovered that the attack was preplanned. The next day the police officer on duty refused to accept the complaint of those attacked on the grounds that a complaint had already been filed by the very same Enron supporters. On the basis of this complaint the police arrested 23 men and women on charges such as 'attempt to murder' under Sections 307, 452, 147, 148, 149, 336, 337, 427, 324, 323, 504 and 506 of the IPC. On April 2, the judicial magistrate remanded them to police custody till April 4. They were further kept under magisterial custody. Subsequently, 21 persons were released on bail on April 19 and

two persons on April 22. The case has not yet come up for hearing.

Later a minor complaint against the offenders was accepted. However, they were arrested on easily bailable offences and released on bail on the same day.

The Guhagar Taluka Enron Vaa Salagna Prakalp Virodhi Sangharsh Samiti (Peoples' Forum of Guhagar Taluka for Opposing Enron and Other Related Projects), the Enron Virodhi Sangharsh Samiti (Organisation to Oppose Enron - an organisation of trade unions) and the National Alliance for People's Movement, jointly embarked on intensified agitation demanding immediate stoppage of work. Protesters from all over the country gathered in batches to sit before the gates of the project site. On principle, the protesters, when arrested, refused bail or payment of fines and instead accepted their prison sentences and an additional sentence for non-payment of fines. Subsequent batches of protesters have been given progressively harsher punishments. More than 600 people including villagers have courted arrests and served jail sentences.

APRIL 28, 1997

One hundred and fifty members of



the Samajwadi Jan Parishad (Socialist Peoples Conference) from the north Indian states of Uttar Pradesh, Bihar, Orissa and West Bengal marched to the Enron project site for a sit-in. They were arrested for violation of prohibitory orders, and produced before the judicial magistrate, Chiplun the same day. Charged under Sections 37 (1), 37 (3) and 135 of the BPA, the arrested refused to give personal bonds or bail and the magistrate sentenced them for five days imprisonment and another four days for non-payment of fines.

APRIL 30, 1997

Fifty members of the *Narmada Bachao Andolan* (Movement to Save Narmada) from Gujarat were arrested at the site for violation of prohibitory orders and produced before judicial magistrate, Chiplun the same day. The arrested refused to give personal bonds or bail and the magistrate sentenced them for 3 days imprisonment and additional 10 days for non-payment of fines.

MAY 4, 1997

Eleven men belonging to the Sarvodaya Vikas Manch (Organisation for Complete Development of All People), Malegaon, Maharashtra, were arrested at the site gate for violation of prohibitory orders and produced before the judicial

magistrate, Chiplun the same day. They refused to give personal bonds or bail and the magistrate sentenced them for five days imprisonment and an additional 10 days for non-payment of fines.

MAY 6, 1997

Fifty volunteers from the *Bargi Bandh Vistapit Sangathan* (Bargi Dam Displaced Peoples Organisation) from Madhya Pradesh were arrested at the gates of the project site for violation of prohibitory orders and produced before the judicial magistrate. They refused to give personal bonds or bail and were sentenced to five days imprisonment with an additional 10 days for non-payment of fines.

MAY 15, 1997

In a sit-in by the local project affected people 178 villagers and Medha Patkar were arrested for violation of prohibitory orders and produced before the judicial magistrate, Chiplun.

They were remanded to magisterial custody till May 19. The arrested were then transferred to Yerawada jail, Pune almost 400 kms from the site. They were brought back and produced before the judicial magistrate, Chiplun on May 20. Since the arrested refused personal bonds or bail, the magistrate sentenced





them to 5 days imprisonment and additional 3 days imprisonment for non-payment of fines imposed. Days already spent in magisterial custody were deducted from the sentence. All the arrested were transferred back to Yerawada to serve the remaining period of the sentence.

MAY 16, 1997

Veteran Janata Dal leader, Mrinal Gore, and 30 others from Maharashtra and Tamil Nadu were arrested for blocking a road for three hours in Guhagar town. Those arrested included 22 women; two minor girls from Bombay who accompanied their grandmothers to the dharna, went along with their grandmothers to the court and jail because there was no one to look after them. (Source: Mrinal Gore, July 1) They were produced before the judicial magistrate, Chiplun on the same day and charged under *Sections 37 (1), 37 (3) and 135 of the BPA, and Section 341 of the IPC*. They were remanded to magisterial custody till May 31. The men were transferred to the Thane jail and the women and the girls were lodged at Kalyan jail, although it is illegal for minors to be lodged in jail. All of them were released on bail on May 20. The case has not yet come up for hearing.

MAY 17, 1997

More than 300 women and men of Borbatlewadi stopped the fencing work being carried on around their farms by Enron. One hundred and twenty of them including 12 men were arrested for violating prohibitory orders and produced before the judicial magistrate, Chiplun on the same day. They were remanded to magisterial custody till May 31, and transferred to jails at Satara and Yerawada. On May 31 they were sentenced to 15 days simple imprisonment. All were released on May 31 itself as 15 days had already been spent in custody.

On the same day three hundred and fifty men and women from the fishing community gathered at the Veldur and Anjanvel jetties, forcing the boats ferrying Enron's workers to return across the creek.

In the third incident of the day, about 3,000 people from 20 villages of Guhagar *taluka* broke through the company gates under the leadership of Kolse-Patil, Vithal Bhalekar and Vaishali Patil, demanding stoppage of work on the site. No one was arrested as the number of people was too large for the police to handle. But subsequently on June 3 the police filed a *First Information Report* (FIR) before the judicial magistrate, Chiplun implicating about 1200



persons for violating prohibitory orders Twenty five women were produced in the court. They were remanded to magisterial custody and subsequently released on bail on June 14 and the case has not yet come up for hearing.

JUNE 2-3, 1997

In these incidents which occurred at Veldur, old and infirm people were beaten and arrested, minor girls and women humiliated and subjected to inhuman conditions in jails.

Background

Veldur has a small jetty which is used to anchor fishing and passenger boats. Some of Enron's construction workers are ferried by boats hired by the company between the site and Dabhol village on the side opposite to the site. Since May 17, when the villagers from Veldur stopped the boats carrying the workers from anchoring at the Veldur jetty, they had been using the construction jetty which Enron has built, and which lies between Veldur and Anjanvel. As the monsoon was soon to set in, Enron instructed the boats to use the Veldur jetty again.

The Incidents

On June 2, '97, Enron workers attempted to go across the creek to Dabhol in the evening through the Veldur jetty.

According to information received from Sanjay M G, of the National Alliance of People's Movements (NAPM), as the workers came into Veldur in the evening, the residents, mainly women, restrained them from using the jetty. It was the stand of the villagers that the jetty in their village should not be used by any Enron workers. The workers then used foul and abusive language with the women. This angered the villagers and a scuffle took place between the workers and the villagers. The workers retreated to the site and came back with police. One particular policewoman, who used highly abusive language in ordering the fisherwomen, was surrounded by fisherwomen and in the heat of the moment the latter caught hold of her saree. A fight started between the villagers and police and construction workers. The police then fired in the air to disperse the villagers.

June 3, 1997

At around 5 o'clock in the morning, the SRP and local policemen with about 5 policewomen, swooped down upon Veldur village and broke into people's homes and assaulted them. The police arbitrarily arrested 26 women and 13 men under section 307 of the Indian Penal Code, for 'attempted murder'. They were also





charged under *Sections 135, 147, 148, 149, 151, 341, 332, 336, 337, 353 and 427 of the IPC*. The police also filed a charge sheet saying that the policewoman was stripped of her saree and the fisherwomen tried to throw her into the water.

The judicial magistrate, Chiplun, on June 3, remanded the 39 to police custody till June 9 and to further magisterial custody from June 10 till June 17.

They were taken to Yerawada jail and all the 39 were released on bail on June 15.

Sanjay M G (of NAPM) met about five persons who were assaulted but not arrested. At present, the Veldur jetty is being used by the workers under protection of the SRP. A van full of the SRP comes to Veldur and is stationed near the jetty when the Enron workers land and leave.

On the same day, in a separate case filed by the police before the judicial magistrate, Chiplun, 25 of the 26 fisherwomen arrested were also charged under *Sections 37 (1), 37 (3) and 135 of the BPA* for having participated in the sit-in before the main gate of the Enron project on May 17.

In the above case, the FIR mentioned Adinath Kaljunker and 1,000 to 1,200 others of having violated the

prohibitory orders under *Sections 37 (1) and (3)* and being thereby liable to be prosecuted under *Section 135 of the BPA*.

Adinath was nowhere near the site on May 17. According to Adinath, he is being targeted since he coordinates all legal matters of the agitations in Guhagar and has to often confront the police and government officials in this regard. The other implication of this FIR, according to lawyers, is that anyone could be arrested and named in the charge sheets filed under this FIR till 1,000 to 1,200 people are implicated.

Also on June 3, thirty five volunteers of the Communist Party of India (Marxist) protested before the Enron main gate. They were arrested and produced before the judicial magistrate, Chiplun and charged under *Sections 37 (1), 37 (3) and 135 of the BPA*.

The arrested refused to give personal bonds or furnish bail and were sentenced to 7 days simple imprisonment and 2 days for not paying a fine of Rs 10 per person. They were lodged in Ratnagiri jail. They served their sentences and have been released.

JUNE 7, 1997

A delegation consisting of the members of the *Guhagar Taluka*



Enron Vaa Salagna Prakaalp Sangharsh Samiti, the *Enron Virodhi Sangharsh Samiti* and the *National Alliance of People's Movements* met Gopinath Munde, Deputy Chief Minister of Maharashtra State at Mantralaya, Bombay. Mr Munde is also the Home Minister and the Energy Minister for Maharashtra. Also present at the meeting was Ajit Nimbalkar, Assistant Collector, Chiplun Sub-Division.

Details of police atrocities on the villagers agitating against the Enron project were narrated. It was brought to Munde's notice that the prohibitory orders were being used constantly to suppress the agitation. Medha Patkar said, "Had Mr Munde been in the opposition party, he would have fought against this injustice on behalf of the villagers against the government".

With regard to the prohibitory orders, Mr Munde assured the delegation that he would issue orders to the Guhagar police to issue permissions to the villagers if they want to organise any peaceful protest in the area, even if it is before the main gate of the Enron project. Only entry into the project site would not be tolerated. He further delegated orally to Ajit Nimbalkar, the powers to give permission to demonstrations if the Guhagar

police refuse to give the permissions.

It was also brought to Mr Munde's notice that the number of arrested people put in a single cell when lodged at Guhagar or Chiplun jails, was far in excess of the statutory limit. There are no proper lighting, toilet or bathing facilities, and the ventilation is poor. Even the food given is of sub-standard quality. The experiences of the 26 women arrested from Veldur who were put into one cell in the Chiplun jail from June 3 to June 9 was narrated in detail and Mr Munde was asked as to why people were put into jails if there are no basic jail facilities.

In reply to this, Mr Munde asked Mr Nimbalkar to lodge people in a community hall, an empty classroom in a school or some convenient place which has all the basic facilities required by people arrested in such cases.

The issue of atrocities on the women of Veldur by the police on the morning of June 3, was put before Munde. It was also brought to his notice that it is often the police who do something outrageous to instigate the people and then arrest people under serious charges irrespective of their participation in the incident. Mr Munde only nodded "I shall see what I can do".





Other Incidents

Notices were issued by the Sub-Divisional magistrate, Chiplun Sub-Division, to Ganpat Bane and Dattaram Jangli of village Anjanvel dated May, 1997 and February 26, 1997, respectively. The notices sought to extenuate them for a period of two years from Ratnagiri, Sindhudurg and Raigad districts. These notices have been issued under *Section 59* of the *BPA* and seek to extenuate them under *Section 56* of the same act. Both the cases have been adjourned and have not been heard to date.

The notices mentioned that the police had informed the magistrate that both of them live comfortably on the money earned from terrorising the people in the area and are doing no work requiring manual efforts. In fact, Ganpat Bane has been working in Mumbai for the past 25 years. Dattaram Jangli runs a shop in Borbatlewadi (a hamlet in Anjanvel). Both are approximately 48 years old and have three cases registered against them by the Guhagar police which are still pending before the Sub-Divisional magistrate, Chiplun Sub-Division.

* * *

IN THE SERVICE OF A MULTINATIONAL

How the Indian State deals with popular resistance to Enron

Report of AIPRF fact finding team for investigation into police harassment of villagers from Anjanvel, Veldur, Ranvi and Pawarsakhari agitating against the Enron project.

Justice S M Daud, advocate V Karkhelikar, Stephen Rego and advocate A Gajbhiye.

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Few projects in post-liberalisation India have generated as much heat and controversy as the proposed Dabhol Power Company (DPC) currently being set up by the giant US multinational, Enron, in the Guhagar taluka (sub-division) of Ratnagiri district in Maharashtra.

Ever since the Sharad Pawar government signed the Power Purchase Agreement (PPA) with the company in 1993, the proposal has been criticised by a wide spectrum of people. The high per unit price of power to be produced by the DPC, the purchase guarantee provided by the government, corruption,



displacement of local populations and environmental destruction are some of the main issues raised by the critics.

Now it has become clear that the highly unequal agreement with the US MNC at Dabhol is not an isolated instance - it symbolizes the plan to virtually sell-out the power sector to private, mainly imperialist, interests. It also represents the type of lopsided, unequal and destructive model that is being passed off as 'development' in post-liberalisation India.

This is what has catapulted Enron on to the all-India stage; more so as the company has now proposed to set up \$ 10 billion worth of power plants mainly in the coastal belts of the southern states to produce another 10,000 MW of power. And this gives the resistance of the villagers a somewhat greater significance than a number of similar struggles against similar projects elsewhere. To put it briefly, Enron is not a project, it is a policy!

And both the State and the Central governments (though of different political colours) have clearly shown that they are willing to use their entire might in the service of the pro-MNC policy.

A Brief Picture of the People's Resistance

When it first began a few years ago, the local movement to resist Enron was hijacked by the Bharatiya Janata Party (BJP). But having utilized the popular sentiment as a stepping stone to power, the party abruptly changed its stance, after going through the drama of scrapping and then reviving the project.

