Hydropower Development and Right to Free, Prior and Informed Consent (FPIC) of Indigenous Peoples

Case Study on Mapithel Dam Project, Northeast India

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Published by
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Mapithel Dam Project information

Manipur, with a total area of 22,327 sq km, is one of the states in North East India. It borders the Indian states of Nagaland to the north, Assam to the west and Mizoram to the southwest, and has an international border with Burma (Myanmar) to the east. There are nine districts which can be generally divided into two groups: those in the valley - Imphal East, Imphal West, Thoubal and Bishnupur, and those in the hills - Senapati, Ukhrul, Chandel, Churachandpur and Tamenglong.[1]

The total area of the valley districts is only 2,238 sq km while the remaining 20,089 sq km lies in hill districts. In an inverse ratio, the bulk of the population, about 65%, resides in the valley while the remaining 35% are thinly dispersed across the five hill districts. Most of those living in the hill districts are classified as "Scheduled Tribes" as per the Constitution of India.

The river on which the Mapithel Dam[2] is being built originates in the hills of Shirui village in Ukhrul District.[3] According to available statistics, Ukhrul district is 4,544 sq km in size.[4] Different stretches of the river are known by different indigenous names that signify its centrality to the existence of the chiefly agrarian indigenous societies living along its vicinity. However, it is officially known as the Thoubal River, named after the district lower down in the valley through which the river flows.

The upper reaches of the river receive an average annual rainfall of 1,700 mm and drain an area of about 527 sq km up to the dam site.[5] According to a 2006 Environmental Impact Assessment conducted by Hydro Bio Tech design engineers, and sponsored by the Irrigation and Flood Control Department, Government of Manipur (hereinafter IFCD):

"The Upper Catchment of the river, which is hilly, is located roughly between 24° 50' and 25° 30' latitudes and between 94° 30' and 94° 50' longitudes.

The catchment area of the river Thoubal down to its confluence with river Imphal in Manipur valley is about 860 sq km. Except for two villages falling in Senapati district, *almost the entire catchment of river Thoubal lies in Ukhrul district.*"[6] (emphasis supplied)

The Mapithel Dam was sanctioned by the Planning Commission of the Government of India in May 1980 with a completion target date of 1987. At the time of sanctioning the project, the budget was set at Rs. 47.25 crores (472.5 million). This amount has steadily escalated over the years. It was revised twice in 1997, at Rs. 254 crores (at 1994 price level, 2.54 billion) and again to Rs. 390 crores (at 1997 price level, 3.90 billion). In 2004, it was revised to Rs. 446 crores (4.46 billion); the following year, in 2005, the project estimate reached Rs. 535.55 crores (5.36 billion). According to the latest announced estimate it has climbed to 982 crores (9.82 billion).

The project sought to provide irrigation facilities, power generation, augmentation of water supply to Imphal town and to reduce flood damages in the downstream area.[7] The Central Water Commission and the Manipur State Planning Department are the monitoring authorities.

Partial view of the dam as on 4 March 2008. In the background, the newly relocated village of Louphong can be seen.

The main components of the project include:[8]

i) An earthen dam 66 meters high and 1,074 meters long at Phayang/ Maphou to impound a gross storage of 176.38 Mega-cumecs (Mcum) with a live storage of 124.58 Mcum with a gated chute spillway to discharge a maximum design discharge of 2,240 cumecs.[9]

ii) A barrage at Keithelmanbi, 17 km downstream of the dam site having 9 bays of 9.00 m x 6.78 m with vertical gates to discharge a maximum/design discharge of 2,250 cumecs.

iii) Left and Right canal system comprising 57 km of main canal off-taking from the barrage and distribution system to provide assured irrigation water to a Culturable Command Area (CCA) of 21,860 ha.

iv) A power house near the dam for generation of ancillary hydro power of 7.50 MW (installed capacity) having three units each of 2.50 MW.

Further, the project was initiated with the aim of:[10]

i) Irrigating a CCA[11] of 21,860 ha with an irrigation potential of 33,440 ha.

ii) Providing drinking water of 10 mgd (millions of gallons per day) towards augmenting the shortage of water supply in Imphal town and surrounding villages.

iii) Generating hydropower of 7.50 MW to electrify villages in and around the project area.

iv) Absorption of substantial volume of floodwater by the reservoir of the dam during peak flooding season resulting in the prevention of flood damages in downstream areas.

Other benefits and objectives of the dam include the development of a modern township in the vicinity of the dam site with essential facilities like market, school, bank, communication, medical facilities. It was also thought that the reservoir would promote tourism, navigation, water sports, pisciculture etc.[12]

According to information distributed by the Irrigation and Flood Control Department, Manipur, the reservoir area alone covers 11.75 sq km while the catchment area extends up to 527 sq km.[13] In another report, however, the submergence area is stated to be 12.15 sq km.[14] According to affected villagers, this stated submergence area is erroneous and is in fact much larger, covering about 35.68 sq km.[15]

This includes seventeen tribal villages which will be submerged, six of which will be completely submerged (Phayang, Louphong, Chadong, Lamlai Khullen, Lamlai Khunou, and Mongbung) and another eleven which will have their homesteads and agricultural land partially submerged. The population of these villages together is approximately 8,000-10,000.

It is pertinent to note that none of the official policies and documents mention anything with regard to those living in the downstream area of the dam. However, at least nine villages are directly affected by the construction of the dam.[16] The contract for constructing the dam was granted to M/S Ansal Properties & Industries Ltd and M/S Progressive Construction Ltd. Ansal Properties & Industries Ltd,[17] a public limited company, is a flagship of the Ansal Group of Companies which is comprised of 35 companies.

According to information from its website, the mission of the group is "not only to house the homeless and achieve difficult engineering feats by building beautiful edifices and landmarks for prosperity but also to grow and progress without sacrificing basic and real values of life. We believe in *sustainable development* and construction to provide lasting contribution towards a healthy, happy and wholesome quality of life for the people of the world."[18] (emphasis supplied)

Its commitment to sustainable and social development is, however, highly doubtful given its history. The subsidiaries of the Ansal Group, including Ansal Properties and Industries Ltd, have been charged by courts in many occasions for breach of contracts and illegal practices.[19] In 2007, the company and its promoters were found guilty in the infamous Uphaar Cinema tragedy case where 59 cinema goers were burned to death. The yearly turnover of the Ansal Group of Companies is around Rs. 350 Crores and its multiple projects in hand exceed Rs. 3,200 Crores.[20] The group also boasts in its website that the nature of its projects spans the gamut of construction activity and includes high-tech areas such as real estate promotion and development; environmental upgrade; high tech construction contracts;[21] design, engineering and consultancy; hospitality division; and international trading.[22]

Efforts to access the profile of M/S Progressive Construction Ltd yielded no result. However, the M/S Progressive Construction Limited Workers' Union, Thoubal Multipurpose Project has alleged malpractices and labour laws violations against the company. In a representation

made by the latter to the Regional Provident Fund Commissioner, North East Region, India, and the Deputy Labour Commissioner Imphal (dated 19 June 2009), allegations were made that the company is responsible for various labour law violations including the non-payment of Provident Funds to workers, terminating the services of workers arbitrarily etc. Affected villagers have also accused these companies of instigating security forces to threaten and intimidate the villagers.

