

Dams Built on Rivers of Blood

A Fact Finding Report on the
State Repression at Kanhar Dam
in Sonbhadra, U. P.



Delhi Solidarity Group
July 2015

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(18th - 20th April 2015)



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Aklu Chero, an adivasi from Sundari village was shot at by the Sonbhadra Police officials on 14th of April 2015 when he along with other villagers was protesting against the Kanhar dam construction and against illegal land acquisition. The bullet shot right through his chest missing his heart marginally. While talking to him in the hospital he said, "*Ladaai jaari hai* (Struggle is continuing)" ...



Introduction

The district of Sonbhadra was carved out from Mirzapur on the 4th of March 1989 and it is second largest district of Uttar Pradesh (UP). The district is stretched across an area of 6788 km² out of which 3782.86 km² is covered by forest area. This contributes to around 55.73% of the total land area. Apart from the forest areas and the rich varieties of flora and fauna found in the area, the district is also famous for the growing number of industries and industrial pollution.

There are 9 major thermal power plants of about 9421.7 MW capacities, 5 coal mining fields 17.087 Metric Tonnes Per Annum (MTPA), 3 Chemical Industries which produces around 55862.3 tonnes/month, a cement industry that produces around 66000 tonnes /month of cement, and a lime stone mining field 2,66,666 tonnes of limestone per month. The most important point to note is that the industries are constantly expanding in this area.

According to the report of Centre for Science and Environment (CSE) on the “Mercury Pollution in Sonbhadra District of Uttar Pradesh and its health impacts” in October 2012, it was found that most of the drinking water samples that were tested from the area were not found suitable for drinking, the mercury levels in the water, soil, the fish samples and people’s bodies were much higher than the permissible levels and also the traces of lead, arsenic, chromium and fluoride present in the same were much higher than permissible levels. The water samples from the hand pump in Anpara and Chilka Daad contained mercury 8 higher than the permissible limit respectively.

The expanding industries and industrial pollution has affected the lives of people living in and around Sonbhadra drastically. Massive displacements, denial of jobs in the Industries, temporary/ contractual jobs, poor living conditions, excessive migration, and damages to forests, massive deforestation, agricultural fields and properties are some of the damages created to the lives of people living in the area.

It is clear from facts and figures that half of Sonbhadra district is officially classi-

fied as *forest land* and is under the control of forest department whereas this is the same district that is doing far poor in implementing the Forest Rights Act (FRA) that got passed in the year 2006. The irony of Sonbhadra is that, on the one hand most of the forest land is diverted towards industrial and mining use and to dominant caste people, on the other hand the majority of *dalits & adivasis* are made to live in constant fear of forest department and the district officials and are tagged as 'encroachers' and 'Maoists' which is in itself contentious under the FRA as well as under the Indian constitution. There have been reports of widespread violence against the *adivasi* and *dalit* communities demanding their rights under the FRA 2006.



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Kanhar Dam Project

The Kanhar Dam Project was initially envisaged in the year 1977. The Kanhar Irrigation Project was originally approved by Central Water Commission in September, 1976. The project is located downstream of the river Pagan with Kanhar near village Sugawan in Tehsil Dudhi of District Sonbhadra, Uttar Pradesh. The project proposes a 3.003 km earthen dam having a maximum height of 39.90 m from deepest bed level which may be increased to 52.90m if linked to Rihand reservoir. The project envisages submergence of 4131.5 Ha land which includes parts of Uttar Pradesh, Chhattisgarh and Jharkhand. The project was completely abandoned since 1989 and construction work is started on 5th December, 2014. Information accessed under RTI shows that the project does not have a valid 'Environment Clearance' and 'Forest Clearance'. The project was proposed with an initial budget of Rs. 27.75 Crores. Initially, there was some foundation work undertaken but the project was soon stalled due to inter - state issues, lack of funds and volcanic protests from tribal communities of the region. As per a progress report of the project for 1998-99, the construction work is completely