Now the fight against the multinational is being largely led by the villagers who have rejected all the parliamentary parties, while obtaining support from other democratic forces. In fact, many former activists of the political parties have defied their State and Central leaderships and continued the battle. During the Zilla Parishad (District Council) elections held in Maharashtra in March 1997 the 'Guhagar Taluka Enron Vaa Salagna Prkalp Virodhi Sangharsh Samiti' (an organisation of local people opposing Enron and other related projects) organized a near total boycott of the polls over the Guhagar taluka (a sub-division of the Ratnagiri district consisting of 77 villages).

Recently the struggle has assumed a broader dimension as government plans for other mega-projects in the taluka (sub-division), requiring





20,000 acres of land and threatening to affect the livelihood of nearly 75,000 people, became known. These include the Hindustan Oman Petroleum Corporation's refinery, a project of the Indian Oil Corporation, steel plants being set up by Bhushan Steel and Lloyd Steel and the Bagri group's proposed copper smelter (2.5 times the size of the Sterlite copper smelter driven out from Ratnagiri) and an "All Weather Modern Port" at Anjanvel in the Dabhol Creek. Naturally, the resistance to these has merged with the ongoing Enron struggle.

Since October 1996 there has been a series of popular protests, some of the highlights of which include:

- a massive *morcha* to the Guhagar tehsildar's (Revenue Collector) office in October 1996;
- a series of demonstrations by women in front of Guhagar police station following victimization and implication of activists in false cases in December 1996;
- a chain *satyagraha* by batches of 25 villagers at the company entrance in mid-January 1997;
- a collective *satyagraha* in Guhagar *taluka* (sub-division) on January 30, 1997 in which over 10,000 people participated;
- a *dharna* (a sit-in protest) to halt the water supply to Enron (this was water meant for drinking and irrigation facilities for villagers and diverted to Enron) in February 1997;
- a *rasta roko* (road block) against the Shiv Sena ministers Narayan Rane and Ravindra Mane against forcibly restarting of water supply to Enron in February 1997;
- a token hunger strike outside Guhagar police station to protest against police atrocities, by 500 people on February 28, 1997;
- a near total boycott of the Zilla Parishad (District Council) elections in March 1997.

In fact the mass participation in these series of protest actions clearly proves the falsity of Mr Bal Thackeray's claims that local opposition to the project had declined and that he had received a petition of one lakh signatures in support of Enron. Not surprisingly, not even a few of these fictitious supporters could be mobilized by the Sena in February when two of its ministers were gheraoed (surrounded with an intention of not allowing to move) by irate villagers at the project site!

False claims by the company

It was no coincidence that Rebecca



Mark and other spokespersons of the DPC have been speaking in a voice similar to that of the Shiv Sena supremo. Even as the mass opposition of the villagers continued to grow, the company has been claiming in Mumbai and Delhi that the locals are 'co-operating', that 'work is proceeding well ahead of schedule', that 'more than 70% of actual construction is already complete'.

It seems that these are all part of the ongoing propaganda war to break the spirit of the opposition!

Actually the only completed construction at the site are the houses and administrative offices, (part of the former has already been given to the State Reserve Police battalion, a point we shall return to later) and a temporary jetty for landing equipment.

Of the actual plant, the major construction is still at the piling and foundation stage, which independent experts have opined to be 'not more than five to ten percent of the actual civil construction'.

The main factor behind the tardy progress appears to be the local opposition. Many of the local contractors who were earlier engaged in construction activity have withdrawn following the urging of

the local people, and in the months of December 1996, January and February 1997, repeated rasta roko and other opposition made it virtually impossible for the DPC to maintain the supplies to the site via the road route. (Subsequently these resumed under police protection, a point we shall discuss in more detail in a later section).

Role of the Civil Administration

The role of the civil administration, as also that of their masters, at all levels has been to safeguard and protect the interests of DPC against those of the local villagers. Extensive publicity has been given about this aspect at the macro level and hence we shall mainly pinpoint a few examples of how this operates at the local level.

i) Land Acquisition

Lands have been and are being forcibly acquired under the Maharashtra Industrial Development Act, 1961 (MID Act), a law much more draconian than the *Land Acquisition Act of 1894*, in that it allows forcible acquisition, no right to information, absence of statutory procedures for hearing of objections and a misconceived 'Special Planning Authority' status, conferred upon the Development Corporation by the state government. So much so that





development as envisaged for Guhagar *taluka* (sub-division) by the Ratnagiri-Sindhudurg Regional Development Plan (a systematic document of over 500 pages prepared over a long period) under the *Maharashtra Regional and Town Planning Act* (MRTP Act) is being destroyed and subverted by a notification under section 1(3) of the MID Act which simply changes the status of agricultural, horticultural or cultured forest land to an 'industrial area'. And a notification containing just these two words is supposed to convey all information to the people of the Guhagar *taluka* (sub-division) as to which industries are coming in their area, how the local communities and the region will benefit from the industries, and all other information supposed to be encompassed in a 'Regional Plan'. The state government's contention, that a notification containing just these two words is substantial enough to modify a regional plan and that it need not go through the statutory procedures of modifying the regional plan under the MRTP Act, is a highly malafide one. This is magnified most in Guhagar *taluka* (sub-division) as there is no reservation for any of the mega-projects requiring land in thousands of acres in Guhagar *taluka*. And the current programme of thrusting Enron and other similar

mega- projects simply subverts/ destroys the earlier regional plan for the area.

Unknowingly, in an environmental litigation, even the Ministry of Environment and Forests directed the state government to prepare a regional plan for Guhagar *taluka* on a priority basis way back in November 1994. Something the state government has not done so far among other things.

Ganju Raghu Jangli, a 70 year old resident of Kathalwadi, narrated the story of his losses. "After retiring from my job in a silk mill in Mumbai where I worked for nearly 30 years, I returned home and invested my entire savings in land. I had about ten and a half acres which contained nearly 300 grafted mango trees and a similar number of cashew trees, besides paddy fields that fetched me a crop of nearly four tonnes the previous year. I had recently renovated my house, when in mid-1995 I was served with a notice of acquisition. Before I could petition the courts for a stay on the destruction of my property, the company and the administration leveled the entire area with a bulldozer. To this day absolutely nothing has been constructed by Enron on the land. All the property is mentioned in the compensation



package; but I don't want money, I want my land back."

Nearly 600 hectares of private land has been forcibly acquired in this way by the government and handed over to the DPC, for which the villagers are offered meagre compensation. Most of the compensation money has not been claimed as the villagers assert that they want the return of their lands.

ii) Use and Control of other natural resources.

Another instance of the administration serving the interests of the DPC is the method by which the company has been provided free and unrestricted access to the local natural resources. For example, in Aareygaon a water tank had been constructed two years ago to provide a temporary connection for initial purposes of the DPC. Later Enron was to be supplied water from a permanent connection, brought across by a specially built pipeline nearly 45 kms long from the nearby Krishna/Koyna dam. At that time the villagers of Aareygaon had been assured that the water would later be restored to them for the purpose of drinking water needs and irrigation of the village. But more than two years later, the water from Aareygaon is still being supplied to Enron.

against this and in early February '97 brought the pumping of water to the DPC to a halt. For nearly two weeks the site was without water. However the administration without looking into the genuine grievances of the villagers, later resumed the water supply with the help of the State Reserve Police (SRP), a unit of which is now permanently posted to protect the source of Enron's water supply. Meanwhile those villagers who were in the forefront of the dhama (sit-in) to halt the diversion of village water to the DPC have been arrested and charged with various offenses!

Another example is fast developing around the two beaches at Anjanvel that have been handed over to the DPC for purposes of constructing two jetties. Not only is this construction activity a gross violation of the Coastal Regulation Zone notification but it also poses a threat to the livelihood of hundreds of fishing families in the area. In fact, the site of the permanent jetty at Anjanvel is reputed to be one of the best sites for natural shrimp fishing. The jetty in the Dabhol creek is to be encompassed within the all-weather port of Anjanvel.

In its latest move the state government has issued a Notification dated February 13, 1997 by which

The angered villagers protested





the residents of virtually the whole of Guhagar *taluka* (sub-division) have been banned from converting the land to non-agricultural use, unless sanctioned by the District administration (located almost 120 kms away). This makes it clear that the administration eventually intends to hand over the fertile lands and virgin beaches of the entire region to various multinationals for the purposes of developing tourism, industry, ports, trade and commerce and 'other reasons'. In short, the Enron story will be repeated on a huge scale.

Biased role of the police

Like the civil and the political establishments, the police too have been openly taking the side of the company in its ongoing conflict with the local villagers. In the name of 'maintaining law and order' they have acted to stifle the voice of the Sangharsh Samiti especially that of its leadership, prevented all forms of peaceful and democratic protest, used force and violence while dealing with all forms of non-violent protest, and resorted to a number of other subtle methods of harassment of the agitators. We cite a few examples in the following sections:

i) Attack on Satyagrahis on January 30, 1997.

More than a month in advance the local *Sangharsh Samiti* had announced its plans to conduct a massive *satyagraha* on January 30, the date on which Mahatma Gandhi was assassinated. The police moved to foil this programme well in advance. Initial harassment was relatively minor - the drivers/owners of the vehicles used by the agitators to conduct propaganda were served notices for minor traffic violations, like violation of the *No Parking* zones not indicated by any road signs, in an attempt to browbeat them to withdraw their support.

But from the day preceding the *satyagraha*, supporters of the project had started a vicious whispering campaign that the Samiti planned to resort to violence on the day. At the same time, the Deputy Superintendent of Police toured the affected villages, threatening the villagers that the police may have to resort to firing if necessary. All this seemed calculated to create a fear psychosis among the villagers and prevent them from participating in the *satyagraha*.

On the evening of January 29, 1997 seven local leaders went to the Guhagar authorities in a delegation to ask the police to take appropriate



action to prevent certain vested interests from creating violence on the following day of satyagraha. Rather than hearing and acting on their complaint, and positively responding to their offer of cooperation to prevent any untoward incident the next day, the police immediately arrested the delegation under *Section 151* of the *CrPC*. It seemed clear that the police were preparing for a major confrontation.

The events of the next day bore that out. Ms Snehal Vaidya, Sarpanch (head of village council) of Anjanvel, one of the affected villages, narrated to us the sequence of events. "A few thousand of us had gathered at the village to march towards the company gate where we were to be joined by others from the neighbouring wadis (hamlets) and villages. But at 9.30 in the morning as we started out in a morcha, shouting slogans against Enron, MNC's and the Alliance Government, the police tried to surround us and obstruct our progress. However due to our massive numbers they were unsuccessful and we reached the site of the main satyagraha. Here however there was a huge police force deployed and even as we were peacefully shouting slogans they began pushing and obstructing us, and suddenly without warning began

a brutal lathi-charge. Many of the constables were armed with freshly cut branches of trees, others with lathis, with which they indiscriminately beat up all those who had gathered.

"A number of aged men and women were not spared, including Arkatte, Mastan, Bangi (in their seventies) and 83 year old Chiplunkar. Totally 17 women and 5 men were severely beaten. Ms Parvati Saitavadekar, Bangi and the severely paralysed Gurav, who were injured were pushed into the company compound and left without medical treatment for hours. Despite the absence of women police, I and other women were forcibly pushed into the police van, and minutes later the police began firing tear gas shells."

A number of others who were also present on the day testified that the police fired nearly 40 canisters of tear gas, and while shots from rifles were fired in the air, some chemical was fired from revolvers at the foot level which gave instant burning sensations in the feet. Besides, according to the villagers, the police and SRP also used stones to attack the satyagrahis even as they were fleeing from the site.

Vaidya continues: "Almost 200 people were arrested and taken to Chiplun that day, including leaders like Medha





Patkar and Kolse- Patil. We were continuously abused and threatened by the police and kept for hours without food and water, and were finally released in the early hours of the morning at Chiplun, nearly 50 kms away from our residence.”

Interestingly, the Ratnagiri Times, the largest selling local newspaper, reported that lunch for the police had been arranged by Enron, while the Collector and a DPC vice-president were found to be surveying the entire police action from the air in an Enron helicopter!

ii) Other instances of police highhandedness.

A few other instances can be cited to show the general approach of the police to create terror among the agitationists. The first occurred in December 1996 in Pawarsakhari, a partly-affected village. Apparently there were a couple of incidents of burning of trucks and dumpers being used by contractors working for Enron. While the actual cause is not very clear, the Sangharsh Samiti feels that it could be a fall-out of rivalry among those contractors who failed to secure the more lucrative assignments. On the night of December 17, 1996, after the second incident, ten youths from the village sleeping in the village mandir (temple) after participating in a local festival

were arbitrarily arrested, and subsequently beaten in the police station.

A similar action occurred on February 17, 1997. According to Pawar, a retired officer of Mahindra and Mahindra, Mumbai, now settled in Pawarsakhari, “an altercation occurred when Sanjay Pawar, a handicapped youth working as supervisor on road maintenance work near the village, asked Major Rane of the SRP not to drive at high speed past the worksite. Pawar was assaulted by the SRP, and suffered an injury to the skull. Later, on February 21, when villagers blocked the road at Pawarsakhari, an SRP battalion came and resorted to lathi-charge to disperse them. Many were beaten including the elderly ex-Sarpanch, Haldankar, and 96 people were detained.

The third event occurred on February 28, when the Sangharsh Samiti was to stage a day-long token hunger strike. Arrests began early that morning, when Justice Kolse-Patil (a retired Bombay High Court Judge) was arrested from his place of residence. Later in the day more than 500 people were detained, including National Alliance for People’s Movement (NAPM) leader, Medha Patkar. Some of those arrested were beaten in custody,



including Ashok Kadam, leader of the *Konkan Sangharsh Samiti*. He was also threatened with dire consequences. Interestingly, on the same day, Kolse-Patil was also charged with inciting the people, and implicated in the 10 day old incident that arose out of the beating of Sanjay Pawar in Pawarsakhari. This was a clearly vindictive move, for he had been present in the *taluka* (sub-division of the district) for the entire intervening period and could easily have been arrested earlier.