In the early part of this decade, with the increased awareness of the potential effects of the dam, affected villagers began making a number of representations to the Government of Manipur as well as the Union Government of India to conduct an Environmental Impact Assessment[23] of the project. The Government of Manipur initially argued that since the project was sanctioned in 1980 before the requirements for EIA were made mandatory, the same should not apply to the project.[24]

Despite the above stated position, an Environmental Impact Assessment (EIA) sponsored by the IFCD, Manipur, was conducted by Hydro Bio Tech design engineers and its report was published in 2006.[25] The EIA Report, amongst others, concerns itself with information about the project and the project area, and the anticipated impacts of the project and recommendations.

The EIA Report states that "…in the past, insensitive project development has caused unnecessary problems by a lack of consultation at the planning stage and inadequate compensation of the affected population."[26] It further adds that "Projects planned with the beneficiaries rather than for them have proved more sustainable and no more costly. However, they do take longer to plan and design because consultation is a lengthy process. Local consultation of all interested will improve the project and thus increase the potential for economic benefit and sustained operation. The process may take a particularly long-time if the mechanisms for consultation have to be set up. Local NGOs can be helpful to IFCD in this work and should be brought into the planning process in order to avoid conflicts building up later."[27]

However, interviews with affected villagers revealed the irony in the above observations: not one of the affected villagers interviewed were consulted or knew anybody who was consulted by those who prepared the EIA Report.

In December, 2006, the Chief Conservator of Forests (CCF), Ministry of Environment and Forest, North Eastern Regional Office, wrote to the Government of Manipur that the construction of Mapithel Dam attracts

the provisions of the Forest (Conservation) Act, 1980, which requires forest clearance to be obtained before the implementation of such kinds of project. Since clearance has not been acquired, the letter directed that further violation of the Act be immediately stopped.[28] The Chief Engineer of IFCD was also directed "to stop any further construction of Thoubal Multipurpose Project".[29] As early as 1996, a Senior Assistant Inspector General of Forests of the Ministry of Environment and Forest, Government of India, wrote to the Secretary, Forest Department, Government of Manipur requiring the submission of "environmental aspects and environmental action plan" to consider the proposal made by the state Forest Department to divert 5.95 sq km of forest land for the project.

In the early part of 2007, a Status Report and Catchment Area Plan for the project was submitted to the MOEF to obtain forest clearance for the project.[30]

A Rehabilitation Plan for the Oustees was proposed by the IFCD, Government of Manipur in 1990. This document includes aspects the of resettlement, relief and rehabilitation package, the financial outlay for these activities etc. Another Rehabilitation Plan for the Oustees was again proposed by the Government of Manipur in 1997 and approved by the Director, Ministry of Welfare (Tribal Development Division), Government of India in 1998. For all intents and purpose, the two Rehabilitation Plans are similar in all respects except for a slight increase in the amounts payable to affected villagers.

These two documents suffer from the failure to include any aspects of the social and cultural costs of the project for those who will be affected. Despite the consistent demands of affected villagers to factor in the social and cultural cost of the project, the Government of Manipur has failed to take any positive steps. These Rehabilitation Plans also have no substantial practical long-term livelihood alternatives. As observed by Dr. S. B. Singh, a Senior Scientist with the Indian Council of Agricultural Research, Imphal, who was part of the Expert Review Committee (for the Mapithel Dam Project), "more emphasis should be given on [the] development of sustainable livelihood alternatives of the affected villagers as the project pulled away their livelihood."[31]

In 1993, after widespread protests from the villagers, a Memorandum of Agreed Terms and Conditions (MOATC) was signed between the Government of Manipur and some of the affected villagers. Significantly,

under the MOATC, the compensation for lands acquired for the project would be paid within two years of the signing of the MOATC (that is by 1995), and that interest will be paid on those amounts not paid within the specified period. However, payments proceeded only in 1996 and were given in a piecemeal manner; it is still to be completed.

The Government of Manipur has rejected outright to pay interest as agreed.[32] The manner in which compensation has been paid has put the livelihood of most of the predominantly subsistence farmers at stake as they have been unable to buy alternative sites for their homestead and farms. It is to be noted that the price index on which the compensation amount was calculated was according to the rate prevalent in 1993, and the government has refused to revise this despite the multiple revisions of the cost of the dam.

According to the latest available progress report of the project of 2004, 16 percent of the dam component, 29 percent of the spillway, 100 percent of the barrage, 80 percent of the main and branch canals, and 60 percent of the distribution systems have been completed.

The first time that people came to know of the plans for the construction of the dam was in the early to mid 1970s when they met officers surveying the area. According to official documents, the survey for the construction of the dam started in 1976.[33] However, another older document states "The feasibility report of the project, after detailed investigations…was submitted to the Central Water Commission in September 1976"[34] implying that survey had been conducted by 1976.

According to the Village Authority members of Riha village[35], it was in the early 1970s when villagers encountered some people who were surveying their land. They did not know they were survey officers until much later when they (the villagers) were asked to be guides and porters. When villagers queried as to the purpose of the survey, the officers informed them that it was to build a dam. Even then, most of the villagers did not know what a dam was or the scale of construction and displacement that would take place and the consequences that would arise. Instead of giving any substantive information on the dam, villagers were told that once the dam was built, they will be able to get "fishes as big as thighs".[36]

2

Project preparation and Implementation in relation to FPIC

Aside from such trivial information, villagers were given no proper information about the possible impact of the dam. Until the 1980s, when villagers started to become aware of the implications of the dam, the government did not take any initiative to inform the public about the project. Even interactions with officers at the initiative of villagers did not result in getting proper information as "government officers did not take the villagers seriously".[37]

Realizing the need to organize themselves, villagers affected by the dam formed the Mapithel Dam-Thoubal River Valley Multi-Purpose Project Affected Villages Committee (hereinafter Affected Villages Committee) in 1990. The main aim of the committee was to collectively present the interest and viewpoint of the communities affected by the dam. The committee consisted of representatives from upstream affected villages. Despite several attempts from the Committee, no meaningful interaction or consultations took place with government officers as they were "more concerned with the implementation of the project rather than with the needs of the people".[38]

In the late 1980s and early 1990s villagers began organizing protests against the dam. Meanwhile, in July 1990, some unknown miscreants set fire to the machines, vehicles and other assets at the dam site. The government responded to this by torturing more than 200 and arresting 20 villagers under various severe penal provisions including "waging war against the state" and also provisions under the infamous Terrorist and Disruptive Activities Act (TADA).[39] Those arrested were kept behind bars for fourteen days and the construction of the dam was also suspended.

In an ironic twist, the incident drew the attention of the Government of Manipur to the gravity of the situation leading to its invitation of village

representatives for negotiation. In July 1992, the Government of Manipur constituted a High Level Committee which included the Chief Minister and other high level state functionaries.[40] Notably, the High Level Committee did not have any representatives from the affected communities/villages.