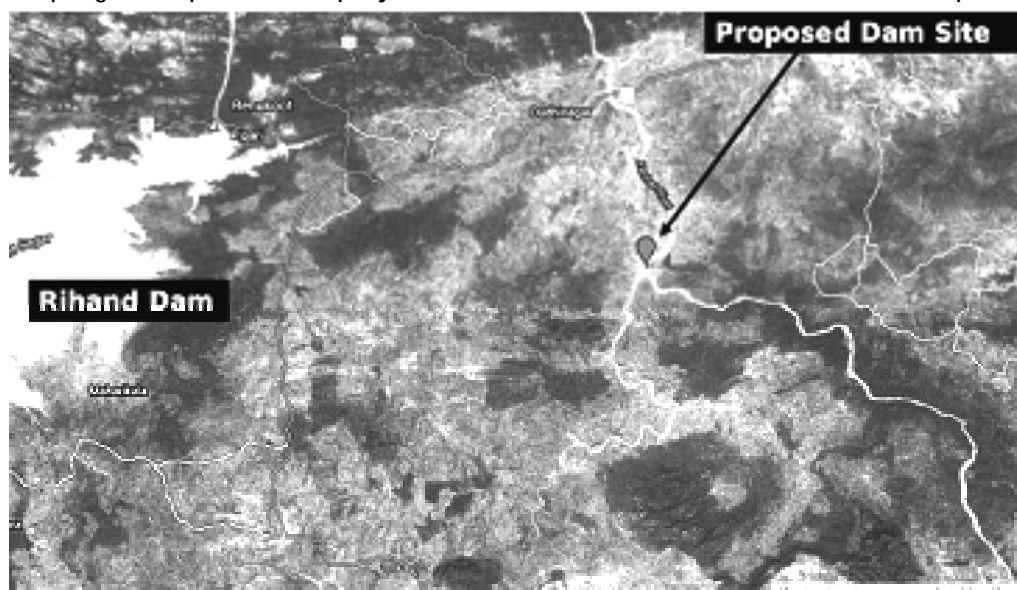


Image: Kanhar dam site picture taken using Google Earth image

abandoned since 1989-90. Since then, there are numerous occasions when the project was inaugurated, notable among them is one on 15th January, 2011 when the then Chief Minister Mayawati laid foundation stone again. Another inauguration took place when on 12th of November, 2012 when Mr. Shiv Pal Singh Yadav (uncle of present CM Akhilesh Yadav), the Irrigation Minister of Uttar Pradesh laid another foundation stone to start the work of spillway. However no work could be taken up.

The project is expected to provide irrigation to Dudhi and Robertsganj Tehsils via left and right canals emerging from both sides of the dam with capacity of 192 and 479 cusec respectively. The culturable command area of the project is 47,302 ha. The project imposes enormous threat not only to the environment and ecology but also to thousands of tribal families of Vindhyas living there since hundreds of years and has demanded for protection of their forests and proper implementation of R & R (Rehabilitation and Resettlements). "Nearly, 7,500 families from 25 villages will have to be re-settled. The preliminary figures estimates that 9 lakhs trees, 2500 kuccha and 200 pucca houses, 500 tube wells and about 30 government schools along with some other buildings and essential amenities shall be submerged under the water. Land admeasuring around 3,000 ha will have to be submerged as per newsletter Update on Dams, Options & Related Issues of South Asia Network on Dams, Rivers and People. However, it is also stated that the project fact sheet of 1998-99 shows submergence of increased area i.e. 4,131.5 ha."¹



Image: Kanhar dam Project information map

¹ VINDHYA BACHAO. (2015, May 7). Retrieved June 26, 2015, from <http://vindhyabachao.org/>: <http://vindhyabachao.org/embeds/kanhar/Kanhar-Judgment.pdf>

The inauguration of the project held on 5th December 2014 was marked by the presence of heavy police force and paramilitary forces which were deployed to guard the construction site on the river bed. Few roads have been blocked by Police and it is reported that the entry to the project site is stopped 1.5 km ahead of the construction site. To speed up the work, regular increase of heavy equipments and machinery is in progress. CCTV cameras are also reported to be installed at the site to keep a regular check on the activities.

Resistance Against the Kanhar Dam and illegal land acquisition

Kanhar Bachao Andolan

The Kanhar Bachao Andolan (KBA) is the first of its kind integrated protest which emerged in the form of an organization in the year 2002 under leadership of a Gandhian activist Bhai Maheshanand ji of Gram Swaraj Samiti based in Dudhi tehsil of Sonbhadra and Gram Pradhans of villages which would be submerged if the project is implemented. The KBA has been raising the issue of tribal rights and discrepancies in the R & R before the state govt. through representations, protests and petitions in High Court. There is a continuous peaceful campaign against the project by KBA since a decade including the unceasing protest which started from 5th December, 2014 on the other side of the river Kanhar opposite to the construction site. Fanishwar Jaiswal, who is a former - Gram Pradhan of Sundari village and an active member of KBA said, "There was a public meeting organized by the MLA Ms. Ruby Prasad of Dudhi in June, 2014 to address the R & R issues. The Gram Pradhans of several villages presented their views against this project and also submitted written representations; however those views and protests were never registered by the government in any of their reports."