Similar SRP actions have also occurred at Aareygaon, where the villagers had stopped water supply to Enron, and a few other places. The SRP has also helped the company by providing escorts to all its vehicles bringing raw materials and supplies to the site. Significantly, the entire SRP force stationed in Guhagar has been housed in a camp in the barracks constructed on the DPC premises, and are freely using all facilities provided by the company. The close relation between the SRP and the DPC is underlined by the ironical fact that the fence enclosing the company where the SRP are stationed is itself guarded by the uniformed company security guards!

■ 'Legal' harassment

Alongside the more naked use of force by the police and the SRP

noted above, the police have also utilized the legal machinery to harass the activists and leaders of the Sangharsh Samiti in innumerable ways. One of the most glaring instances was the 'preventive' arrests and subsequent month-long exterrment from the area, of the President and the General Secretary of the Sangharsh Samiti, Mangesh Pawar and Sadanand Pawar. Both were arrested on the eve of the February 28, 1997 token hunger strike, and remanded to judicial custody under the preventive clause *Section 151 of CrPC*. The actual intention seems to have been to prevent them from participating in the hunger strike, and conducting a campaign to ask people to peacefully refrain from voting in the *Zilla Parishad* (District Council) elections of March 2. (It is indicative of the depth of the sentiment of the people that despite this, the boycott was successful, with just 22 per cent voting in the entire Guhagar *taluka*.)

Both were released subsequently on bail, after nearly 10 days in custody on the condition that they would not enter Chiplun and Guhagar talukas (sub-divisions) till March 31, 1997 on the basis of police reports that they were a threat to the law and order situation. In the meantime nearly 200 active participants have





been issued undated and unnumbered warning notices under *Section 149* of the *Criminal Procedure Code* accusing them of spreading false information against the government and the company, and warning them that they would be held responsible for any untoward incidents that result in damage to life and property or worsen the law and order situation. As individual replies sent by the Samiti members point out, "the first persons against whom any actions should be taken are the Chief Minister and Deputy Chief Minister of Maharashtra - all the 'false' propaganda supposedly being carried out by us is directly based on the Munde Committee Report tabled by the CM in the Assembly in the period when they were 'opposing' Enron!" It seems apparent that the police are preparing legal grounds to impose similar externment orders on other participants in the anti-Enron protests.

Recently the police have begun opposing the release of those arrested on personal bonds, demanding that not only bail bonds be furnished in current cases, but the personal bonds in earlier cases be converted into bail bonds. Those familiar with the difficulties of getting sureties approved in the rural courts, will know how effective a form of arrest

this can be; more so because the nearest courts are situated at Chiplun, 50 kms from the site of the agitation.

The extent of this form of harassment must be seen in the light of the fact that since the beginning of 1997 the police have clamped *Section 37(1)* of the *BPA* throughout the entire region. Hence even the normal gatherings and the most peaceful demonstrations become 'violations' and all participants can be arrested and entangled in the costly and long drawn legal processes.

Finally, it was also noticed, that while the police are prepared to file complaints against the opponents of Enron on the smallest of pretexts, quite the opposite is true with regard to the company and its supporters. Two examples will suffice to make the point clear. In the last few months there have been a number of cases where cattle belonging to the villagers have been attacked by the DPC security staff while grazing near the boundary fence. In the month of March two such incidents occurred in Kathalwadi and Borbatlewadi. A buffalo belonging to Suresh Devale was killed and a bull belonging to Pandurang Durgawali had its tail chopped off and severe wounds inflicted on its body. Yet when the affected persons went to file a complaint in the Guhagar police



station, the officer on duty refused to accept it, unless the complainant changed the description of those accused from the 'company security guards' to 'unknown persons'.

Another instance involved the complaint filed by Adinath Kaljunker, leader of the Sangharsh Samiti from Aareygaon. On the night of February 27, four goondas led by Deepak Kangutkar alias Babu, came to his house late in the night and threatened to murder him if he continued to oppose the Enron project, as they had taken on-site contracts and would suffer losses. When Kaljunker phoned the Guhagar police station, the officer refused to send anyone to investigate. The next morning when he personally went to the police station to file the complaint the officer was only willing to make a note that the matter had been investigated and was not found to warrant further action and refused to record a complaint.

Given the apparently close relationship between the local police and the DPC, and the fact that the state government itself has also extended full co-operation to the MNC, such biased handling of matters relating to opponents and supporters of the company is bound to grow in the future.

Conclusion and findings

- 1) There is widespread opposition to the controversial Enron project in Guhagar *taluka* (sub-division), and near total opposition to it in the directly affected villages. It is particularly important to note that at a time when political leaders are trying to divide the people along communal and caste lines, and when narrow party interests override genuine national considerations in most decision making bodies, the people in the project affected villages are totally united, cutting across caste and community barriers and have rejected the discredited leaderships of the existing parliamentary parties to rely on the strength of their own united struggle.
- 2) The DPC project, floated by the giant US multinational Enron, is being openly and completely backed by the state and central governments. Significantly, the civil administration and police department, which are directly under the state government, headed by the one-time 'opponents' of the DPC, the BJP-Sena Alliance, have been virtually placed at the service of the MNC and other industrial projects coming up in the region. There is not even an attempt to cloak this



close collaboration, with the SRP camp situated on the company premises itself.

- 3) In the process there is a gross violation of a number of rights of the people in the area. Most important is the violation of the Right to Livelihood, which is an integral part of the Right to Life. Clearly though the villages of Anjanvel, Veldur, Ranvi, Pawarsakhari, etc, are not being taken over, the eco-socio-cultural context in which they have hitherto lived is being totally destroyed. The consequence of this destruction will inevitably be similar to direct displacement. Significantly this entire process is taking place despite the direct and protracted opposition of the local people - a fact which speaks volumes about the so-called democratic nature of our society.

Further their democratic Right to Form Associations and Protest is also being snatched away in an open as well as subtle manner. As we have documented, even the most peaceful forms of protest invite police action, and leaders of the *Sangharsh Samiti* are being prevented from campaigning in the area as well. The message that is being sent out by the behaviour of the police is that all those who dare to stand up to the

rulers' logic of handing over the country to MNCs are going to be treated as 'anti- nationals' and 'enemies of progress'. In fact it seems as if the Indian state is there to protect the interests of the MNC Enron against the Indian people!

The real question, therefore, is who or what best represents the public interest, the people's interest, the country's interest? The answer clearly is that the Indian state has abdicated its responsibility to speak on behalf of the people, and that it is the voice of resistance to Enron that really speaks for the 'future of India'.

* * *



Incidents Occurring from 2.6.1997 Onwards in Veldur Wherein 39 Persons Were Arrested.

Report by People's Union for Civil Liberties (PUCL) fact-finding team

On 7.6.1997, Dr Mirajkar and Advocate Monica Sakhrani from Mumbai, went to Chiplun in order to enquire into the incidents arising out of CR No 47 of 1997 registered by the Guhagar Police Station on 2.6.97 wherein 26 women and 13 men had been arrested and were presently in police custody. The team met the women who were arrested, their advocates, the people in Veldur village where the incident occurred and went through the papers filed by the police in the case on the 7th and 8th of June, 1997.

The police case according to their Remand Application dated 3.6.97 in C R No 47/97 addressed to the judicial Magistrate of the First Class, Chiplun, is that on 2.6.97 at around 6.30 p.m. when around 100 workers of the Enron Power Project were being escorted home to their village at Dabhol by the personnel of State Reserve Police force from the company, while passing Veldur village, they were stopped by a mob

of around 200-250 men and women who refused thoroughfare through their village. The mob got violent under the leadership of Waman Patekar and attacked the police with stones and sticks. Around 8-10 persons, male and female, picked up a W P C No 826, R P Nachankar and tried to throw her into the sea. The First Informant, Sub-Inspector Waman Pashte of the State Reserve Police also received injuries. Since the mob was uncontrollable, he directed Police Constable Sutar to open fire and P C Sutar fired one round after which the crowd dispersed. Since the SRP platoon was outnumbered by the villagers, they retreated. The entire incident occurred between 6.45 pm to 7.05 pm. The *FIR C R No 47 of 1997* was registered at 8.10 pm with Guhagar Police Station on the same day, under *Sections 307, 147, 148, 149, 341, 353, 332, 336, 337, 427, 151 of the Indian Penal Code and Section 135 of the Bombay Police Act.*

The offences registered by the Police relate to attempt to murder, rioting with deadly weapons, causing hurt to deter public servant from his duty, causing hurt by doing acts which endanger human life and damaging property to the amount of Rupees Fifty or upwards.

Apart from *Section 307*, which is





attempt to murder, the other offences are bailable and triable by the Magistrates' Court. Section 307 is punishable with up to life imprisonment, is non-bailable and triable by the Sessions Court which is in Ratnagiri. The police got 90 days to complete their investigation and file their charge sheet.

The Police had arrested 39 persons in the above case, of which 26 were women and 13 men. In the remand application, police had asked for seven days police custody for purposes of investigation as the weapons used had to be recovered. The Magistrate accepted this and as the offence punishable under section 307 was "non-bailable and serious and triable by Sessions Court", police custody till 9.6.97 was granted. Eight of the 39 accused complained of ill-treatment by the police and the Magistrate referred them to Medical officer, Cottage Hospital, Chiplun, for treatment and for submission of medical certificates at the earliest possible time. The eight persons who had so complained were -

- a) Accused No 10 - Anil Pandurang Medekar, 19 yrs.
- b) Accused No 14 - Supriya Chandrakant Padyal, 29 yrs.
- c) Accused No 25 - Sugandha Vasudev Bhalekar, 19 yrs.
- d) Accused No 29 - Anita Anant

Beradkar, 25 yrs.

- e) Accused No 36 - Sunanda Vasudev Bhalekar, 45 yrs.
- f) Accused No 37 - Sadhana Vithal Bhalekar, 24 yrs.
- g) Accused No 38 - Sangeeta Keshav Bhalekar, 20 yrs.
- h) Accused No 39 - Indira Pandurang Medekar, 40 yrs.

We met the advocates appearing for the anti-Enron activists, Shri Sharad Shinde of Chiplun and Shri Bhav of Ratnagiri. They informed us that a bail application had been moved before the Ratnagiri sessions court and was kept for orders on the 10th of June 1997. They also informed us that as per their knowledge, the medical reports were not yet before the Magistrates' court. We were also told that in other cases of police torture and assault too, no action had been taken against the police despite complaints before the Magistrate. We were also informed that the twenty-six women were in the lock-up situated at Chiplun police station, approximately 65 kms from Veldur while the 13 men were at Guhagar police station lock-up approximately 12 kms from Veldur.

On the 7th of June 1997 in the afternoon, we visited the women in the lock-up at Chiplun. One of them, Aparna Harishchandra Dhabholkar, aged 40 years, was in the hospital at



Ratnagiri as she was an asthmatic. The rest of them, totaling 25 in all, were in this lock-up which measured approximately 150 square feet with one small window on one end at a height of approximately six feet.

At one end of the room was a washing area cum toilet which was covered by a wall of the height of around 3 feet. On the other end of the lock-up, the entire side had steel doors with nets, so that the constable on duty outside for 24 hours could see inside. There was no light or fan, and there was a small bulb outside the lock-up. Upon asking the women if they could all lie down and sleep at night, they replied in the negative. The entire room stank. The wet clothes washed by the women were hanging at the window and the door to dry. They informed us that they were given food twice a day - at 11 am they were served rice, dal and vegetable and at 8 pm rice, dal and pickle. No tea or snacks were given to them.

We also asked them if they had been sent for medical examination. Those who had complained had been sent and were given medicines. Upon talking to the women, we learnt the following - Sadhana Vithal Bhalekar, Accused No 37 who had complained of ill-treatment by the police said that on 3.6.97 at around 6.30 am when

the men of their family were out. She was taking a bath in her house. A male constable whom she said she would recognise had pulled aside the curtain of her bathroom and instructed another male constable to break open the door of her bathroom, which he did. She was dragged out while she was struggling to dress up, and was thrown on the road. She showed us bruises on her hand. Upon being brought to the lock-up, the police personnel kicked the three month pregnant Sadhana on the stomach.

Indira Pandurang Medekar (Accused No 39) and Supriya Chandrakant Padyal (Accused No 14) both sisters, had been visiting their brother, Sadhana's husband, from Mumbai. They were sleeping on the loft when the police who had entered and picked up Sadhana, pulled them from the loft and beat them. Supriya had a bruise on her right arm where she was hit with a stick and Indira had an abrasion on her right knee where she was hit.

Sugandha Vasudev Bhalekar (Accused No 25) was hit on her back with a stick which broke. Sugandha's age on the Remand application was 19 years but looked much younger. On inquiring her age, she turned out to





be 16 years old and hence a 'juvenile'. The police nor the court had inquired her age, and she was in illegal detention.

We discovered that two other minors apart from Sugandha were in the lock-up. They were Vanita Manek Patekar (Accused No 27) whose age in the Remand Application was given as 20 years. Vanita had just completed her 10th standard.

Moreover she and her sister, Sanita Manek Patekar (Accused No 16) had gone to Ratnagiri for a holiday and had arrived the previous night.

Another minor was Rekha Kishore Padyal (Accused No 30) whose age in the remand application was mentioned as 19 years, but was 15 years old. No enquiry into their age or that of anyone else was made by either the police or the Magistrate.

Sunanda Vasudev Mayekar (Accused No 36): Sugandha's mother had an abrasion on her leg where she was beaten and lacerations on her arms where her bangles had broken.

Anita Anant Boradkar (Accused No 29) was hit on her left elbow.

Sangeeta Keshav Bhalekar (Accused No 37) was hit on her neck with a stick. Her bangles also broke. Her two years old child was left at home.