The functions of the High Level Committee were:[41]

i) To monitor and review the Rehabilitation Programme of the Project

ii) To examine and consider the various proposals connected with the project

iii) To examine and consider the various proposals connected with the Rehabilitation programme of the project.

Unfortunately, the momentum of the protests and negotiation was interrupted by the ethnic clash between the Nagas and Kukis which erupted in 1992. (It is to be noted that the area of the dam construction was one of the main confrontation points between the Nagas and Kukis). The mistrust and suspicions created during the ethnic clash prevented the Nagas and Kukis from coming together and representing their interests through a common platform for a long time.

In January 1993, a Sub-Committee was formed for "negotiations of the rates of compensation payable for the affected lands of Thoubal Multipurpose Project".[42] This Sub-Committee was to function under the purview of the High Level Committee. In a departure from the previously constituted High Level Committee, the Sub-Committee had representatives from affected villages.

The negotiations and parleys within the Sub-Committee led to the signing of a Memorandum of Agreed Terms and Conditions (MOATC) on 19 June 1993 between the representatives of the Government of Manipur led by the Deputy Chief Minister and Chiefs/Headmen of Villages and other representatives.[43] The question of whether the MOATC was agreed upon under an environment of threat and intimidation and without proper consultation persists with claims that there was an absolute lack of proper information provided to affected villagers and discussions took place in an environment of threat and intimidation.[44] The government also appears to have exploited the ethnic clash between the Kukis and Nagas, using it as an opportunity to divide them: there were no Kuki representatives or chiefs as signatories to the MOATC.

It should be noted that the MOATC was confined to the very limited issues of rehabilitation and resettlement programmes and rates/quantum of compensation payable to those affected by the dam construction. In the course of formulating the MOATC, no substantive assessment or discussion took place as villagers were not given proper information to come to an informed decision.

The non-implementation and contravention of various provisions in the MOATC led to widespread dissatisfaction among the affected villagers. One of the main provisions in the MOATC concerning the mode and duration for the payment of compensation states: "Amount of compensation shall be paid to the owners in installments within the years 1993-1994 and 1994-1995. Interest on the amounts of compensation shall be paid if the amounts of compensation are not paid within 1994-95."[45] The logic behind this particular clause was to facilitate the buying of alternative farm sites and homesteads for villagers who were all marginal farmers. However, this essential clause was also not complied with; payment started only in March 1996 and it was given in a piecemeal manner with the 7th installment taking place in 2003, by which time only 86% of the total amount had been issued.[46] As of writing this report, some villagers had refused to take any further payments until a number of failings associated with the settlement of land compensation and rehabilitation and resettlement were settled.[47]

The dissatisfaction over the improper implementation of the MOATC prompted further negotiations between the Government of Manipur, even at the level of the Chief Minister, and representatives of the affected villagers.[48] As a consequence of the meetings, in August 2004, a committee called the Thoubal Project Rehabilitation and Resettlement Programme Committee was reconstituted to examine "the demands of the Mapithel Dam Thoubal River Valley Multipurpose Project Affected Villages Committee regarding payment of interest charges etc."[49] The Affected Villages Committee was mentioned as a member of the reconstituted committee. However, they were not informed as to the reconstitution of the committee.[50]

In a complete reversal of the above order, in January 2005, another committee was constituted "to monitor the progress of Rehabilitation and Rehabilitation and Resettlement including payment of compensation of the affected villages".[51] This Order excluded representatives of affected villagers from being part of the committee. No reasons or justifications were given

to the affected villagers for the formation of and their exclusion from this committee.[52]

Meanwhile in October 2003, the Chiefs/Headmen of some affected villages received a letter from a representative of the Agricultural Finance Corporation Ltd. informing them that they were "conducting the field survey in all the concerned districts/villages covered under the [Mapithel Dam] project" for which they were deputing a Field Investigator to the respective villages.[53] Interestingly, the Field Investigator, instead of visiting the villages, asked the village chiefs/headmen to come to a hotel in Imphal for the "field survey".[54] This kind of behaviour of officers clearly point to a lapse in how government representatives viewed the consultation and investigation process.

In March 2005, the Mapithel Dam Affected Villages Organisation (MDAVO)[55] took their grievances to the Prime Minister of India through a memorandum.[56] The memorandum specifically mentions that the construction of the dam took place "without the free prior and informed consent of the affected villages" and that if the government is "sincere enough and interested to rehabilitate and resettle the oustees properly, then the outdated R&R programme of 1990 is needed to be reviewed and framed anew."[57] The memorandum also pointed out the lack of transparency in conducting mandatory environmental impact assessments and putting in place the requisite safeguards and the denial of the rights of members of the public to access information relating to the project.[58] The memorandum also demanded the Prime Minister's Office, amongst others, to "direct the state government to immediately constitute an Expert Committee to review the rehabilitation and resettlement Programmes of 1990 for the dam affected people and reframe the R&R Programme anew."[59]

It appears that the representation of MDAVO was forwarded by the Prime Minister's Office to the Commissioner for Irrigation and Flood Control, Manipur who further forwarded the same to the Chief Engineer, IFC Department, Manipur. The Chief Engineer through his letter no CE/IFC/II-294/2005/1743 dated 14 Oct 200560 responded to the representation of MDAVO claiming amongst others that "payment of compensation for land acquired for this project has been completed already."[61] This appears to be a blatant misrepresentation of facts as latter official documents[62] attest to the fact that survey was not completed in certain areas implying that payment

was yet to be made; if payment was complete, it still failed to address on what basis the payment rate was calculated.

In May 2006, another memorandum[63] was submitted to the Prime Minister of India by women's organisations from four affected villages, pointing out the lapses of project authorities in taking consent and allowing participation of the people, especially women, in decision-making and implementation of the project. The memorandum, an outcome of a meeting conducted by the submitting women organisations on 19 May 2006, clearly points to the lack of information provided by dam authorities when it states "The women at the meeting were taken by surprise when they realize[d] what a dam actually is in the course of the deliberations and discussions."[64] The memorandum further pointed out the reliance of the government and project authorities on military forces in suppressing the voices of the people and again pointed out that the survey and proposal for construction of the dam was done "without the prior consent, knowledge and consultation of the women and other affected villagers".[65]

Rally against Mapithel Dam construction, 2006

On 26 August 2006, a general meeting was organized by the MDAVO where a public declaration was adopted.[66] The public declaration is very clear in its reiteration of the fact that no informed consent was taken from the affected villagers and that the project authorities had time and again contravened previously agreed upon decisions. The affected villagers therefore resolved to oppose the construction of the dam until the constitution of an expert review committee which will review the rehabilitation and resettlement plan.

After much delay, in October 2007, the Irrigation and Flood Control Department informed MDAVO that the Government of Manipur has decided "to constitute a Committee to review the present Government policy of Rehabilitation and Resettlement Programmes pertaining to the affected villages of the Mapithel area due to the construction of Thoubal Multipurpose Project."[67]

On 3 January 2008, a meeting between MDAVO and officers of IFC Department, Manipur took place in the office of the Minister IFC where

Protest at heavily militarised dam site, 12 April 2007

2008.[69] Significantly, the composition of the Expert Review Committee differed from earlier ones with this Committee being more inclusive with high-ranking officers from various departments aside from the Chairman of MDAVO. The composition of the Committee was further expanded to include more representatives of the affected villagers.[70]

The ERC proceedings are one of the few spaces where affected villagers were given opportunities to air their opinions and discuss them with government representatives. In this sense the constitution of the ERC is very significant in relation to the aspect of informed consent. However, it should be remembered that the scope of ERC was very narrow and confined to reviewing the existing government policy of rehabilitation and resettlement.