After the stay order of NGT on 24th December 2014 under the banner of ***Kanhar Baandh Virodhi Sangarsh Samiti*** (KBVSS) Bhuinyas, Kharwars, Gonds, Cheros and Panikas came together to protest against the dam project and sought the help of All India Union of Forest Working People (AIUFWP). The leader of the movement Gambira Prasad, Shivprasad who coordinates with other movement and a very part of Kanhar Bachao Andolan organized these tribal villages to protest against the Kanhar dam by giving demonstrations right outside the construction site.

The Kanhar Bachao Andolan is constantly raising its voice in the ground to save the forest areas of Kanhar valley from submergence that will be caused by the dam. The project which is at its nascent stage now will destroy around 2,500 hectares of

dense forests and also will submerge around 87 villages.

The dam construction work began without having a consultation with the villagers or the local gram panchayats and this is seen by the villagers as a taken for granted behavior by the state. When villagers were first told about the project in the year 1976, then Chief Minister of Uttar Pradesh Shri N D Tiwari promised them 5 acres of land, one job in each family and a house measuring 40 x 60 feet, apart from full facilities of education, health, electricity and water to the affected villages of the region.

Later in 1983, compensation payments were made to a certain number of villagers and only to the heads of households at the rate of Rs. 2700 per acre. But the process got stalled again. The recent developments including the laying of foundation stone and speeding up of construction of the dam has created more confusions and suspicions among the villagers. This raised in a lot of questions as to:

- **Whether the environmental clearance and other project clearances acquired by the state some 38 years ago are still valid and the relevance of the same in the current scenario?**
- **Whether the state government and the district officials are following the Forest Rights Act, 2006 when it comes to the diversion of forest lands for the developmental project?**
- **Whether the compensation package be revised taking in to consideration the current land value?**
- **If the state government overlooked the new LARR bill where in the retrospective clause states that 'if the acquired land has not (been) used or (were) not in possession for five years, the process of acquisition would have to start afresh'?**
- **Whether the Kanhar dam project is the exact replica of the Rihand Dam project that started the destruction of the Singrauli district, where thousands of residents have been repeatedly and haphazardly displaced by multiplicity of projects that followed the Dam project?**

The main objective of the Rihand dam was irrigation and hydro power and in this sense it has failed since the dam is now being used for cooling water for thermal power generation and as a sink for absorbing hazardous and toxic wastes from a host of power stations.

- **If the State administration is really willing to implement the project for the people's good and not for the interest of the growing industrialization in**

Sonbhadra district and to systematically convert Sonbhadra in to the next Singrauli then why would the district administration forego procedures like public hearing, environmental and social impact assessment, Forest and Environmental clearances?

- **Why would the project authorities not obey the order of the National Green Tribunal and its directive to stay the project until the clearances and relevant documents are produced to the court and why is there a contempt and breach of law as well as a delay in submitting the records if everything is done legally?**

When people began resisting and raising their voices to ask these questions the only way the state answered was by use of violence and power. The Sonbhadra district administration has tried putting constant effort to suppress the voices of aggrieved and affected raised against the project and those who have attempted to overcome the repression and still resist were being arrested under the Gunda Act, 1970. In the year 2014, the SDM along with Provincial Armed Constabulary (PAC) tried entering the protest site and tried intimidating people. This caused a menace and he was eventually injured in the same menace. In retaliation to it, a series of arrests were made by the police and fabricated cases were filed against 16 named and 500 unnamed locals. An atmosphere of fear was systematically created among the villagers in the region.

The five Gram Panchayats of Kanhar valley have filed a petition in High Court of Allahabad with help of People's Union for Civil Liberties (PUCL) to get relief under sec 24(2) of "Right to Fair Compensation and Rehabilitation and Resettlement Act 2013". And another case has been filed with help of Debadityo Sinha from the organization called Vindhya Bachao and human rights activist OD Singh of Allahabad in National Green Tribunal to stop the construction of Dam since the government of Uttar Pradesh does not have Forest clearance to pursue the project.