Shoba Shankar Patekar (Accused No

15) whose complaint was not before the Magistrate stated that she had been sleeping when the police entered her house, picked her up from the cot, threw her on the floor and instructed a women constable to drag her out of her home, hitting her all the time.

Another woman Pragnya Pramod Padyal (Accused No 22) had got married ten days back in Mumbai and had come to husband's house in Veldur the previous night to attend a *pooja*. The police broke open her door, found her there and took her away without any questions or inquiry.

The next day we went to Veldur and the statements of these women were confirmed by the villagers. We were shown the broken doors. The Police began the witch-hunt from Sadhana Bhalekar's house and proceeded from house to house on 3.6.'97 and picked up women from their sleep, toilets, bathrooms, hitting everyone, dragging whoever they could to the 6-7 police vans parked around, without verifying whether in fact they had anything to do with the alleged incident or not. The entire village was surrounded by the police belonging to Guhagar police station. None from the State Reserve Police was there. We visited the house of Rajeshree Sitaram Dhabolkar, aged



19 years (Accused No 26) who had been sleeping on the loft. The police broke open the door, which was still lying on the floor, dragged her by her legs and took her away. Her sister who also spoke to us, said that she managed to escape with a bruised foot and torn clothes. We visited the house of Shubhangi Bhikaji Kasekar (Accused No 32) whose four children were left behind at home aged from 2 years to 8 years. We also visited the house of Dhanashri Janardhan Padyal, whose family comprises of two small children, a blind husband and a blind mother-in-law. We also spoke to Jayshree Mahadeo Patil who was an eye-witness to the incidents which occurred both on 2.6.97 and 3.6.97. She stated that on 2.6.97, a group of Enron workers came in the evening to go home, and were informed by some villagers to go to their village, directly by launch the way they normally do, and not pass by Veldur as the people here are opposed to Enron. On hearing this, the workers returned to Dabhol and returned in a large number with SRP platoon posted at the company premises and an altercation took place and many persons sustained injuries. One Sakham Patekar was beaten up by the SRP and had injury marks on his neck where he had been hit by a police man with his stick. Another

Gangaji Kalu Gambhalkar had been beaten by the police and had a deep lacerated wound on his left arm and his left hand was swollen. They had not gone in for any kind of medical treatment and had been undertaking home remedies as they were too scared of the police to venture out. They were examined by the medico in our team. A woman who was almost 9 months pregnant had been beaten up. Jayshree stated that she was also beaten up when she went to save a woman from being beaten. The police hit her on her neck with a stick. No complaint was lodged by the villagers. The SRP eventually left. The next morning at around 5.30 am six or seven vans filled with male and female police force arrived from Guhagar police station, and surrounded the village. Veldur has no policemen stationed there, as the crime rate there is non-existent. The scenic village is situated at the seashore and all the villagers are mostly fisher folk who are opposing the Enron project as they will lose both land and livelihood. The police battalion which arrived made systematic rounds to all the houses, breaking doors and pulling people out. Most of the men had left to catch fish and women were beaten and taken. In Sadhana Bhalekar's house, we saw her brother-in-law who is mentally handicapped, mute





and polio-inflicted, was lying in the passage outside the bathroom. He had been beaten up by the police when the women were dragged away. Those who were with children were left. Jayshree told us that she had her grandchild with her and refused to leave him behind as his mother was dead, so the police let her of. Some four women were dragged out and taken to the police station where their family members went and got them released as they were working for Enron. Two of these women were Anandi Padyal and Mali Padyal. We met Anandi Padyal who admitted to being beaten up by the police. Since the 3rd, the SRP has been coming to Veldur everyday.

The following facts emerged from our discussions with the people:

1. The police picked up people at random not with a view to arrest the accused, who were alleged to have committed the said offence but with a vindictive motive to punish the entire village for their stand against Enron.
2. The police targeted mainly women, some of whom were minors and the arrests were made violently, in violation of the legal, constitutional and humanitarian principles.
3. The women were lodged in inhuman conditions in the lock-up. An application was moved before the Magistrate stating that facilities given to the detainees were inadequate. The Magistrate called for a report from the sub-jailor.
4. The Magistrate has initiated no enquiry or action into the allegations of police torture made by the women.
5. No investigation had been conducted by the police in furtherance with the C R registered. Instead the police seemed to be using the FIR which had not named any accused as a Damoclean sword hanging on the head of the villagers, any of whom could at any moment be arrested for the same.

MUMBAI

16th June, 1997

Sd by *Dr Mirajkar* and
Monica Sakhrani

* * *



SAY "YES" TO ENRON: Police Coercion and Popular Resistance

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A CPDR Report

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July 4, 1997

Preface

Over the past six months or so Guhagar *taluka* in Ratnagiri district of the Konkan has increasingly become the site of a resolute struggle for the people directly affected by the proposed power project of the US-based multinational gas contractor-The Enron Corporation. The present phase of the struggle can be traced back to the massive morcha numbering around 10,000 outside the Main Gate at the project site on January 30, 1997. The police too acknowledge this incident as a turning point in the 4 year long struggle against what has increasingly come to be characterised as the 'Enron Policy' of the Indian State. The perceptible momentum that the struggle has acquired over the past six months is all the more remarkable for the continued emphasis on constitutional and non-

violent means of protest adopted by the agitationists. This has however not stopped the police from branding the struggle 'increasingly violent'. Consequently the people of Guhagar *taluka* have been reporting an increase in the number of instances of police excesses including arbitrary and unreasonable use of prohibition laws; ill-treatment in police jails and lock-ups; willful harassment of the activists and physical abuse of the agitationists. The latest in a series of police excesses were the incidents spread over June 2-3 of this year. This resulted in the arrest and subsequent police custody of 26 women and 13 men of Veldur village in Guhagar *taluka* on charges of, among others, attempt to murder. This charge under section 307 is punishable with sentences upto life imprisonment, is non-bailable and is triable only at the Sessions court which is in Ratnagiri town, about 100 kms. away. The accused are mostly women (26) and even going by the list attached to the FIR filed by the police, 20 of whom are under 25 years of age. Most of them are first-time offenders. The Committee for the Protection of Democratic Rights (CPDR) constituted a three member team including Mahesh Gavaskar, George Jose and Sakharam Sathe to inquire into this incident and other allegations of police brutality in





Guhagar *taluka*. The team was in Guhagar from June 21-23. This is their report. July 4, 1997 Mumbai.

Crackdown at dawn

On June 3, 1997 at about 5.30 a.m. the Guhagar police arrested 26 women and 13 men from Veldur village. A case under *Sections 307, 147, 148, 149, 341, 353, 332, 336, 337, 427, 151 and 152* of the *IPC* was registered against them on the basis of an FIR registered by PSI Waman Pashte of the State Reserve Police (C R No 47/97). The offences registered by the police relate to attempt to murder, rioting with deadly weapons, causing hurt to deter a public servant from his duty, causing hurt by doing acts which endanger human life and damaging property to the amount of rupees fifty or above. A police document dated June 19, charges 200-250 men- women from Veldur village for the offence and specifies arresting 39 of them. The genesis of this incident can be traced back to the on-going agitation launched by the anti-Enron Front since April 28 wherein a band of satyagrahis regularly marched to the project site to register their protest against the Dabhol Power Project (DPC) being constructed by Bechtel and owned jointly by the Enron, Bechtel and General Electric. On May 15, under the leadership of

Medha Patkar and Professor Sadanand Pawar 450 people, including around 300 women, gathered outside the main gate of the DPC. The police and SRP personnel stationed at the project site lathi-charged and dragged women protesters by their hair into waiting police vans. Many women protesters also reported that they were roughed up and manhandled by the police and their dresses and sarees were torn in the process. The protestors were arrested and remanded to magisterial custody till May 19. Later they were shifted to Yerawada jail, Pune, where they were kept for 4 days. On the May 16 Mrinal Gore alongwith 30 satyagrahis were arrested when they agitated outside Guhagar police station against the high-handedness of the police the previous day. The fisherfolk of Veldur village resolved on May 17 to prevent the workers of the DPC from using their jetty. The DPC had commissioned a jetty for their exclusive use a 100 metres away from the Veldur jetty. [Various organisations have in fact repeatedly pointed out that, "Not only is this construction activity a gross violation of the Coastal Regulation Zone notification but it also poses a threat to the livelihood of hundreds of fishing families in the area. In fact, the site of the fuel jetty at Konvel (one of the two jetties being



constructed by the DPC) is reputed to be one of the best sites for natural shrimp fishing. The jetty in the Dabhol creek is to be encompassed within the all-weather port of Anjanvel. The workers however had continued to use the village jetty for their personal transport. From May 17 the workers were forced to use the Company jetty. On June 2 the workers had as usual reached their work-site through the DPC jetty. However in the evening, say the police sources, the rough sea made the company jetty unfit for use. (The Veldur fisherfolk assert that no such change had taken place in the sea and workers coming to the village jetty was primarily an act of provocation.) On approaching the Veldur jetty the DPC workers who numbered about 100 (250 say the villagers) were stopped by 25-odd villagers (200-250 according to the police sources) mostly girls in the age group 15-20 years. The total police force at this time was 11 including 2 woman police constables. The villagers claim that the DPC workers were hurling threats ("Come to Dabhol and we will teach you a lesson") even as the police were backing the workers and egging them on ("Use the jetty. Let's see who will stop you"). At this point one of the police women attacked the girls, and hit the 19 year old Sugandha Vasudev Bhalekar on her

knuckles. A scuffle ensued between the villagers and the police women, in which the sari of Woman Police Constable No 826 R P Nachankar got dishevelled. According to the police sources, Nachankar was completely stripped of her sari even as the villagers began stone-pelting the police. It was under such circumstances, claim the police sources, that PSI Waman Janu Pashte ordered police constable V N Sutar to open fire. Consequently one round was fired in the air. The entire incident according to the FIR filed by the police occurred between 6.45 pm and 7.45 pm. The FIR also mentions that PSI Pashte received an injury on his right eyebrow because of stone-throwing and his left buttock was scratched by a villager wielding a sharp object. Interestingly, besides the villagers, even the police sources denied that WPC Nachankar, as reported in the press, was thrown in the sea. In fact, Sadhana Bhalekar said that when Nachankar's sari got dishevelled, a girl named Rekha Patekar began wrapping it around Nachankar but she too received a stick. When we asked ASP Satoshe about Nachankar's whereabouts, we were informed that she was temporarily transferred out from the *taluka* and was undergoing treatment at the Ratnagiri civil hospital as an out-patient. Following this incident





the police retreated and immediately reported to Guhagar police station. Later the same night at around 11.30 pm Ambaji Dabholkar, a well-off Veldur fisherman who used to rent his jeep to the DPC before the agitation began, received a phone-call from Guhagar police station enquiring about the whereabouts of Waman Patekar and Vijay Patil - local level leaders of the agitation in Veldur village. At 12 midnight the police came to the village, this time with ASP P.G. Satoshe in charge. They claim to have seen a number of people in Waman Patekar's house. The police then met Ambaji Dabholkar and threateningly told him that they are going to pick up Patekar and Patil in the morning, and that he (Dabholkar) shouldn't intervene. (This threat, besides the fact that fisherfolk leave their houses at pre-dawn for fishing, also appears to be one of the reasons why the police were unsuccessful in arresting most of the men on the morning of June 3.) The police left the village at about 12.30 am in the night.

That morning (June 3) at about 5.30 am, 8 vans of the State Reserve Police (SRP) and 3 jeeps of Guhagar police together numbering 135 including 8 women police constables surrounded the village and in groups of 10 each dispersed throughout the

village. The first victim of that day's police excesses was Sugandha Vasudev Bhalekar as she was returning having answered nature's call. The stick with which she was beaten, broke into two. Manisha Patekar, along with her two school-going daughters, was caught hold of as she was brushing her teeth. The most brutal treatment was meted out to Sadhana Bhalekar (24 yrs) and her family members. Sadhana is the wife of Vithal alias Baba Bhalekar, one of the leaders of anti-Enron agitation. Sadhana, three-months pregnant, was specifically targeted by the police with two male constables breaking open the window and the door of the bathroom while she was having her bath. Not only were her two small children aged 8 and 6, thrust aside forcefully by the police, but they also hit her polio-stricken and severely mentally ill brother-in-law Pradeep Dattatreya Bhalekar, on their way out. Sadhana alleged that P G Satoshe pointing her out to women constables remarked, "This is Baba Bhalekar's wife, bang her head on the road", which the women constables did twice, once hitting her against the floor and then on the street. Two sisters-in-laws of Sadhana, Indira Pandurang Madekar (40 yrs) and Supriya Chandrakant Padyal (29 yrs) who just arrived the previous day from Mumbai, too were



dragged out of their sleep, while Anil Madekar (18 yrs), son of Indra Madekar, was hit on his knee. Ambaji Dabholkar recalled that the police were beating and dragging the villagers like cattle, and two daughters (15-18 yrs) of Viju Dabholkar were so harshly beaten up that they urinated. Women suffering from health problems and not part of the previous day incident, were also rounded up. Aparna Harishchandra Dabholkar, an asthma patient and who recently underwent a kidney operation, was picked up from a loft at the point of a rifle. Later, on taking ill, she had to be transferred to Ratnagiri civil hospital. Shobha Shankar Patekar too fell ill in the prison. Among the other arrested were Chandrakant Lavande of Jaigarh who had decided to spend the night at Ramesh Bhalekar's place in Veldur because his boat was anchored there and Ramesh Padyal along with his 14 year old son Bhalchandra Padyal. Altogether 30 women were arrested, of which four were released at Guhagar. The remaining 26 were first taken to Guhagar police station and were later huddled for 9 days into a cell meant at the most for 4-5 inmates in the Chiplun police lock-up. Later they were shifted to Yerawada jail before being released on a bail of Rs 1,000 each. The 13 arrested men were kept

in Guhagar police station throughout their police custody and later, were shifted to Yerawada jail, before being released on bail.