The first meeting of the ERC took place on 19 February 2008.[71] In this meeting, MDAVO submitted a proposed Terms of Reference for consideration by the ERC to be the framework for the review process.[72] However, this proposed Terms of Reference was not discussed during the same meeting.

Representatives of affected villages surrounded by paramilitary forces at the dam site, 22 January 2008.

The sincerity and seriousness of the Government of Manipur towards the consultation process within the ERC came under serious doubts from the affected villagers after the second meeting was postponed a number of times.[73] Importantly, during the second meeting of the ERC which finally took place on 20 March 2008, it was decided that a site visit should be conducted to assess the situation and recommendations by the experts present be made accordingly.

The proposed site visit took place on 3 April 2008 and representatives of the Department of Agriculture, Department of Horticulture and Sericulture, and Indian Council of Agricultural Research (ICAR) submitted their findings. ICAR's submission is the only one that is worthy of consideration as the others seemed to be complying with mere formalities.

ICAR's submission suggests that geological survey of the affected areas was not completed even then, and that villagers are not aware of the problems they will face with regard to livelihood alternatives.[74] Interestingly, a press release of MDAVO dated 4 April 2008 attests to the non-completion of survey pointing out that survey has not been carried out in the Sikibung village area, one of the villages which would be affected by the dam.[75]

At the time of writing this report, a total of six meetings of the ERC had taken place. In some of the meetings, some government officers were very clear as to the culpability of the Government of Manipur in breaching previously agreed upon terms.[76] In the last meeting of the ERC which took place on 22 Oct 2009, it was again decided that "all the respective committee members of different departments should be sent to project sites (rehabilitation and resettlement sites) accompanied by staff from the IFCD and also by the representing members of the affected villagers and make a fresh and full assessment/report of the relevant areas."[77]

The ability of government representatives in the ERC to take in and consider the opinions of the affected villagers and discuss them thoroughly is doubtable given the fact that even by the fifth meeting of the ERC, no agreement had been reached on the Terms of Reference proposed by MDAVO. One would have expected that the ERC, given the inclusive composition of its members, would result in more positive outcomes. However, the opportunity for the Government of Manipur to make up for the exclusion of affected villagers from earlier processes was not utilized to the fullest.

The ERC was also plagued with the problem of frequent transfers and

postings of government officers. As government representatives, usually department heads, were selected based on the criteria of their official posts and not because of individual merits, the ERC often found themselves with different members in each meeting; officials who represented their departments in one meeting would have been transferred or posted to a different position by the next. This seriously broke the flow and progress of the discussions within the ERC.

It is apparent from the various exchanges between the representatives of the affected villagers and the Government of Manipur that the level of participation of the affected communities in decision-making, particularly with the conceptualization of the dam and the rehabilitation and resettlement programmes was non-existent or extremely limited. This is because no scope for participation during the planning stage of the dam was provided to the affected villagers. The project was formulated and proposed without the knowledge and consent of the affected villagers. Most of the negotiations that took place between affected villagers and government officers revolved around the contravention of the MOATC and the non-payment of compensation. Further, they failed to address or consider the substantive grievances of the affected communities. Often, the information received by the affected villagers, such as access to EIA, was through unofficial channels. In one instance, the MDAVO resorted to the Right to Information Act to access certain documents. However, no reply was forthcoming in this regard.

Until the 2000s, most of the activism against the dam took place at the initiative of those living in the upstream area of the dam partly because those living in the downstream area of the project did not realize the possible impact of the dam on their livelihood and survival. Realizing that the dam is also going to affect them, those living in the downstream area started organizing themselves only in the mid 2000s. A press release of May 2008 by the Thoubal Multipurpose Project (Mapithel Dam) Downstream Affected Area Committee,[78] states that the dam was "built without the due knowledge and consent of those who live at the downstream of the dam, and also without any downstream impact assessment and accompanying Resettlement and Rehabilitation."[79] The release further noted that downstream villages have been "kept in the dark about how this dam can cause immense and irreversible impact on the riverine ecosystems, and socio-economic and cultural relations arrangements of those living downstream of the dam."[80]

Community consultation on Mapithel Dam construction, 30 December 2007

In another press release, the Mapithel Dam Affected Ching-Tam Organisation[81] stated that "there has been no proper assessment of the impact of the dam on those who will be affected by the dam and its components….It is also observed that the dam authorities have not even bothered to study the impact on the downstream villages, despite global recognition that they are the worst affected when dams are built."[82]

Various inconsistencies are prima facie perceivable with regard to preparing important dam related documents such as the EIA in which the scope for consulting with affected villagers and other stakeholders were present. However, the confusion among responsible authorities and departments on whether such environmental regulations are applicable seems to have resulted in a hotchpotch job. Various letters and intimations from the Ministry of Environment and Forests[83] indicate the requirements for EIA applied to Mapithel Dam. However, a letter from the Chief Engineer, IFCD written in Oct 2005 states, "The project having been sanctioned as early as 1980 does not come under the provisions of Environment Impact Assessment (EIA), Environment Management Plan as alleged."[84]

Strangely, despite the above, the Government of Manipur did publish an EIA report in 2006. They also applied for Environmental Clearance from the Ministry of Environment and Forests of the Government of India long after the commencement of the construction.

All these processes seem to have been taken up as an afterthought and to comply with technical requirements, rather than to actually assess the needs of the affected villagers and impacts on them.

With the closure of all avenues of participation and grievance redressal, affected villagers had to access different forums for justice. The representation given to the Prime Minister is an example of this. Representations to other authorities included those made to the National Commission for Scheduled Tribes. However, in all these cases, no substantive actions followed and these forums became nothing more than applying some pressure on the dam authorities since the complaints were forwarded back to them leaving affected villagers in the same situation as before.

3 Impacts to local indigenous peoples

Those in the upstream area affected by the project are indigenous peoples belonging mainly to the Tangkhul Naga tribe with some populations of the Kukis. Those in the downstream area of the project includes Tangkhul Nagas, Kukis, and Meitei communities. While the Tangkhul Nagas and Kukis are classified as Scheduled Tribes, the Meiteis are not.

PROFILE OF TANGKHULS AND KUKIS

The Tangkhuls are part of the larger group of indigenous peoples known as the Nagas. Traditionally known as Hao, the name Tangkhul was most likely given by the Meiteis, their neighbours. They are predominantly found in Ukhrul District of Manipur, India, with a sizable presence in Somra Tract in Burma (Myanmar). The total population of the Tangkhuls in India according to the 2001 census is roughly 150,000 spread over approximately 280-300 villages.