Construction of dam and the NGT Ruling

The UP government started the construction work by installing new machineries on the 5th of December 2014. Whereas on the 24th of January 2015 i.e., 19 days later, the National Green Tribunal (NGT) issued a stay order to stop the construction work at the dam site till the petition filed by Debadityo Sinha was heard. The petition clearly criticized the construction of the dam based on the clearances obtained 25 years back and it required fresh clearances and assessment taking in to account the significant changes in social, cultural and environmental changes in the region. Later, the gram sabhas of the Kanhar valley also filed a petition in the Allahabad High Court regarding

the discrepancies in the land acquisition process.

The UP government as usual did not respect the stay order passed by the NGT and continued the work at the dam site. In January 2015, the petitioner for the NGT case filed contempt petition against the UP government for its non-compliance with the NGT's directive following which the NGT sought a reply from the state government within a 10 days time period on 4th of February 2015. The NGT on the 21st of February 2015 sought a report from the Ministry of Environment and Forest (MOEF) and the project proponent was asked to submit the forest clearance report. The state government of UP failed to submit a reply to non-compliance of NGT's order as well as the forest clearance reports even with an extension in date of submission. The matter was reserved for judgment by NGT in its order dated March 24, 2015.

Recent Police Firings and attacks

In spite of the massive repression and neglect by the UP government or the district administration the people of Kanhar continued their peaceful protest. There was constant conflict within the communities. The MOEF as well as the UP government were not responding to the NGT's directives which raised question towards its legality and simultaneously the district administration and the UP government tried encouraging the contractors and local goons to form a local organization "Bandh Banao Hariyali lao Andolan" (Build Dam and bring Greenery Movement) in order to divide and polarize the community.

On the 14th of April 2015, on Ambedkar Jayanti, the protesters who are resisting the construction of dam decided to shift the venue of the dharna closer to the site to get the attention of administration and conduct talks with them.

As the unarmed civilians approached the dharna point outside the construction site, the Provincial Armed Constabulary (PAC) open fired and Aklu Chero – an adivasi from Sundari village was hit by a bullet. 39 persons were injured out of which 12 of them are seriously wounded. After this incident the deployment was increased to about 500-1000 officials of the PAC. Even after this attack, the dharna and agitation against the construction continued.

On the 18th of April 2015, early in morning, when the protesters were resting at the dharna site, the army/police officials uprooted the dharna pandal and mercilessly beat and chased the villagers to their villages. They even entered Bhisur village and vandalized houses, damaged people's properties, beat them up and injured men and

Time line of NGT orders:

- **22nd December 2014**- A case was filed by Adv. Parul Gupta, petitioners- Shri Om Dutt Singh & Debadityo Sinha.
- **24th December 2014**- NGT stayed construction of Kanhar dam restraining them from carrying on any construction activity at the site if they do not have Environmental & Forest clearance in accordance with law after hearing the matter and sought for reply from the UP State Government.
- **13th January 2015**-Respondent did not file a response and an extension of 10 days was provided.
- **29th January 2015**- A further extension till the 4th of February was provided to the respondents.
- **4th February 2015**- The Ministry of Environment and Forest (MOEF) was granted a last opportunity to file reply within one week.
- **19th February 2015** – Despite last opportunity the MOEF has not filed the reply. Learned counsel appearing for MoEF submits that because of lack of communication the reply could not be filed though it was practically ready. The NGT, in the interest of justice and by way of last opportunity permitted the reply to be filed within one week from then on. In event of default the MoEF shall pay Rs. 25,000/- as cost.
- **04th March 2015**- Again, the matter is listed for the 12th of March for the project proponent to submit project clearance.
- **12th March 2015** – Learned council appearing for MoEF submits that the forest clearance to the project proponent is not available in the records of MoEF and similar stand is taken by project proponent. However they submit previous and post transactions that mentions the granting of forest clearance. A further 3 days are granted to the respondent to file a reply. The court also asks the project proponent about the status of the project - whether it is ongoing or yet to take off.
- **24th of March 2015**- Arguments were heard and Judgement was reserved.
- **7th of May 2015**- NGT Judgement on the Kanhar Dam was passed. Refer to appendix 1 for observations & discussion of the Kanhar Dam NGT Judgement.

women of the village. It was also found that there are criminal cases against 956 villagers just between 23rd of December – 18th of April. People who were not injured were arrested and taken in custody for trying to call their relatives who are admitted in the Dudhi Health Centre.

This act of violence has been triggered to terrorize the communities resisting the dam construction, to weaken the struggle and to send across a message to the protesting people and also to delay the NGT final verdict.