On enquiring into the bases on which the police released four of the women at Guhagar police station itself, different reasons were forwarded. The villagers alleged that family members of the arrested women went to Guhagar police station and were able to secure their release on the ground that they were working for Enron. When questioned, Anandi Padyal, one of the released women, denied this and said that since she fell ill and had vertigo, the police released her. ASP Satoshe clarified that the police released the four women because they realised that these four were not part of the "mob that attacked the police the previous evening". (It might not be out of place to point out that the police themselves had earlier claimed that the mob, mostly women, numbered around 250! The police must definitely possess a razor-sharp memory to recollect that precisely these four women were not part of the mob of 250!)

The police charge sheet not only accuses the arrested with the 'offences' committed on June 2 but also of May 17 when there was a huge turn-out in front of the Main





Gate of DPC. Evidently the police who seem to be reduced to utter helplessness and consequent frustration whenever agitationists have assembled in massive numbers, use isolated incidents like the Veldur one to slap charges against the agitationists for 'earlier' 'offences'.

Moreover, though the villagers claim that most of the people involved in the skirmish on the evening of June 2 were girls between 15-18 years of age, not a single person in the list of the arrested attached by ASP Satoshe to his report (No 2046/97 dt June 6 97) to the judicial magistrate is noted to be below 18 years old. The villagers registered a compliant to the judicial magistrate (Guhagar police register No 47/97) accusing the police of deliberately falsifying the age of the arrested girls to prevent them from being released on the grounds of being juvenile offenders. Vanita Manik Patekar (accused No 16) is mentioned to be 19 years of age when her actual age is 16 years, while Rekha Kisan Padyal (accused No 30) and Malini Dattaram Padyal (accused No 35) both aged 15 years, have been shown to be 19 years old.

The degree of physical force used by the police in the morning of June 3 was something that the village women were totally unprepared for. The police evidently used the pre-

dawn crackdown as a retribution for the previous day's incidents. Their inability to seek out, locate and arrest the "main instigators" of the incidents of the previous evening, including Waman Patekar and Vijay Patil, made them all the more revengeful and brutal. As Baba Bhalekar remarked, "If the village women could be charged under Sec 307 [attempt to murder] for disheveling the saree of a WPC, what should the police personnel who carried out the search on June 3 be charged with?"

As noted earlier many of the arrested were young girls with no previous police records. Although the experience of being transported first to Chiplun police lock-up, then to Yerawada jail and finally to the Ratnagiri Sessions Court must have been quite traumatic, the girls we met seemed to manifest a strong resolve and a quiet confidence in their ability to face up to such inhuman treatment.

Dealing with the agitation

Local people have been resisting the Dabhol Power Company (DPC) ever since its inception. When the officials of Maharashtra Industrial Development Corporation (MIDC) began their survey of land for the DPC without seeking permission of local gram panchayats, people protested, and for the first time 189



persons (144 men and 44 women) were arrested on October 29, 1994. Later, on two occasions in the first week of November 233 and 105 persons respectively were arrested, which included the present MLA of the region, Vinay Natu. In those days the *Bharatiya Janata Party* (BJP) pledged support for the anti-Enron agitation and made it a rallying point against the Sharad Pawar government. This was the eve of the assembly elections. Shiv Sena MP Anantrao Gite and Shiv Sena *taluka* pramukh Dilip Gadade were active participants in Natu's campaign against the Enron then. On March 6, 1995 in the one month interval period between the assembly elections and its result being declared-present deputy chief minister of the state, Gopinath Munde, had specifically come down to Anjanvel to felicitate Hamid Chougule whose acres of land were acquired by the DPC, and assured that his (SS-BJP) government, if elected, would return Chougule's plantation. But since then, after the elaborate scrapping of the project and its farcical revival after 'renegotiation', Munde has yet to arrive in Guhagar.

Though the BJP betrayed the trust of the people, local residents kept up their resistance through other means.

The judgement given by B P Saraf and M A Rane of the Bombay high court on December 2, 1996 on the CITU petition went against the petitioners. The recent order of May 3, 1997 passed by the three member bench headed by Chief Justice Verma of Supreme Court on the Special Leave Petition filed by the CITU appears to hold little promise. Meanwhile, the work of the project which had come to a standstill between August 1995 and December 1996, has picked up. Simultaneously, the resistance instead petering off, gained momentum with noted environmentalist Medha Patkar taking up the issue. The satyagraha of January 30 1997, in which over 5,000 participated, became a major turning point in the history of the agitation. The agitationists agree that the protest grew 'militant' since January 30 as was evident from the widening of the base of the agitation and the increasing repression unleashed by the police. More and more villagers are getting drawn into the agitation. On May 17, even in the absence of Medha Patkar, a morcha of around 3,000 from neighbouring villages marched on to the main gate of the site. Parents are proud of their girls for participating in the agitation, arguing that what they (girls) are doing is for the good of the people. Pramod Devkar of Aarey village





categorically stated, "They (the police) may remove one Medha Patkar, there are thousand Medha Patkars to take her place".

Though, as Jagannath Vishram Devkar of the same village said, "Medhatai never once told to indulge in violent act", the police have found the agitation since January 30 taking a decisively "violent" turn. The police force in Guhagar police station before January 30 incident was 36 men police, with four vacancies. Since then additional 8 women police have been posted since there is a large scale participation of women in the agitation. ASP Satoshe had asked for permanent deployment of 180 police (100 SRP + 80 PCs) which has not been fully granted. More importantly, the DPC recommended the Government of Maharashtra (GoM) to station a police patrol specifically for the express purpose of preventing impediments to the construction work at the site. Accordingly, one battalion of SRP (100 police) with two PSI in charge has been stationed within the precincts of the DPC. The company is footing their expenses directly to the GoM on monthly basis. The GoM has fixed rates according to the designation for employing the service of the police force. The rate of police constables is Rs 125 per day per

police. The ASP appeared keen to communicate the fact that the police force was also contributing its mite in raising the revenue for the State!

Besides beefing up its strength, the police resorted to other methods of harassing the agitationists. They started sending notices under *Section 149 of the CrPC (Criminal Procedure Code)* to numerous villagers, irrespective of whether they were involved in the agitation, falsely charging them with campaigning for the agitation.

Furthermore, the police would ask the villagers to report at the police station by a particular date, failing which they would be arrested. On coming to the station, these villagers were asked to sign a personal bond, by the Tehsildar, to the effect that they would strictly dissociate from the on going agitation. Villagers who had never seen the police station nor even once visited it, panicked.

Guhagar *taluka* has only one police station at the *taluka* proper, with no out-post. Villagers, if charged under such "chapter cases" (as they are popularly referred to), which can later form the basis for preventive arrests have to travel all the way to Guhagar police station at the *taluka* place.

This distance, and the threatening image of the police station, has till now prevented villagers from coming



out forthrightly.

Interestingly, as ASP Satoshe informed us, neither the DPC, the state administration nor the MIDC has filed a complaint, against the villagers, with the police. Only once, in February '97 when the pipes supplying water to the site were broken by Aarey villagers that the company lodged a complaint at the station. On February 22, Vinayak Sahadev Padwal, among others, was arrested for the 'crime'. But whenever the agitationists have ventured to report to the police station, the police have shown reluctance to co-operate. Firstly, their charges are not taken down, allege the agitationists, and if taken, no police action is initiated.

- Adinath Rajaram Kaljunker, a resident of Aarey village, filed a complaint in the station against four people from Varcha Pat, Guhagar, who at 10 at night on February 18 threatened to finish him off. The police entered it as a non-cognizable offence and took no action.
- Just a day before the satyagraha of January 30 a rumour was spread that there would be police firing next day. A local delegation of samiti members and villagers went to the police station on January 29 with a complaint demanding an

inquiry of the person spreading such a rumour. Instead, the police arrested all of them. In fact, in a meeting with the district collector and the district superintendent of police on the that very day in the morning, Sadanand Pawar had informed that he has been a personal witness to the deputy superintendent of police, Patankar, dissuading the villagers from participating in the agitation on the grounds of a possible police firing. The district collector in reply had agreed to take action against persons found to be spreading rumours henceforth.

- On November 22, 1996, Sushant Sudhakar Bhatkar filed a complaint in the Guhagar police station against Sandesh Pundalik Kalgutkar, a local contractor for the DPC and brother of ASP Kalgutkar, for assaulting him, Dilip Sakharam Misal and Anil Narayan Dhamnaskar on November 11 in Veldur with sword and causing injury to two fingers of his right hand. No police action has yet been taken.
- A case registered against a migrant labourer working at the DPC for attempting to rape a girl named Sangeeta Dhopat in afternoon of January 17 in Gharatwadi, Veldur, awaits action. The girl has given





statement that she will identify the person if produced before her. Bhau Khare, the Ratnagiri district general secretary of Swadeshi Jagaran Manch, alleged that the police took down a completely different account than the one narrated by the girl. Later, when this was brought to notice, the police agreed to change it but haven't done it so far, says Khare. ASP Satoshe informed that the police is in search of the person and has received information that the description of culprit's facial features match the description mentioned in a case of robbery at another police station. So, concluded Satoshe, that the culprit must be a robber moving about the *taluka*.

Secondly, the police has been implicating villagers in false cases, making the accused shuttle between their village and Guhagar-Chiplun to get acquitted.

- On June 6 one jeep and one van arrived in Borbatlewadi of Anjanvel and rounded up 15 men from the village including four old persons. The police forcibly took their thumb impressions alleging that they were responsible for causing damage to Enron vehicles. The case is now in the court in Chiplun. The accused were later

released on bail after being made to sign a personal bond.

- On the evening of April 1, 1997, around 6 o'clock when *palkhi* procession of the village deity was taken around Katalwadi of Anjanvel, Chandrakant Bane and Ashok Bane, both supporters of Enron and residents of Katalwadi, and also Shiv Sena men, assaulted Hari Devale with swords. When Ashok Ramachandra Padyal ran to rescue Devale, Ashok Bane wounded Padyal's neck and right elbow with the sword. Dilip Bane hit Padyal in the waist and on the knee. Chandrakant Bane smacked Lata Madhukar Pate in her face, and he and his colleagues, Ashok Bait, Dinesh Bait, Sandeep Bagawe, Gorakh Bagawe, Santosh Bhuvad, Hari Kansare, started pelting soda bottles, acid bulbs and stones in the direction of the villagers. The acid bulbs burned saris of Sumitra Sonu Bane and Bhagirati Gangaram Bagawe, while the glasses of soda bottles caused wound in the head of Lakshmi Pandurang Pate. When the villagers approached the police to file the complaint, they were told that already a case has been filed against them for rioting and attempt to murder! The police arrested 23 villagers, 19 men and



four women, and remanded them to Guhagar police custody for three days and later to Ratnagiri magisterial custody for 20 days. The police did arrest four of the assailants on minor charges but released them on bail on the very same day. The villagers informed that after their attack, the assailants sought shelter in the fuel jetty complex being developed by the DPC at Konavali, and that their families were evacuated prior to the incident, indicating that the whole incident was pre-planned.

- The police have impounded a jeep belonging to Manik Patekar of Veldur village for ferrying people illegally. Manik Patekar happens to be leader of the fisherfolk from Veldur vehemently opposing the project. It is obvious that Patekar's jeep must have been plying the agitationists. Hence, the police action of taking Patekar's jeep into their custody smacks of deliberately harassing the agitationists when there are numerous other vehicles transporting passengers between Guhagar and Veldur.
- Two years ago, six Veldur villagers including Baba Bhalekar and Manik Patekar were arrested by the Guhagar police on having received a complaint from Sumati Jadhav, a

panchayat samiti member of the Congress from Tari Bunder, Dhopave, for robbing an necklace and attempting to rape her on her way to the DPC site. Actually, Bhalekar had saved Sumati Jadhav from being beaten by aggressive fisherwomen of Vedlur and had escorted her in Patekar's jeep. Sumati Jadhav, now a contractor at the site, had on November 8, 1994 taken a delegation under the banner of '*Kokan Vikas Manch*' in three luxury buses provided by the DPC under the pretext of meeting the then chief minister Sharad Pawar. In reality, this 300 strong delegation was paraded as 'project- affected' supporters of the DPC before the expert committee of the Ministry of Environment and Forests conducting a public hearing to review the environmental clearances for the project. But the fact of the matter was that none of these so- called project affected persons belonged to the villages whose lands had been acquired for the DPC. Thirdly, the police in a pathetically vain attempt to contain the magnitude of the support the agitation is getting among the locals, are manufacturing stories about how the support base is being recruited. ASP Satoshe disclosed that their 'intelligence





sources' have unearthed the fact that the leaders of the agitation force the villagers to take a collective pledge in temples to participate in the agitation, failing which a villager is charged a fine of Rs 500. Thus the police intends to project the overwhelming support to the agitation as essentially drummed up and not spontaneous. But the villagers have a different story to narrate of police behaviour. The police tell the arrested villagers to say "yes" to Enron. And the villagers defiantly shoot back, "We're about to be ruined. If we do not start an agitation, what should we do? The government does not feed us. We toil for it".