The linguistic wealth of the Tangkhuls is very rich with all the villages having their own dialects. The differences in dialects vary from minor to completely dissimilar forms: often, neighbouring villages would have similar or common words but generally, villages located in a different area would not be able to comprehend the dialect spoken in another area. Broadly, the dialects spoken by the Tangkhuls belong to the Tibeto-Burman language sub-family.

As with other indigenous communities, the exact history of the Tangkhuls is not known but it is written that, "From the records of Manipur, we gather some important fact regarding the antiquity of Tangkhuls….It is quite clear that…the Tangkhuls were settled in the areas they now occupy at an early date, when the Meiteis, now their masters, were yet wild and untouched by the finer arts of life."[85] The widespread use of seashells and cowries in

ornaments and jewelry suggest that they at one point in time lived near the sea or had extensive contacts with people who lived near the sea. Folktales and other oral historical accounts suggest the oldest known site of settlement is Samsok (Thuangdut) in Burma. From there, over a period of time, they migrated in waves towards the area they presently occupy. The most recent story of migration suggest the Tangkhuls came from the east along with other Naga tribes such as the Poumeis, Marams, Thangals and Maos and they all dispersed from Makhel, a village in present day Senapati District, where they had erected megaliths to commemorate the event of dispersal.

Tangkhul villages, for all intents and purpose, were independently self-administered village republics governed by a hereditary or elected chief aided by a council, often heads or elders of clans. The Tangkhuls have a rich cultural tradition of festivals and rituals, often associated with their agricultural cycles. Similar to other indigenous communities, folk-songs, aside from its entertainment value, is a medium for recording historical facts and events.

A majority of the Tangkhuls are marginal farmers who depend on their land for survival and sustenance. Agriculture constitutes the main economic activity supplemented by harnessing of forest products. Wet paddy farming and swidden cultivation are the two main types of agricultural practices found among the Tangkhuls. In the Mapithel Dam area, both practices are followed although wet paddy farming is the more common one.

Two broad types of land ownership are found among the Tangkhuls: individual and community ownership. Although still the predominant system, community ownership of land is being increasingly challenged by the onslaught of commercialization. Natural resources found within community owned land can be utilized by members of the community; albeit access is generally controlled by the village council.

The term Kuki refers to a conglomeration of different clans.[86] Kuki tribes are listed as one of the Scheduled Tribes under the Constitution of India and can be found in the Indian states of Manipur, Nagaland, Mizoram, Assam and Tripura. They are also found in Burma (Myanmar).

Like other tribal groups in the region, the Kukis also speak a variety of dialects which falls under the Tibeto-Burman linguistic sub-family. Kukis generally practice swidden cultivation although wet paddy cultivation is

not unknown to them. Agricultural activities constitute the main economic activity of the community.

According to P. S. Haokip:[87] Kuki polity, based on chieftainship, functioned with a full complement of governing bodies, such as Semang (Home Minister), Pachong (Defence & External Affairs), Lhangsam (Minister, Public Relations & Broadcasting) Lawm Upa (Minister of Youth, Economic & Cultural Affairs), Thiempu (Priest), Tollai Pao (Law and Order Enforcement Minister). At the national level, this governance is known as the Kuki Inpi. The pattern is replicated at the Lhang (district) and Gamkai (state) level. Integral to Kuki polity is the Inpi, the apex body, in which each Kuki Chief is a member.

One of the main differences between the Kukis and Naga tribes is in the patterns of land ownership. While Nagas generally have community ownership, in the case of Kukis, land is absolutely owned by the chief of the village and it is up to his pleasure to allocate homesteads or agricultural area to others.

IMPACTS

The process in which Mapithel Dam was planned has failed to take into account a number of vital intangible and unquantifiable social, political, cultural, and economic aspects which has already taken a negative toll on the affected villagers.

As a memorandum points out, "During the construction time we are faced with problems including air and water pollution….[Because of] the coffer dam which is already installed, downstream villages are already experiencing water scarcity for irrigation and household use. Sand and boulder mining which is also a source of income has dwindled at an alarming rate that will jeopardize an important livelihood source for downstream villages."[88] In all the documents perused and examined, the direct cost of air and water pollution is not factored in. If we factor in the indirect cost, the gravity of the negative impacts would be much higher. Aside from somewhat calculable impacts, such as economic impact,[89] other non-estimable impacts such as the cost on cultural continuity, gender implications etc. have not been considered at all in any of the available documents. The problem is that, in formulating programmes and policies to alleviate the difficulties associated with mega constructions such as the Mapithel Dam, it is impossible to reduce the emotional and psychological

values that people will associate with their lands into monetary values. As a villager puts its:[90]

"The land and territories we are living in is a God-given natural blessing and a legacy for our future generations. And no matter how good the rehabilitation and resettlement programme is, it will never be able to replace the blessings we have received from our land. So many of our social and cultural beliefs and practices are founded on the land that we live on, the river that flows through it, and the forest that protects us. No amount of money can replace or compensate for losing all these. We are married to this land. If anybody forcibly tries to take away my wife, how can I be at peace? To further insult us, the government has restricted our free movement through the deployment of paramilitary forces like Assam Rifles, Indian Reserve Battalion, etc., to control our movement. They arbitrarily search our houses, they arrest our leaders, beat and torture them. Many villagers have been picked up and put behind bars for no reason."

In Chadong, one of the villages which will be totally submerged, a villager, talking about how their burial grounds would be submerged with the dam, questioned how they will be able to respect themselves when they cannot respect their dead ancestors.[91]

The construction of the dam has also been accompanied by more violence in the area and the systemic use of military and security forces against the villagers. From the late 80s onwards, more and more security personnel have been posted to the area in the guise of securing the dam construction. Within the small area of the dam site and its vicinity, at least '1,000-1,500' security forces are stationed. Besides the three permanent checkpoints around the dam site, security forces frequently establish arbitrary checkpoints along the roads that lead to the dam site.

As recently as 2008, a cabinet decision was taken to bring in more security forces. The relevant portion reads:[92]

"(iii) The State Government will take strict action against individuals or organisations that create disturbance at the work site."

(iv) *Additional security* should be provided at the project site so that no disturbance is caused to the project during the construction." (emphasis supplied)

In one of the earliest incidents of mass military repression relating to the dam construction, 20 villagers were arrested and more than 200 were tortured in September 1990. The arrest and torture followed after unknown individuals committed arson at the dam site which destroyed a number of construction machines, as detailed above. All the individuals arrested were detained at the dam site for a few days, before being transferred to jails, where they were subjected to torture and other inhumane treatment. In a clear violation of due process, the arrested individuals were not produced before the courts within the requisite 24 hours.[93] Despite the lack of any evidences, all of them were charged with several severe penal provisions including penalty for waging war against the state and under the provisions of TADA. Some of the arrested individuals clearly had deep persisting psychological trauma from the incident and they were too scared to even talk of their experience when queried.

The increased militarization and securitization of the area, however, did not stop acts of violence against the dam construction or its workers. In several incidents, dam workers and officers have been killed by armed individuals, most likely by cadres of underground groups that reportedly function in the area. As recently as November 2008, five workers who were drivers and mechanics utilized in the construction site were shot dead by unidentified gunmen.