This is a well-known strategy of the Sonbhadra district administration as it has been the case in evicting most of the adivasi communities who are resisting the violation of Forest Rights Act, 2006 and demanding the state to implement the FRA.



Image : The tent which was set by villagers during the protest was vandalized and uprooted by the police

Fact Finding Visit to assess the situation at Kanhar dam site

A fact finding team was immediately put together by the Delhi Solidarity Group (DSG) comprising of Kavita Krishnan (Secretary, All India Progressive Women's Association), Abhishek Srivastava (Journalist), Purnima Gupta (Women's Rights Activist), Debadityo Sinha (Environmentalism, Vindhya Bachao Abhiyan and Co- Petitioner in Kanhar NGT case, Rajnish Gambhir (EC member All India Union of Forest Working People), Siddhant Mohan (Journalist, Varanasi) and Priya Pillai (Activist, Mahan Sangarsh Samiti and Greenpeace India) and sent to Sonbhadra to assess the current situation at Kanhar dam site, visit the injured people, find facts about the events that happened between 14th to 18th of April 2015 so as to present the truth behind the incident.

The team met Aklu Chero, who was injured in the police firing and was admitted at Sir Sunderlal Hospital, Banaras Hindu University in Varanasi on the morning of 19th of April 2015. After the visit to the hospital the team proceeded to the village Bhisur and interacted with the villagers. The team then visited Duddhi Health Clinic to meet the injured people on the 20th of April 2015 and also met with the District Magistrate (DM) and Superintendent of Police (SP) on the same day at Robertsganj (district head-quarter).

Interaction with the movement leaders and villagers:

Aklu Chero, 53 years old resident of Sundari Village, Sonbhadra district, UP

"I have been part of the protest against the Kanhar dam for a while now. I have actively distributed pamphlets on the NGT stay order and was also part of the group that spoke with the District Magistrate on multiple occasions. The last time we met with the DM he said "Ye Sarkar stay ko nahi manti, janta jaise nipat sake nipte" (the government will not accept the stay and the people are free to do whatever they want). So we decided to protest when they were planning to go ahead and build the concrete at the dam site. We have been protesting at the site for a few months now.

On 14th of April, we left the village at 6:00am and we were a group of around 250 – 300 community members with more women than men. We believe that some of the agents planted by the

district administration must have informed them that a group is approaching the construction site. So, around 3 vehicles filled with police personals (with around 50-55 policemen) came to the protest site and stopped us on the way. Police Officer (Kotwal) Kapil Dev Yadav started misbehaving with the women so I intervened because there were no women officers. Suddenly without any prior intimation Kapil Dev Yadav pointed his gun towards me and shot me. I fell down but I was conscious. Initially, the crowd moved back a little after the shot but then came forward once they realized what had just happened.

Lakshman and Ashrafi along with a few others picked me up and then took me to the Dudhi hospital in a vehicle they had called from the village. From Dudhi hospital they referred me to Robertsganj hospital and from there to Varanasi. I was conscious all the while and became unconscious once I reached Varanasi. In Varanasi, they operated on me. The pain is still there and I cannot lift my hand properly, though am much better now. But, I do not have any money with me right now and do not have any change of clothes due to which I have to stay in the bloodstained attire for the next few days.

Also am worried about Lakshman and Ashrafi who are missing since the time they admitted me here. I tried to call them but their phones are constantly switched off. The police officials visit the ward in the morning and evening."

Later it was found that Lakshman and Ashrafi were arrested by the Robertsganj police on the same day when they had went to get Aklu admitted in the Dudhi hospital. They went missing from 4pm onwards.



Image : Aklu in hospital showing injury caused by bullet shot at him by the police

Visit to Bhisur Village :

After the visit to hospital, the team reached Bhisur village which is located close to the dam and is marked as a village that will be submerged once the dam is constructed. The village was also one of the major villages that got vandalized and attacked in the police violence that happened on the 14th and 18th of April 2015. Initially, when the team entered the village it had a deserted look and as the team moved towards the dam site they could see a few people who started gathering around the team.

The team members of the FF explained to the villagers that “they were there as a part of a fact finding to assess the situation and gather true facts regarding the same”. Soon, 20-25 people gathered who claimed that they were active in the struggle. The villagers and the team introduced themselves to each other. The villagers were quite vocal about the situation and articulated their concerns clearly.