Peddling lies

The Dabhol Samvad (DS) is the official monthly bulletin of the Dabhol Power Company. This bulletin is reasonably freely (needless to add, free of cost, too!) available in Guhagar. Four issues have been published till date. The inaugural issue was in Marathi and was published in February 1997. From the March issue onwards the bulletin has become bilingual with the addition of the English version. May we point out however that this is in fact the inaugural issue of the DS in its second avatar! The DPC had started

publishing the DS back in 1994 but had discontinued it after the so-called 'scrapping' of the project. The 'cover story' in its relaunched "*Shubh-aarambh Ank*" reads like a thanksgiving in response to the Bombay High Court judgement dated December 2, 1996 dismissing the writ petition filed by CITU against the DPC. Additionally, the following pages reproduce photographs among which, in keeping with the spirit of thanksgiving, Vice-President - DPC, Sanjeev Khandekar is shown offering *Satyanarayan* puja in the company premises before restarting work on the project. "Enron has always placed a strong emphasis on social commitment and interest of the community where we set up our plants." (*Vol 1, No 2, p 2*) and the DS is primarily a reportage of the 'social service' projects that Enron has purportedly been involved in. Our enquiries revealed a number of tall claims and false promises. Reiterating Enron's commitment to the "Health for All" slogan of the WHO, the company declared that it had begun a free mobile dispensary service for all the people living within the Enron project area from August 15, 1996. This information was the basis for a report in the February 1997 issue of DS. Curiously, the March '97 issue mentions the "relaunching" of the mobile dispensary. When was it



discontinued and why? Explanations are not forwarded in the Samvad. As for the villagers they are aware neither of its launch; its withdrawal or its relaunching! (The villagers say "If any such dispensary does exist it dare not come here") This issue incidentally also highlights Enron's resolve to work for the good of the local community regardless of the impending High Court ruling on the status of the power project. Furthermore the company also claims to have run a free ambulance service from December 1995 to August 1996, which too we are assured will be relaunched from April 1997. Thus we see the series of 'discontinuities' and 'relaunches' starting with Dabhol Samvad itself. Enron also claims to have pledged, "Rs 5 crore for a 50-bed state-of-the-art community hospital to be built to the highest standards" in Ranvi village by the Apollo Hospitals chain. The utterly cynical and shameless manipulation of a village community's need for basic health services, to sell a five-star hospital culture is deplorable to say the least. The DPC has also reportedly committed a \$500,000 investment tie-up with CARE "the world's largest independent (read US-based NGO) relief and development agency. (*Vol 1, No 2, p 2*) The March 1997 issue also lists Enron's support for local educational

institutions. This includes educational materials worth Rs 5 lakhs for 'local schools'. Additionally the DPC claims credit for the "repair work at Kathalwadi school; and the renovation of Anjanvel school". (*p 1 col 2*) The Group Grampanchayat at Anjanvel in a letter dated May 9, 1997 has refuted this claim in toto. The Group Grampanchayat limit includes Kathalwadi and Anjanvel. Reiterating its total opposition to the DPC the grampanchayat alleges that this is a blatant instance of misinformation directed at confusing the people and diluting the protests against the project. Since a "local contractor" has supposedly "recently completed this work" the grampanchayat demands that the company reveal the details relating to the contractor (reminiscent of Enron's earlier expenditure on "educational costs"!). Urging the state government to initiate an inquiry into this instance of malafide representation and corrupt practises. The grampanchayat also warns the DPC to desist from using its publicity mouthpiece to advertise such blatant lies. The first page of the April 1997 issue of the DS informs us that, "Janghlibaba of Borbatlewadi finally gave us permission for laying our cross-country pipeline near his farm". (*line 1 col 2*) First question that comes to mind is who is this





'Janghlibaba'? In Borbatleywadi there lives a person named Ganu Raghu Jangli, a 70 year old retired mill worker from Mumbai, who refused to part with his land, and when the DPC people started bulldozing his plantation in 1995, it is narrated that his wife ran towards the bulldozer and implored that along with the trees she too be bulldozed. Dattu Dhondur Jangli, a shopkeeper in Borbatleywadi, informed us that even now Ganu Jangli continues to oppose the DPC, and of recent the DPC even cavalierly ignored his plea to leave a corridor providing access to his farm, and instead have fenced entirely the land acquired (read robbed) from him. So 'Janghlibaba' happens to be one more mystification disseminated by the DS so as to leave its readers confused about the real identity of the person. And by suggesting that the company sought Jangli's 'permission', that too much after his land was completely bulldozed by the company is only yet another illustration of Enron's genius for transforming survival issues into legal niceties! "When a new industry comes to an essentially rural area, it needs a workforce with a variety of skills and abilities and usually these are hard to find in the immediate community. In our case we found that the best way would be to empower our community with the

skills that would help them be a part of the power plant's resource pool. With this in mind we are implementing three different training programmes for the PAPs including Gardener Training." The bulletin further informs us that, "the one-year training course has been devised by the *Konkan Krishi Vidyapeeth* at Dapoli." The *Krishi Vidyapeeths* were set up in the mid 1960s to mobilise, "human resources needed for the creation of a new and higher type of rural society. The 'Agricultural University' (was envisaged as) a future focal point of research in agriculture science and agricultural economics" (Education Commission 1964). It is in conjunction with one such University that the Enron Corporation, "has devised an eligibility criteria (which stipulates that) anyone within the ages of 18 to 40 years and knows reading and writing can join the *mali* (gardener) training course"! Needless to add this not only reflects on the unfortunate state of affairs of our *Krishi Vidyapeeths* but also the utter cynicism with which the MNCs views both our 'human resources' and our 'educational institutions'. The April issue of the DS highlights the fact that the Enron Corporation has dug, "bore wells in 12 villages, out of which at six places we have struck water." (p 5) This service was



ostensibly based on the study conducted by Enron's community development team which "discussed the issue with various people (with a view to) contribute to the supply of drinking water to at least some of our neighbours." In actual fact however, a temporary water connection was constructed in Aarey village two years ago for the purposes of initiating the work on the DPC site. However over the 2 years this supply has drastically diminished and on February 7, 1997 a group of hundred villagers stopped the pumps that supplied to Enron. Water supply could be resumed only on February 21 and that too under the protection of a large SRP battalion. Thus far from contributing to solving the drinking problems of the villagers the DPC has been a contributory factor to the increasing water problem in the area.

Conclusions

The police, in our interviews with them, made it a point to stress the increased "militancy" of the agitation. This, ASP Satoshe claims, has forced him to write to the Home Ministry requisitioning additional police personnel. When asked the reasons for this increase in militancy, he promptly replied, "outsider leadership"! On further enquiries he named Medha Patkar as the most

prominent of the 'outside leaders'. The increasing militancy is a "direct result" of the activities of the 'outsider leadership', he asserted.

Up until now the main modes of protest of the agitationists have been 'silent satyagrahas'; 'courting arrest'; 'election boycott'; 'hunger strikes'; 'dharnas'; and filing of PILs and SLPs in the courts. Activities that can hardly be characterised as militant! Moreover, these forms of protest have been recognised as democratic and legitimate. By dubbing this struggle as 'militant' the police seek to justify their condemnable response to the agitation.

Yet another instance of police brutality was the manner in which the *satyagrahis* of the *Konkan Sangharsh Yatra* were arrested at Mangaon on the 29th May 1997. This widely reported incident involved the tearing of clothes and the pulling of hair of the women agitationists including Medha Patkar by the police. A TV journalist Yuvraj Agre had video-shot the incident. Medha later met Prime Minister Gujral in Mumbai. A formal complaint was registered with the NHRC on the 2nd of June 1997.

The NHRC in an unusually prompt move despatched a three-member team to probe this incident. The NHRC team was in the Konkan and





Mumbai between 19 - 21 June. It is pertinent to note however that the complaints against the police will be investigated by NHRC members K K Arora, Rao and Chakravarti, who are themselves serving officers of the police force on deputation to the NHRC! Furthermore the activists got to know about the visit of the NHRC team only a day or so before whereas the police were intimidated much earlier. The police were thus able to line up a number of 'their witnesses' even as the activists were desperately trying to coordinate their witnesses - claimed the agitationists.

* * *

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AFFIDAVIT OF ONE OF THE WOMEN ARRESTED ON JUNE 3.

Translation of Marathi affidavit of Mrs Sadhana Vithal Bhalekar, of village Veldur, dated June 9, 1997 and affirmed before the Judicial Magistrate, Chiplun.

In the Court of the Honorable Judicial Magistrate Class - I
Guhagar Police Report No. 47/97
Government - **Complainant**

versus

Mr Madhukar Gangaram Bhatavkar
and 39 others - **Accused**

Affirm as follows,

I, accused number 37 in the present case, Mrs Sadhana Vithal Bhalekar, age 24, profession housewife, and resident of Veldur, being present in person solemnly affirm today before the court of the Honorable Judicial Magistrate Class-I that on June 3, 1997 at around 5 in the morning when I was in the bathroom, several male police with batons in their hands forcibly entered the house and started beating members of (my) family who were asleep. Two or three policemen came towards the bathroom and started banging on the door with their hands and kicking it. The policemen who were outside the house tore off



the curtain which covered the bathroom window. Being terrified, I told them from inside the bathroom that I was taking a bath and that I would come out after wearing my clothes. I asked them to call for women police in the meantime and to ask them to wait near the door. But without paying any attention to my requests, the policemen forcibly opened the door and dragged me out of the house into the police van parked on the road. (While dragging me) the police kept beating me on my back with batons. The humiliation meted out to the other members of my family was similar to the way I was humiliated.

While I was being taken forcibly out of the house to the police van, my one and a half year old daughter held on to me but the police kicked her away. My sisters-in-law, Mrs Indira Pandurang Medhekar and Mrs Supriya Chandrakant Padyal had come (to their maternal) home. Of these, Supriya Chandrakant Padyal was thrown off the loft on to the ground and was beaten with batons and forced into the van by the police. Indira Pandurang Medhekar too was beaten and forced into the van. The police arrested them in spite of telling them the truth that they were residents of Mumbai and that their seats were reserved for returning to

Mumbai by the Dabhol-Mumbai bus on 8 June. Money spent on reservation of their tickets has gone waste.

From 3 June to 9 June twenty six women including myself were kept in police custody at the Chiplun police station. No proper facility is available there. It was difficult to even breathe in the cell. Three or four women were suffering due to lack of any medical aid. All this has caused me immense agony and I am mentally disturbed.

Sd/- Mrs Sadhana Vithal Bhalekar
Identified by Advocate S B Shinde
Solemnly affirmed before
Asst Supdt.
Civil JMFC Court
Chiplun
On 9.6.97





The "Enron Project" In Maharashtra: PROTESTS SUPPRESSED IN THE NAME OF DEVELOPMENT

Amnesty International, July 1997

Summary

AI INDEX: ASA 20/31/97

DISTR: SC/CO

Summary

Amnesty International believes that the right of individuals to peacefully protest against the construction of a power plant by the Dabhol Power Company (DPC) in the Ratnagiri district of Maharashtra is being curtailed. The DPC is a joint venture between three US-based multinational corporations.

In recent months protestors and activists, many of them women, have been subjected to harassment, arbitrary arrest, preventive detention under common criminal law and ill-treatment. Human rights defenders organising the protests have been targeted and their freedom of movement has been curtailed.

Amnesty International is calling on the Government of India and the Government of Maharashtra to ensure the right of human rights defenders throughout India to peacefully protest without fear of ill-treatment, arbitrary arrest,

preventive detention or other forms of harassment. The organization is also calling on the three multinational corporations to ensure that any security staff subcontracted to, seconded to or employed by the company, are trained in human rights and are fully accountable for their actions.

This report summarizes a 17-page document: INDIA The "Enron project" in Maharashtra: protests suppressed in the name of development issued by Amnesty International in July 1997.

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INDIA

Amnesty International is concerned about the suppression by state authorities in Maharashtra of peaceful protests against the construction of a power plant by the Dabhol Power Company. The DPC is a joint venture between three US based multinational corporations. The project has met with opposition from local people and activists from elsewhere in India on the grounds of its social, economic and environmental impact, as well as political controversy around its inception.

Reports from the Ratnagiri district of

Maharashtra detail a succession of incidents which have occurred in recent months in which protestors and activists have been subjected to harassment, arbitrary arrest, preventive detention under the ordinary criminal law, and ill-treatment. Amnesty International considers those who have been subjected to arrest and temporary periods of imprisonment as a result of undertaking peaceful protest to be prisoners of conscience, imprisoned solely for exercising their right to freedom of expression.

A fact-finding team of the All India Peoples Resistance Forum (AIPRF), headed by Justice S M Daud, a former judge of the Bombay High Court, examined police harassment of villagers protesting against the DPC, known as the "Enron project". Its findings have highlighted the human rights concerns surrounding the construction of the project. The team found that:

"In the name of maintaining law and order they (police) have... prevented all forms of peaceful and democratic protest, used force and violence while dealing with all forms of non-violent protest, and resorted to a number of other subtle methods of harassment of the agitators".

Women, who have been at the forefront of local agitation, appear to have been a particular target. A People's Union for Civil Liberties (PUCL) fact-finding

team that investigated the arrest of 26 women and 13 men on 3 June, 1997, concluded:

"The police targeted mainly women, some of whom were minors and the arrests were made violently, in violation of the legal, constitutional and humanitarian principles"

A battalion of the State Reserve Police, stationed on the site of the power plant, the local police and company security guards have all been implicated in the violations. Amnesty International is concerned at the collusion of the police with those supporting the construction of the project, which has increased the vulnerability of the protestors to human rights violations.

In a report released on 4 July 1997 by the *Committee for the Protection of Democratic Rights* (CPDR) noted the increase in violations by the police reported by the villagers despite "the continued emphasis on constitutional and non-violent means of protest".

The Government of Maharashtra's response to the protests is in contravention of *Article 19(1)* of India's Constitution, which guarantees freedom of speech, assembly and movement, and also of the international standards to which India is a party.

Activists challenging the project on grounds of its impact on economic and social rights, have been singled out in





an effort to thwart organised opposition to the project. Amnesty International has received similar reports in recent years from the sites of other protests against industrial and development projects in India — such as the development of the Narmada river, where protestors have been arbitrarily detained, raped and ill-treated over a number of years. This pattern highlights the degree to which the central and state authorities in India are prepared to deploy state force and utilise provisions of the law in the interests of development projects, curtailing the rights of freedom of association, expression and assembly.

India's moves to liberalise its economy and develop new industries and infrastructure have in many areas marginalised and displaced communities and contributed to further violations of their human rights. In the interest of foreign investment and to expedite particular projects, India's authorities have resorted to repressive measures. Attacks on economic and social rights activists underline the interdependence and indivisibility of all human rights — the material interests of dispossessed and disadvantaged groups cannot be defended and advanced without the enjoyment of complementary civil and political freedoms to do so.