These incidents are always followed by combing operations in the villages, and threats and intimidations by security forces towards villagers. Security forces have also resorted to arbitrarily summoning villagers to their campsites to "educate" them. One letter from the Assam Rifles, a state paramilitary force extensively deployed in the area, addressed to the village headmen of the area reads, "In view of the recent methodic killing of poor and harmless labours (sic) in the area adjacent to Nungdam Tangkhul on 6 Nov 2008, there arises a need to educate and sanitize (sic) the environment about the futility of this merciless and cold blooded killing."[94]

The high presence of military forces in the area has also affected the mobility of villagers with security forces sometimes imposing restrictions on villagers leaving their homes after 5 pm. The psychological impact and fear from extensive military presence in the area is especially telling for the women. Instead of taking their usual routes, women who live close to the dam site choose to take longer routes to avoid security checkpoints or places where security forces are likely to be present.

Women have also been the direct targets of military force. On 3 November 2008, 45 women were injured, some critically, when security forces assaulted and illegally used force against them as they approached the dam site to submit a memorandum setting out their grievances against the construction of the dam. One woman was hit on her head by a tear-gas canister and is now permanently handicapped because of damage to her brain.[95]

Women rallyists marching to the dam site to submit their memorandum. 3 November 2008.

Women protesters being beaten by security forces at the Mapithel Dam Site, 3 November 2008

A woman hit on her head by tear gas canister, 3 November 2008.

Dr Jamini enquires about condition of a patient who was injured in Mapithel incident

Sit in protest by women in response to the severeness of the violence of 3 November 2008.

Aside from these, the construction of Mapithel Dam has already resulted in the relocation of two villages, namely Louphong and Phayang. Villagers in Louphong who were predominantly wet paddy farmers are already facing difficulties in their new swidden farming areas which gives them less output than their wet paddy fields.

Other villages such as Lamlai Khunou and Lamlai Khullen are already in the process of being relocated. These relocations and resettlement processes are taking place despite the lack of a clear Rehabilitation and Resettlement programme, and particularly when an Expert Review Committee is in the process of reviewing the rehabilitation and resettlement programmes/plans. Some of these villagers, who have taken partial or full compensation, are already suffering economic hardships with their compensation amount already exhausted and with no viable means of survival.

Affected villagers have made representations to the dam authorities that the land and territory used for the dam will be restituted to them once the dam is decommissioned. However, the Government of Manipur is non-committal in this regard stating that it shall be done as per existing laws and rules.

For the affected villagers, land is the primary means of production, and therefore taking away their control over their land is not only a matter of economic deprivation but will result in a larger social and political deprivation because of their inability to fulfill many of the social functions expected of them.

4 Conclusions and Recommendations

The global debate on the benefits and disadvantages of dams have been widely discussed and often found to be controversial. As the World Commission on Dams notes:[96]

The global debate about large dams is at once overwhelmingly complex and fundamentally simple. It is complex because the issues are not confined to the design, construction and operation of dams themselves but embrace the range of social, environmental and political choices on which the human aspiration to development and improved well-being depend. Dams fundamentally alter rivers and the use of a natural resource, frequently entailing a reallocation of benefits from local riparian users to new groups of beneficiaries at a regional or national level. At the heart of the dams debate are issues of equity, governance, justice and power – issues that underlie the many intractable problems faced by humanity. It has further been noted that "Large or small dams, if built without adequate preparatory work, can fail to deliver expected results."[97]

The process in which Mapithel Dam was formulated, proposed and sanctioned has failed in all these respects. Issues of equity, governance, justice and power, which the WCD points out as being at the core of the dam debate, have not been adequately addressed because of the lack of adequate preparatory work. This is amply illustrated by the fact that the cost of Mapithel dam escalated from its initial estimates of Rs. 472.5 million to Rs. 9.82 billion, and 30 years have passed without its completion. The lack of involvement the affected villagers in the process is the main reason behind the various problems associated with the dam. As one affected villager puts it[98]:

"We are not anti-dam. We are not against the dam being built. What we are against is the arrogant manner in which the government failed to consider

our opinions and viewpoints. We are not even saying that the government should abide by our opinions and decisions. We are just saying that the government should be more sensitive to our needs and rights. After all, this is a question of survival for us, this is a question of giving up our land and forests which had sustained us for generations. We are just saying that the government should try to be more equitable in its approach. When we were told about the construction of the dam, we were not told anything about how it will impact on our lives. They should have at least given us the necessary information and allowed us to decide how we want to address our survival. Even the Rehabilitation and Resettlement programmes were framed without consulting us. There were no proper negotiations. If the government had consulted us in the first place, we will not be facing so much problems now. If you look at the Rehabilitation and Resettlement programmes, you will find nothing mentioned about us who are living in the downstream area. Then how can the government say they have done all the necessary surveys and studies? They do not even want to acknowledge that we are going to face a lot of livelihood issues in the future. This river nourishes our fields by bringing natural fertilizers and if the dam is built, it will stop this. We live from the harvest we get from our paddy fields so if anything is to happen that will hamper or reduce our harvest, how will we survive? The government is playing with our lives and they expect us to embrace their shortsighted programmes and policies as if they are doing something good for us. How can we feel that when they did not even bother consulting us?"

There are severe defects in how Mapithel dam was formulated and planned vis-à-vis the requirements for FPIC. Aside from the visible lack of consultation with affected villagers, a number of steps that the Government of Manipur could have taken to lessen the impact were not done or properly carried out. No proper socio-economic or demographic survey seems to have been carried out.

While the rehabilitation and resettlement programmes have some provisions for economic rehabilitation such as animal husbandry, poultry farming etc, the ability of the government to implement them properly is doubtful since no efforts to capacitate the affected villagers in this regard has taken place to date even though the estimated date for commissioning the dam is less than a year away. Moreover, the assessment of resettlement sites is yet to be completed, let alone the development of resettlement sites.

Although a holistically sound policy is a prerequisite for achieving success in a project of the nature of Mapithel Dam, which of course is lacking in

its case, a policy by itself cannot guarantee the success of resettlement and rehabilitation associated with the dam unless participation and monitoring of the affected villagers are encouraged. This requires following the process of consultation of affected villagers in the first place, but in the case of Mapithel Dam, this essential requirement is lacking. Further, setting up a grievance redress mechanism would have done much towards understanding the needs of the affected villagers. Unfortunately, this is also lacking.

Another important social aspect which is lacking in the processes of formulating the Mapithel Dam is the lack of gender considerations in its programmes and policies. The fact that Mapithel Dam would impact on men and women very differently is not accounted for by proponents of the dam. No single official document on the dam mentions women as a category whose special needs have to be factored in, again pointing to a lack of consultation in the preparatory process.