Amnesty International is calling on the Government of India and the Govern-

ment of Maharashtra to ensure the right of human rights defenders throughout India to peacefully protest without fear of ill-treatment, arbitrary arrest, preventive detention or other forms of harassment. In particular, the organization is calling for a review of legislation which limits the rights to freedom of expression and peaceful assembly, for a full investigation into the reported violations and to ensure that the perpetrators are brought to justice

Amnesty International is also calling on the three US-based multinational corporations participating in the joint venture agreement to publicly state their policy on human rights; to ensure the training of their managers and staff reflects the rights set out in the Universal Declaration of Human Rights; to publicly urge a full and impartial investigation into all reported human rights violations, and urge that the perpetrators be brought to justice. In addition, the three corporations are urged to establish strict guidelines for all security personnel subcontracted by, seconded to or employed by the DPC, to ensure their training reflects international human rights standards, and to ensure they are fully accountable.

I Background to the protests

In June 1992, the Government of Maharashtra signed a memorandum of understanding with Enron to build a



natural gas based power station in the Guhagar sub-division of the Ratnagiri coastal district of Maharashtra. The Dabhol Power Company — a joint venture between three US-based multinational corporations, Enron (with an 80% share), General Electric Corporation (10%) and Bechtel Enterprises Incorporated (10%) - was the first wholly private power project to be agreed in India.

In December 1993, a power purchase agreement was agreed between the DPC and the Maharashtra State Electricity Board for the purchase of the electricity generated by the project. Land for the site was acquired by the Maharashtra Industrial Development Corporation using power under the *Maharashtra Industrial Development Act, 1962*, which, under *Section 32*, effectively limits the need to take into account the views of the local population and allows for the use of force to take possession of land if a person refuses to give it up.

The project was agreed as a consequence of the changes in Indian governmental policy relating to foreign investment, begun in 1991. Opposition to the policy of economic liberalization and to the resulting prospect of globalization of the Indian economy has underpinned many of the critiques that have been raised.

Specific criticisms of the project have

focussed on a number of concerns: the high cost of the power which is to be purchased by the state government; allegations of corruption surrounding the setting up of the project; concerns about the procedure used for the granting of official clearance for the project, including the lack of consultation of affected people and the inadequate environmental impact assessment; land acquisition leading to displacement of local people; the allocation and distribution of compensation for those displaced; environmental destruction. A number of public interest legal challenges to the project have been mounted both in the Maharashtra High Court and the Supreme Court of India, concerning various aspects of the project and its approval.

It was in this context that the Bharatiya Janata Party (BJP), in its campaign for the state assembly elections in February 1995, made a commitment to cancel the project. On election, they undertook to review the project, however no formal moves appear to have been made to close it down. By November 1995, the BJP state government announced that it would re-negotiate the project with the DPC. Meanwhile, construction has continued, albeit at a slow pace, partly due to local opposition.

Several non-governmental organiza-





tions have been formed to oppose the Enron project in Maharashtra, including the *Guhagar Taluka Enron Vaa Salagna Prakalp Virodhi Sangharsh Samiti* (Guhagar District Peoples' Forum for Opposing Enron and Other Related Projects, hereafter Sangharsh Samiti) and the *Enron Virodhi Sangharsh Samiti* (Organisation to Oppose Enron). These are made up of affected villagers, social and environmental activists and lawyers.

Hundreds of activists from throughout India have expressed support for the anti-Enron protests launched within the state. Many have travelled to the affected villages and been arrested during protests — amongst these have been activists of the National Alliance of People's Movements (NAPM), the *Narmada Bachao Andolan* (Movement to Save the Narmada), the *Samajwadi Jan Parishad* (Socialist People's Conference), the *Bargi Bandh Vistapit Sangathana* (Bargi Dam Displaced Peoples Organisation), the *Sarvodaya Vikas Manch* (Organisation for the Complete Development of All People) and the *Konkan Sangharsh Samiti* (Save the Konkan Organisation).

The *satyagrahis* (those involved in non-violent protest, literally "those who insist on truth") have engaged in non-violent civil disobedience, including *morchas* (marches), *dharnas* (sit-ins), a *rasta roko* (road block), hunger

strikes, a *kaam roko* (stop work) and a boycott of the *Zilla Parishad* (District Council) election in March 1997. Allegations of harassment of villagers and protesters by police have been made for several years. Amnesty International has received reports of a incidents over previous years when peaceful protestors have been arbitrarily detained.

According to information received by Amnesty International, DPC has sought to provide security for its property and employees in two ways. Reports indicate that prior to the protest of 30 January 1997, the company sub-contracted private security guards from local security companies, but that following this, security guards have been directly employed by the DPC. In addition, DPC reportedly requested the state government to provide police protection in the aftermath of protests which took place on 30 January.

Following this request, the DPC allegedly entered into a contractual security arrangement with the Government of Maharashtra, and a battalion of 100 State Reserve Police (SRP), which was deployed on the site. Reports indicate that although the SRP personnel continued to be paid by the state government, the DPC paid the state authorities for the additional battalion at a cost of Rs.125 (US\$ 3.50) per day for each police constable.



Reports also indicate that two sub-inspectors in charge of the battalion stationed at the DPC site remained within the chain of command of the state police and worked in tandem with the sub-inspector of Guhagar *taluka* (district sub-division) police station.

Members of this SRP battalion have been implicated in a number of incidents where human rights have been violated in 1997. However, it has not always been possible to determine the identity of the perpetrators — the local police and SRP are reported to wear identical uniforms, only distinguished by the metal shoulder tag which states “MP” (for Maharashtra Police) or “SRP”.

The involvement of the SRP in the harassment of protestors indicates the need for the three US multinationals participating in the joint venture to take steps to ensure that all the management and staff of the DPC, in particular any security staff subcontracted to, seconded to or employed by the company, are trained in human rights and are fully accountable for their actions.

Amnesty International recognises the right of the authorities in India to maintain law and order and protect property. The organization does not condone the actions of protestors which involve the use of violence or damage to property. However, steps must be taken to ensure the right of human rights defenders to peacefully

protest without fear of harassment or violence or the curtailment of that right through arbitrary arrest and detention.

II Arrest and detention of peaceful protesters by police

Over the past few months, notably since December 1996, several hundred protestors have been arrested and temporarily detained by local police. Many of those detained have been women and reports indicate that juveniles were amongst those arrested. A few of these incidents are detailed below.

On 3 June 1997, 26 women and 13 men from Veldur, a fishing village, were arrested by police. They were remanded to police custody by a magistrate for seven days for the purposes of investigation. Several of those arrested stated before the magistrate that they had been ill-treated by police and were sent to a local hospital for treatment. Although medical certificates were requested by the court, these had not been made available by 16 June. However, the PUCL investigative team who interviewed several of the detained women a few days later documented several injuries including bruising, abrasions and lacerations on arms and legs. The SRP was reportedly involved in this incident, along with local police.

These arrests took place early in the morning when police from Guhagar police station forcibly entered the





homes of several women and dragged them into police vans, beating several of them with sticks (*see below*).

The PUCL team that visited the area found that there were three juvenile girls among those detained. Sugandha Vasudev Bhalekar, aged 16, was described as aged 19 on the remand application completed by the police before being placed before the magistrate; similarly Vanita Patekar, aged 15, was described as 20 year of age, and Rekha Padyal, also aged 15 years, was described as a 19 year-old. The raid was conducted early in the morning when most of the men of the village had left to catch fish.

The day before, on 2 June, some villagers — most of whom were women — had attempted to prevent construction workers of the DPC from using a jetty which connects the village to the site of the project. In this instance, reports suggest that the protests had led to a violent confrontation, described in the local press as “a minor skirmish”.

The police made no effort to ensure that those detained were actually those involved in the demonstrations on 2 June. In the case registered against the 39 people arbitrarily detained, charges of attempt to murder and rioting with deadly weapons have been filed by the police.

In addition, 25 of the women detained were also charged under *Section 37(1)* and (3) and *Section 135* of the BPA for having participated in a *dharna* before the main gate of the DPC on 17 May. At least three of the women are residents of Mumbai who were visitors to Veldur on 3 June, and were not present in the area on 17 May. According to reports, the First Information Report which formed the basis for the charges relating to the 17 May protest, and filed before the Magistrate in Chiplun on 3 June, implicates at least 1,000 persons for violating prohibitory orders by congregating before the company site gates. No effort appears to have been made to ascertain whether the 25 women had participated in the *dharna* on 17 May.

On 15 May, during a peaceful sit-in protest at the gates to the site by local project-affected people, 178 villagers were arrested, together with activist Medha Patkar. Those arrested were charged under *Section 37(1)* and (3) and *Section 135* of the BPA and remanded to custody until 19 May. They were then transferred to Yerawada Jail (around 400 km from the protest site). On 20 May they were again produced before the Judicial Magistrate - as they refused personal bonds or bail, they were sentenced to 5 days' imprisonment in Yerawada jail and a further 3 days' imprisonment for non-payment



of a fine of Rs. 50 (\$1.40) per person. The days already spent in custody were deducted from their sentence.

The following day, on 16 May veteran Janata Dal (People's Party) leader and former Amnesty International prisoner of conscience, Mrinal Gore, and 30 others from Maharashtra and Tamil Nadu were arrested for blocking a road for three hours during a peaceful act of civil disobedience in Guhagar town. Those arrested included 22 women — two minor girls from Bombay who had accompanied their grandmothers to the *dharna*, also accompanied them to the lock up and the court, as there was no-one to take charge of their care. They were remanded to judicial custody until 31 May, having been charged again under the *BPA* and *Section 341* of the *IPC* — the women and minor girls were kept in Kalyan jail until their release on bail on 20 May.

On 6 May, 50 volunteers from the *Bargi Bandh Vistapik Sangathan* from Madhya Pradesh were arrested at the gates of the project site for violation of the prohibitory orders. They were charged under *Section 37(1)* and (3) and *Section 135* of the *BPA*. As those arrested declined to give a personal bond, and refused bail, they were sentenced to 5 days imprisonment with an additional 10 days' imprisonment for non-payment of fines.

On 4 May, 11 people belonging to the *Sarvodaya Vikas Manch*, Malegaon, Maharashtra, were arrested at the site gate for violation of the prohibitory orders. They were charged under *Section 37(1)* and (3) and *Section 135* of the *BPA*. As the arrested declined to give a personal bond, and refused bail, they served sentences of 5 days imprisonment and an additional 10 days' imprisonment for non-payment of fines.

On 30 April, 50 members of the *Narmada Bachao Andolan* from Gujarat were arrested at the site for violation of the prohibitory orders. They were charged under *Section 37(1)* and (3) and *Section 135* of the *BPA*. Once again, the arrested declined to give a personal bond, and refused bail, they served sentences of 3 days imprisonment and an additional 10 days' imprisonment for non-payment of fines.

On 28 April, 150 men of the Samajwadi Jan Parishad from the north Indian states of Uttar Pradesh, Bihar, Orissa and West Bengal marched to the Enron project site for a *dharna*. They were arrested for violation of the prohibitory orders and charged under *Section 37(1)* and (3) and *Section 135* of the *BPA*. Again, as the arrested declined to give a personal bond, and refused bail, they served sentences of 5 days imprisonment and another 4 days' imprisonment





for non-payment of fines.

On 28 February, more than 500 villagers from Guhagar, Veldur, Ranvi, Anjavel, Kathalwadi and Pawarsakhari went on a hunger strike at Guhagar police station, to protest against police atrocities. Approximately 225 villagers and activists were arrested for violating prohibitory orders. Those detained included Medha Patkar, leader of the NAPM. Reports suggest that some of those arrested were beaten in custody. All those arrested were released on the same day on personal bonds, on the understanding that they would later furnish bail/surety bonds (*see below*).

That morning, Justice Kolse-Patil, a retired judge of the Bombay High Court who is active in the protests, was arrested together with Mangesh Pawar, President of the Sangharsh Samiti, and General Secretary, Sadanand Pawar. The arrests were made under *Section 151 of the CrPC*, to prevent the three from taking part in the planned hunger strike. Justice Kolse-Patil was later charged under *Section 37(1) and 37(3) of the BPA (see below)* and *Section 341 of the Indian Penal Code (IPC)* (punishment for wrongful constraint). He was released later that day on a personal bond.

Mangesh Pawar and Sadanand Pawar were remanded to judicial custody for ten days. On their release they were ordered not to enter Chiplun and

Guhagar talukas till 31 March (as permitted under *Section 37 of the BPA - see below*), on charges that they were inflaming public passions by spreading false information against the government and asking people to boycott the district council elections. Mangesh Pawar was subsequently served with a show-cause notice on 18 April 1997 prohibiting him from entering Ratnagiri and Raigad districts of Maharashtra for a period of two years. A challenge to this notice is currently being heard by the sub-divisional magistrate in Chiplun.

The arrests of Mangesh Pawar and Sadanand Pawar took place in advance of a one-day hunger strike outside the Guhagar police station, to be carried out by around 500 villagers from the villages of Guhagar, Veldur, Ranvi, Anjanvel, Kathalwadi and Pawarsakhari in protest at human rights violations.

Arrests, by the local police and the SRP seconded to the DPC site, have continued in the past few weeks and activists are concerned that those arrested are being sentenced to steadily increasing periods of detention. The frequent arrests demonstrate the Government of Maharashtra's attempt to suppress dissent, and to prevent a programme of non-violent civil disobedience, which the villagers and activists have pursued on account of their beliefs.



Legal provisions used to harass and detain

Bombay Police Act

Since 6 January 1997 *Section 37(1)* and (3) of the Bombay Police Act has been imposed in Guhagar district. Orders for the imposition of this section have been extended every 15 days since then. The section grants the police — through the Commissioner, and the District Magistrate — powers to prohibit “certain acts for prevention of disorder”. *Section 37(1)* specifies powers to prohibit the:

- carrying of articles capable of being used to cause physical violence (including sticks or *lathis* and stones)

- the “public utterance of cries, singing of songs, playing of music”

- the “delivery of harangues, the use of gestures... and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing which may in the opinion of such authority offend against decency or morality or undermine the security of or tend to overthrow the State”

In addition, *Section 37, Clause (3)* grants powers to prohibit “any assembly or procession whenever and for so long as it considers such prohibition to be necessary for the preservation of the public order”.