RECOMMENDATIONS:

1. Immediate re-evaluation of the feasibility of the project through clearly defined objectives including the exploration of alternatives and identification of appropriate development response factoring in social, cultural, economical, political and environmental aspects formulated in consultation with the affected villagers;
2. Immediate halting of the dam construction until the Expert Review Committee concludes its survey, identifying the violations persisting before and during the Mapithel Dam construction based on a thorough and participatory holistic impact assessment of the dam on the people living in the upstream and downstream areas, so as to come up with a Rehabilitation and Resettlement Plan for the affected villagers;
3. The immediate setting up of a grievance redress mechanism for the affected villagers in matters pertaining to the dam construction;
4. The immediate withdrawal of security forces from the dam site;
5. Accountability towards gender equity and justice in the programmes and policies relating to Mapithel Dam;
6. The immediate proper re-evaluation and conduct of an Environmental Impact Assessment in which affected villagers are given space to participate, monitor, and evaluate.

ENDNOTES:

[1] See Annexure 1: Map of Manipur

[2] Different names have been used to refer to the Dam project including Thoubal Multipurpose Project, Phayang Dam, Maphou Dam, Nongdam Dam etc. Thoubal Multipurpose Project wvas the name used in the original project proposal; however, in an agreement signed in 1993 with some affected villages, the Government of Manipur agreed to refer to the dam as Mapithel Dam. This will be the name used in this research paper.

[3] See Annexure 2: Map of Ukhrul District with Approximate Site of Mapithel Dam Marked.

[4] Office of the Registrar General of India.

[5] Thoubal Project Authority, Manipur. Thoubal Multipurpose Project, Manipur. p. 1.

[6] Hydro-Biotech design engineers, (2006) Environmental Impact Assessment Report of Thoubal Multi-Purpose Project, Manipur, (Vol-I, Part 1). p. 2. (Hereinafter EIA, 2006).

[7] Irrigation and Flood Control Department, Government of Manipur. (1998) Thoubal Multipurpose Project: Rehabilitation Plan for the Oustees, 1998. (Government of Manipur: Imphal). p. 1. (Hereinafter IFCD, 1998)

[8] IFCD, 1998. p. 1. Also see Annexure 3: General Plan of Mapithel Dam.

[9] See Annexure 4: Technical Sectional Representation of Mapithel Dam.

[10] IFCD, 1998. p. 1.

[11] Culturable Command Area. 12 IFCD, 1998. p. 1.

[13] Supra n. 5. Thoubal Multipurpose Project, Manipur. p. 7.

[14] Report of the Auditor General, 2004. p. 35.

[15] MDAVO, Fact Sheet and Concerns on Mapithel Dam, 11 May 2007. Published in MDAVO (2009), Submissions to the National Commission on Scheduled Tribes. p. 27. Annexed in this report as Annexure 5

[16] Affected villages in the downstream area include Tumukhog, Moirangpurel, Moirangpurel-II, Itham, Laiknog, Bewlaland, Saichang, Molkon, & Bongyang.

[17] Originally incorporated on June 30, 1967 as Ansal & Saigal Properties Private Limited under the Companies Act, 1956, the name was changed to Ansal Properties and Industries Private Limited with effect from October 25, 1975. On June 15, 1988, it became a deemed public company under the erstwhile Section 43A of the Companies Act, 1956. Its name was once against changed to Ansal Properties & Infrastructure Limited with effect from December 17, 2004.

[18] Ansal Group of Companies Profile: <www.ansalgroup.com/profile>

[19] For examples see "Ansal's Housing Pot Scheme under MRTPC Scanner" <http://www.indianrealtynews.com/ real-estate-india ansals-husing-pot-sheme-under-mrtpc-sanner.html>; "Ansal Properties to pay Rs 55 lakh for delay in flat delivery" <http://economictimes.indiatimes.com/articleshow/2882373.cms>

[20] Supra n. 18.

[21] In its section on High Tech Constrution contracts, it lists the Baner Hydel Project, Sardar Sarover Narmada Nigam Ltd as a completed project. It also mentions the Thoubal Multipurpose Project "which will light up a million homes and irrigate agriculture vast land masses in progress." Supra n. 18.

[22] Supra n. 18.

[23] Under the Environment (Protection) Act, 1986, and Rules and Notifications made under it, particularly the Environmental Impact Assessment Notification dated 27 January 1994, it is mandatory for certain kinds of developmental projects to receive environmental clearance from the appropriate agency before the project is implemented. The Forest (Conservation) Act, 1980, also makes it mandatory to receive Forest Clearance from the appropriate authorities for projects that involve forest areas.

[24] Interview with Thanmi Kashung, Advisor, Mapithel Dam Affected Villages Organisation.

[25] EIA, 2006. Supra n. 6.

[26] EIA, 2006. p. 84. Supra n. 6

[27] EIA, 2006. p. 85. Supra n. 6.

[28] See Annexure 6: Letter of Chief Conservator of Forest, North East Regional Office, Government of India, No. RO-NE/E/IA/MN/HEP-6/3144-47dated 28 December 2006 addressed to the Chief Secretary Manipur

[29] See Annexure 7: Letter of Chief Conservator of Forest, Government of Manipur, No. 3/39/2006-07/CCFT&P)/TMP dated 15 Jan 2007 addressed to the Chief Engineer, IFCD, Manipur.

[30] Agricultural Finance Corporation Ltd, 2007. Appraisal of Status Repost and Catchment Area Treatment Plan for Thoubal Multi-Purpose Project, Manipur (Imphal: IFCD).

[31] Annexure 8: Submission of Findings of the Rehabilitation Review Committee of Dr. S. B. Singh to the Chief Engineer (IFCD) through letter No. ARC/RRTMP/2008 dated 5 April 2008.

[32] Interview with R. Kasar, Chairman, Mapithel Dam Affected Villages Organisation

[33] See Annexure 9: Typed Copy of Letter no CE/IFC/II-294/2005/1743 dated 14 Oct 2005 of Chief Engineer, IFC Department addressed to the Commissioner, IFC.

[34] Irrigation and Flood Control Department, Government of Manipur, Rehabilitation Plan of The Thoubal Multipurpose Project, 1990, p. 1.

[35] Riha village is one the villages which will be partially submerged.

[36] Interview with Riha Village Authority Members.

[37] Interview with Thanmi Kashung, Advisor, MDAVO.

[38] Ibid.

[39] TADA is a draconian law which was repealed in 1996 after nationwide protests against its misuse by state authorities.

[40] See Annexure 10: Typed Copy of Orders by the Governor; Manipur, dated 28 July 1992. Order No. 2/1//90-IFC(Pt).

[41] Ibid.

[42] See Annexure 11: Typed Copy of Orders by the Governor: Manipur dated 16 Jan 1993 Order No.2/1/90-IFC(Pt).

[43] See Annexure 12: Memorandum of Agreed Terms and Conditions, 19 June 1993.

[44] Annexure 13: MDAVO Campaign sheet, "Stop Construction of Mapithel Dam Until Reviewed with Affected Peoples".

[45] Clause I (d) Memorandum of Agreed Terms and Conditions, 19 June 1993. Supra . 43.

[46] Chadong People's Organization, THE MAPITHEL DAM (THOUBAL MULTIPURPOSE PROJECT) & THE POSITION OF THE AFFECTED PEOPLE, March 2003, p.4.

[47] For example see Annexure 14 Letter of Headman of Chadong Village to the Minister of Irrigation and Flood Control, Government of Manipur, dated 22nd May 03. The letter amongst others states "that the Govt. of Manipur has failed to implement the agreed terms and conditions of 1993…[and] the system of payment of land compensation is defective and faulty. We therefore resolved to object further payment of the remaining among to any individual unless the agreed terms and conditions are revised and re-negotiated." See also Annexure 15: Letter of the Mapithel Dam Thoubal River Valley Multipurpose Project Affected Villages Committee to the Superintending Engineer, Thoubal Circle No.1, IFCD, Manipur dated 8 Sept. 03.

[48] For instance, a meeting of government officers and affected villagers' representatives was held at the office of the Chief Minister on 10-12 Feb 2004 where the Chief Minister had assured the delegation of affected villagers that

an Expert Review Committee would be formed. See Annexure 16; Letter of Wungnaoshang Keishing, Member of Legislative Assembly, Manipur addressed to Shri. O. Ibobi Singh, Chief Minister, Manipur dated 29 March 2006.

[49] Annexure 17: Orders by the Governor: Manipur dated 12 Aug 2004.

[50] See Annexure 18: Letter of MDAVO to the Chief Minister of Manipur, dated 7 Feb 2005.

[51] See Annexure 19: Orders by the Governor: Manipur dated 17th Jan 2005.

[52] See Annexure 20: Letter of MDAVO to the Minister of Irrigation and Flood Control, Manipur dated 14 Feb 2005. Note that the nomenclature of the Mapithel Dam Thoubal River Valley Multipurpose Project Affected Villages Committee was changed to Mapithel Dam Affected Villages Organisation on 1st February 2005 and the same was intimated to the Government of Manipur.

[53] See Annexure 21: Letter of Dr. Arnab Sarma dated 14 Oct 2003 addressed to the Headman of Chandong Village. The Field Investigator had written the address of the hotel in which he is staying in a corner of the letter.

[54] Interview with R. Kasar, Chairman, MDAVO.

[55] See Supra n. 52 on name change.

[56] See Annexure 22: Memorandum Submitted to Dr. Manmahon Singh, Prime Minister of India dated 18 March 2005.

[57] Ibid. Numbered para 1 & 12.

[58] Ibid, Numbered paras 20-22, .

[59] Ibid. As mentioned above, two Rehabilitation and Resettlement (R & R) Programmes/Plans for the oustees had had been formulated by the Government of Manipur without consulting the affected villagers; the first in 1990 and the second in 1998. The widespread protest and the subsequent signing of the MOATC was partly an outcome of the limitations in the R & R of 1990. The R & R of 1998, aside from some modifications was almost the same as the 1990 document and its formulations was a continuation of the tactics of exclusion and non-consultation of the affected villages.

[60] Numbered para 2. Supra n. 33.

[61] Numbered para 2. Supra n. 33. This appears to be a blatant lie since the Expert Review Committee is still in the process of surveying sites which were not surveyed earlier or properly not surveyed. If payment was completed, it begs the question on what basis and scale the payment rates were calculated.

[62] Annexure 23: Proceedings of Meeting dated 5th April 2008. The proceeding clearly identifies a list of areas for survey.

[63] Annexure 24: Memorandum Submitted Jointly to the Prime Minister of India dated 27 May 2006.

[64] Ibid. 65 See Annexure. Ibid

[66] See Annexure 25: MDAVO Public Meeting Declaration on Mapithel Dam, dated 26th August 2006.

[67] See Annexure 26: Letter of Under Secretary (IFC) No 20/1/2005-IFC dated 3 Oct. 2007 addressed to the Chairman, MDAVO.

[68] See Annexure 27: Minutes of the Proceedings of MDAVO and Officials of IFC Department, 3 Jan 2008.

[69] See Annexure 28: Orders by the Governor of Manipur, dated 18th January 2008.

[70] See Annexure 29: Orders signed by Under Secretary (IFC) dated 4th February 2008.

[71] See Annexure 30: Proceedings of the 1st Meeting of the Expert Review Committee.

[72] See Annexure 31: Terms Of Reference

[73] See Annexure 32: Letter of MDAVO dated 7 March 2008. 74 Supra n. 31.

[75] Annexure 33: Press Release of MDAVO dated 4th April 2008

[76] For example see Para 6, intervention of the Commerce & Industries Expert during the 4th Expert Review Committee Meeting. Annexed as Annexure 34: Proceedings of the 4th Meeting of Expert Review Committee dated 8 April 2008.

[77] See Annexure 35: Proceedings of the Meeting of Expert Review Committee dated 22 Oct 2009.

[78] The organization fizzled out after its functionaries were haunted by security forces.

[79] Press Release dated 25 May 2008 of the Thoubal Multipurpose Project (Mapithel Dam) Downstream Affected Area Committee. Annexed as Annexure 36.

[80] Ibid.

[81] Mapithel Dam Affected Ching-Tam Organisation (Mapithel Dam Affected Hill-Valleys Organisation, MDACTO) was previously known as Thoubal Multipurpose Project Construction Area Committee (CAC). The name change took place after affected villagers learned that the officers of CAC were, instead of representing the interest of the affected communities, collaborating with the dam proponents and the government for individual benefits.

[82] Annexure 36: MDACTO press release dated 28 August 2008.

[83] Supra nn. 28 & 29.

[84] See numbered para 19. Supra n. 33.

[85] T. C. Hodson, Naga Tribes of Manipur. (London: illan,1911).

[86] The issue of identifying who exactly is a Kuki is highly controversial and there have been a number of debates as to which clans belong to the Kuki tribes. In Manipur, a number of groups who identify themselves as non-Kukis (eg. Paite, Hmar, Gangte) are identified as Kuki by groups who identify themselves as Kukis. Because of this controversy, it is difficult to ascertain the population of Kukis in Manipur.

[87] The Kuki People of Zale'n-gam. Available at <www.kukination.net/history.php>

[88] Supra n. 22.

[89] The question of how complete or holistic an economic assessment can be persists. See for instance: Adams, W. 2000. The Social Impact of Large Dams: Equity and Distribution Issues, Thematic Review I.1 prepared as an input to the World Commision on Dams, Cape Town, www.dams.org

[90] Interview with Kahaoshang Mahong, Secretary, Chadong Village Authority.

[91] Interview with Honreikhui Kashung, Member, MDAVO.

[92] See Annexure 37: Extract of Cabinet Memo of Manipur dated 24 April 2008.

[93] The Indian Constitution mandates the production of arrested persons before courts within 24 hours of their arrest.

[94] See Annexure 38: Letter No. 13014/Civil-01/D/2008 of D Coy, 23 Assam Rifles dated 3rd Nov. 2008.

[95] See Report of the Fact Finding Team on Mapithel Dam, 19 Nov. 2008 (NPMHR: Imphal, Dec 2008)

[96] World Commission on Dams, 2000. Dams and Development: A New Framework, the Report of the World Commission on Dams for Decision-Making (London: Earthscan Publications Limited) pp. xxvii-xxviii.

[97] International Commission on Irrigation and Drainage (ICID), 2000. Dams and Stakeholders: Position Paper on Dams.

[98] Interview with Ramthar Shaiza, Chairman, MDACTO.