These provisions continue to be used

despite the orders of the Bombay High Court, which has held that the right to demonstrate peacefully is protected under *Article 19* of the Constitution of India.

Villagers have also been arrested under *Section 135* of the *BPA* which provides for imprisonment for up to one year and a fine for those disobeying orders made under *Section 37* of the Act.

Amnesty International believes that the imposition of these sections of the Bombay Police Act has been used to suppress peaceful protests in the Guhagar *taluka* of Ratnagiri district, Maharashtra and has led to the temporary imprisonment of hundreds of people whom the organization would consider prisoners of conscience, arrested solely for the peaceful expression of their beliefs.

Code of Criminal Procedure

Several of those arrested in connection with these protests have been arrested under *Section 151* of the *Code of Criminal Procedure (CrPC)*. This section allows police officers to arrest individuals whom they suspect may commit a cognizable offence, without a warrant, and further allows those arrested to be detained for longer than 24 hours by orders of a magistrate.

This provision continues to be used notwithstanding the directives of the Bombay High Court, which has held that *Section 151* should not be used in



the guise of maintenance of law and order or to oppress social action groups.

In another development, since the second week of February 1997, nearly 200 villagers have reportedly been issued with undated and unnumbered warning notices under *Section 149* of the *CrPC* (Police to prevent cognizable offences) accusing them of spreading false information against the government and the company, and warning them that they would be held responsible for any untoward incidents that result in damage to life and property or worsen the law and order situation. The notices were apparently issued as a result of a series of village-level meetings held in Guhagar taluka to mobilise villagers against the project.

International Standards

Article 19 of the *International Covenant on Civil and Political Rights* (ICCPR) delineates the right to freedom of expression, while *Article 21* of the covenant specifies the right of peaceful assembly. Amnesty International believes that both these rights have been curtailed in an effort to suppress the activity of protestors.

The use of preventive detention, sanctioned in India by *Article 22* of the Constitution and by a declaration made at the time of India's ratification of the ICCPR, has had the effect of allowing for human rights violations, and has

meant that *Article 9* of the covenant - the right not to be arbitrarily detained - is not applied in India.

Moreover, the targeting of women is in contravention of *Articles 2(1)* and *3* of the ICCPR and the *Convention on the Elimination of All Forms of Discrimination Against Women* (the Women's Convention), to which India is a party. The arbitrary detention and ill-treatment of juveniles is in contravention of *Article 24* of the ICCPR and the *Convention on the Rights of the Child* (CRC), to which India is also a party.

III Ill-treatment of protesters and villagers by police

The police, including the Special Reserve Police on the site of the company, have routinely used excessive force to suppress the protests and whilst arresting villagers and protestors, and those arrested have been held in conditions amounting to cruel, inhuman and degrading treatment. Some of the incidents are detailed here.

During the arrests that took place on 3 June 1997, after the arrival of 135 police and SRP personnel in the village, a 23 year-old woman in the late stages of pregnancy, Dhanashree Janardhaan Padyal, was beaten. Others who sustained injuries did not seek medical help because of the fear of police



reprisals. Another woman, Sadhana Bhalekar — a 24 year old housewife who was three months pregnant at the time of her arrest on 3 June — testified to the Judicial Magistrate, on 9 June:

“at around 5 in the morning when I was in the bathroom, several male police with batons in their hands forcibly entered the house and started beating members of (my) family who were asleep. Being terrified, I told them from inside the bathroom that I was taking a bath and that I would come out after wearing my clothes. I asked them to call for women police in the meantime and to ask them to wait near the door. But without paying any attention to my requests, the policemen forcibly opened the door and dragged me out of the house into the police van parked on the road. (While dragging me) the police kept beating me on my back with batons. The humiliation meted out to the other members of my family was similar to the way I was humiliated. my one and a half year old daughter held on to me but the police kicked her away.”

Reports indicate that she was targeted for attack by the police because husband, Baba Bhalekar, was a known leader of the protests.

According to a report in a local newspaper, Midday, of 9 June, “the menfolk were away fishing, leaving the women to be slapped and dragged around”.

Both the local police and the SRP were reportedly involved in this incident.

Of the 26 women arrested, 25 were held in one room of 150 square feet with a washing area and toilet at one end and steel mesh at the other, overlooked by a constable. According to the PUCL team who visited the police lock-up on 7 June: “There was no light or fan The entire room stank”. Amnesty International believes that the conditions in the Chiplun police station lock-up amount to cruel, inhuman and degrading treatment.

During the protests which took place on 15 May, the police, including the SRP used excessive force against the protestors:

“The police and SRP personnel stationed at the project site lathi-charged and dragged women protestors by their hair into waiting police vans. Many women protestors also reported that they were roughed up and manhandled by the police and their dresses and *sarees* were torn in the process”

On 21 February, villagers from Pawar-sakhari village protested by *rasta roko* against two state cabinet ministers who were reportedly attempting to by-pass by using an alternative route. A battalion of the SRP arrived and charged at villagers with lathis. Several people were beaten by members of the





battalion and 96 people were detained. On February 17, 1997, a member of the SRP reportedly assaulted Sanjay Pawar, a road maintenance supervisor after he requested a Major of the SRP not to drive past his worksite at high speed. The supervisor, a handicapped youth, reportedly received an injury to his skull. Sanjay Pawar was later arrested on 20 February, and charged under *Sections 341* (punishment for wrongful restraint), *353* (assault or criminal force to deter public servant from discharge of his duty) and *504* (intentional insult with intent to provoke breach of the peace) of the IPC on a charge of attempting to assault an SRP official, which Amnesty International considers to be false.

On 30 January, 1997, over 3000 people gathered to protest in a *dharna* and a *morcha* at the 3 gates of the site of the Enron project. As protestors gathered, police reportedly began pushing protestors and without warning charged them with *lathis*. Several people including 17 women were beaten and several women were forcibly pushed into a police van. Reports suggest that approximately 450 people were arrested and taken to the town of Chiplun, and a total of 679 people were charged under *Sections 37 (1) and (3) and Section 135* of the *Bombay Police Act*. Those arrested were reportedly kept for several hours without food and water,

and finally released in batches on 30 and 31 January.

The previous day, a delegation of seven members of the *Sangharsh Samiti* and two villagers who visited Guhagar taluka police station, were arrested under *Section 151* of the *CrPC*. They had gone to ask the police to take appropriate action "to prevent certain vested interests from creating violence on the following day of the *satyagraha*". The delegation went to the police following a tour of the local police station, in which the Deputy Superintendent of Police allegedly toured the affected villages, threatening that the police would resort to firing if considered necessary, on the day of the planned *dharna*.

International Standards

Amongst the important principles and prerequisites for the humane performance of law enforcement function, the preamble to the UN Code of Conduct for Law Enforcement Officials states "every law enforcement agency should be representative of and responsive and accountable to the community as a whole".

Article 1 of the Code states that "Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts". The code emphasizes the



exceptional nature of the use of force, stating in *Article 3* that force may be used " ...only when strictly necessary and to the extent required for the performance of their duty". Amnesty International is concerned that the practices of security officials in suppressing protest do not reflect the standards set out in the code.

More detailed guidelines are set out in the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* which state that force may only be used in exceptional circumstances, only when strictly necessary if non-violent means remain ineffective, and for the purpose of prevention of crime and effecting or assisting lawful arrest. *Principle 5* states that whenever the lawful use of force and firearms is unavoidable, officers shall:

- a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- b) Minimize damage and injury, and respect and preserve human life

Amnesty International is concerned that the use of force in the context of the Enron protests has not been in proportion to the seriousness of the crime, and that excessive force has been used, in a routine manner. The organization is not aware of injury to any law enforcement official, nor of any medical treatment received by such

an official, in contrast to the pattern of injuries received by the protestors.

Article 7 of the ICCPR, to which India is a signatory, prohibits the use of torture or cruel, inhuman or degrading treatment of punishment. This prohibition is further reinforced by the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which India has made a commitment to ratify.

The targeting of women and children, contravenes the special protections afforded to them in the ICCPR, the Women's Convention and the CRC.

IV Police collusion

The vulnerable position of villagers protesting against the Enron project has been reinforced by the collusion of local police with those promoting the construction of the project. Members of the SRP, seconded to the DPC, have been implicated in human rights violations (*see above*) and on a number of occasions the police have refused to register complaints made by villagers against construction workers and other supporters of the project.

In Kathalwadi on 1 April, four supporters of the project reportedly attacked some of the anti-Enron group with swords, acid and soda bottles. The next day the police officer on duty at the local police station refused to accept the complaint of those attacked





on the grounds that a complaint had already been filed by supporters of the project. As a result of this earlier complaint, 21 men and women from Kathalwadi were arrested by police on charges including "attempt to murder". They were remanded to judicial custody for almost three weeks - 19 were released on 19 April and the remaining two on 22 April.

On 21 March, 1997, Suresh Dewale and Pandurang Durgawali went to the Guhagar police station to lodge a complaint against DPC security guards, who had attacked some buffalo. The officer on duty reportedly refused to accept the complaint unless the complainant changed the description of those accused from the 'company security guards' to 'unknown persons'.

On the evening of 27 February, four *goondas* (ruffians) came to the house of Adinath Kaljunker, a leader of the *Sangharsh Samiti* from Aarey, and threatened to murder him if he continued to oppose the Enron project, as they had taken on-site contracts and would suffer losses. When he phoned the Guhagar police station, the officer refused to send anyone to investigate. The next morning when he went to the police station to file the complaint the officer made a note that the matter had been investigated and was not found to warrant further action - the officer refused to record a complaint.

V RECOMMENDATIONS

Amnesty International urges the Government of India:

to take steps to protect the right of people to peacefully protest as set out in the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights;

to remove the declaration made at the time of ratifying the International Covenant on Civil and Political Rights with respect to preventive detention, and amend article 22 of the Constitution of India;

to uphold its commitment to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, in particular to ensure the protection of women and children from human rights violations;

to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

to allow international human rights monitors, including Amnesty International, free access to all parts of India

Amnesty International urges the Government of India and the Government of Maharashtra:

to review *Sections 37 and 135 of the Bombay Police Act and Sections 149 and 151 of the Code of Criminal*



Procedure which grant powers to prevent legitimate activities protected by Articles 19 and 21 of the International Covenant on Civil and Political Rights, and allow for preventive detention;

to take steps to ensure that police officers are protected from political or other influence and to prevent their collusion with those who wield political, economic and social power, including when security personnel is seconded to private companies;

to establish an effective police complaints mechanism to ensure the impartial consideration of complaints against the police, and to ensure that complainants are protected from reprisals;

to ensure that the standards in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are included in the training programmes for the police in the National Police Academy, the State Training Colleges and State Training Schools.

Amnesty International urges the Government of Maharashtra:

to ensure the right of people to peacefully protest;

to order prompt and impartial investigations into all allegations of ill-

treatment of protesters, and to ensure the perpetrators are brought to justice;

to order a prompt and impartial investigation into allegations that police in the Ratnagiri region have systematically failed to register complaints by villagers.

Amnesty International is calling on the three US-based multinational corporations participating in the Dabhol Power Company:

to adopt and enforce a policy on human rights, and, should such a policy exist, to state it publicly;

to ensure the training of all managers and staff reflects the rights set out in the Universal Declaration of Human Rights;

to maintain regular contact with human rights organizations in India, as well as international organisations, so that views can be shared and concerns can be freely discussed;

to publicly urge a full and impartial investigation into all reported human rights violations, and urge that the perpetrators be brought to justice;

to establish strict guidelines for all security personnel subcontracted by, seconded to or employed by the DPC, to ensure their training reflects international human rights standards, and ensure they are fully accountable.





PRESS CENSORSHIP?

Parisar "Yamuna", I.C.S Colony,
Ganeshkhind Road, Pune 411 007
23 July 1997

To,
Shri Vivek Goenka
Indian Express, Express Towers
Nariman Point, Mumbai

Dear Shri Goenka,

The enclosed news report put out by *Amnesty International* is a shocking exposure of the high handedness of the State Government, the Police and Enron Officials in dealing with the widespread non-violent protests and demonstrations against the Enron Project at Guhagar.

As a member of *Parisar*, an environmental NGO based in Pune I have visited Guhagar and have seen the suppression by the Police (obviously under clear instructions from the State Government) and their nexus with the Enron Company. It is almost as if the police are employed by the Enron corporation and their primary duty is to break the common grass-root opposition to the project. After the Shiv Sena-BJP alliance made a complete somersault on their stand of "driving the Enron Company out of Konkan" their leaders have not had the guts to enter Guhagar because the common population feels totally betrayed and are standing firmly against the project - in spite of threats by the police force stationed there. The physical assault on Medha Patkar and other activists by the police and goondas enjoying police protection was the most shameful action spurred on by the State Government. I know several activist

personally and am convinced that they were beaten up as part of a pre-meditated plan by the police.

In spite of this the national news papers including the *Indian Express* have been keeping a low profile on such events. For a paper which took on the might of the Central Government during the emergency this is most disappointing.

I can quite understand (even if I don't agree) if the *Indian Express* feels Enron should not be opposed because we need their power "at any cost" - but surely you will support the right of the people (whose life is going to be destroyed for the huge profits of a multinational corporation) to wage a non-violent struggle. It is my observation that such news is played down by all the media - as if there is a secret pact between them to say nothing against Enron.

I am sure you and your paper believe in peoples' democratic right to non-violent protest and will stand by them when there are serious charges of police suppression and excesses - and hence you will publish the news (obviously in suitably condensed form) of the report by *Amnesty International* so that the police and others in authority will act strictly within the law.

Please pardon my directly writing to you but I felt it my duty to do so.

With kind regards,

Yours sincerely,

For Parisar

Sujit J Patwardhan

Hon. Secretary

Encl: Amnesty Report

Book Post

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