Bhagwati Bhuria, Bhisur Village, a mother of 5 children informed the team that she has been terrorized by the whole incident and the police has been raiding all houses in the village and damaging people's properties since then. She earns her livelihood by collecting forest produce from the Kanhar valley but now she is not allowed to access the forests. Her livelihood is destroyed and also, she is scared to come out of her house and hence stays within the house fearing attack.

The group informed us that after about 30 years since the first time they heard about the project, they started construction work in December 2014 and this was also done without obtaining proper clearances and without clearing the fears and doubts in people's mind.

Hari, middle aged resident of Bhisur Village, Sonbhadra district, UP

List of people arrested after the firing and currently in Mirzapur jail:

1. Ashrafi – S/O Hari Prasad Ahir Bhisur village
2. Mata Prasad – S/O Avtar Karwar, Bhisur village
3. Manoj Kumar – S/O Keshav Karwar, Pachawal village, Chhattisgarh
4. Dharamjeet – S/O Phuleshwar, Sundari village
5. Ram Prasad – S/O Ram Dayal Panika, Sundari village
6. Lakshman – S/O Ram Swaroop Bhuiya Sundari village
7. Pankaj Kumar –S/O Lakshman, Korchi village
8. Gambhira Prasad – S/O Ramdhani, Korchi village
9. Rajkumari – Dhumma village

said,

"I have been part of the dharna since the past 4 months. Initially, we were protesting inside the dam site, but the PAC removed us from there and hence we sat outside the same premises. And, this is not the first time the administration and police has misbehaved with us.

On 23rd December 2014 (Tuesday) the SDM and CEO of the project came to the dharna site at 8:30pm and started abusing people and even tried intimidating us. When one of our boys tried recording the same in his mobile device, the police got angry and started beating up the boy and a few others. Since it was a market day, the news about this spread and people started coming to the dharna site which scared the SDM and CEO who ran away from there. When they were running they fell down and eventually the SDM got wounded. After which they fabricated cases against 17 people who were named and 500 unidentified people for no mistake of ours."

The dharna continued in spite of all these repression tactics by the state. And, on 14th of April 2015 around 250 – 300 people went for the dharna at around 6 am in the morning. The police present at the site started abusing and lathi charged on the women who were part of the protest. Since there were no women police, Aklu chero, one of the protesters intervened and asked the police to stop beating the women. At this point when they argued, police officer Kotwal Kapil Dev Yadav shot a bullet at Aklu without any warning. Aklu was injured in the chest and after this the Kotwal got wounded and left the place in the police vehicle. Aklu fell down and the police left with the injured Kotwal. The community members picked up Aklu and arranged a vehicle. Lakshman and Ashrafi took Aklu to Dudhi hospital."

As the meeting with the community members progressed the villagers got a call from someone informing them about police approaching the dam site. Thus, the villagers hurriedly left the place running in all directions. The team clearly saw a sense of tension and terror among the villagers.

Visit to the Sir Sunderlal Hospital in Dudhi :

The FFT on the morning of 20th of April went to Dudhi hospital to meet with the villagers who had been admitted there owing to the injuries caused by the police on 18th of April. On way, the FFT was again encountered by the police and again asked to leave owing to sec. 144 that had been imposed there. The FFT argued with them once again and proceeded to visit the hospital. The FFT was interrupted for the third time outside the Dudhi hospital by officials, who then allowed the team to go inside after much debate.

When the team visited the hospital they met with the victims. The injured victims complained that the hospital is not providing them with proper treatment. 14 people were admitted in the hospital of which were five women and nine were men. Everyone had bandages all over their body. Most of them were over 50 years old. They were mostly from Korchi, Bhisur and Sundari village. These three villages are most affected by the construction of the dam. (The list of injured people is given in the box)

Observation:

The underlined names (14) are those that the FFT met with but they did not know the whereabouts of rest. Incidentally, the list of 9 people lodged in Mirzapur jail that the FFT later got from a local activist who had visited jail on 26th of April mentioned four names (unmarked, with same father's and village names) that appear in the injured list of 18th. This means that as soon as they were discharged, they were arrested and the DM had misinformed the FFT on 20th. Still, the FFT could not find three injured (unmarked) of 14th and one from 18th list. This includes a woman Shanti Devi. The FFT met two other injured elderly men in Duddhi CHC whose names do not appear in the official list.

So, if one goes by the official list, people who were admitted to the hospital are at the same time also in jail whereas those who are actually found in hospital are missing from the official list. Those who are missing from both places are only believed to have died and buried (as per villagers) and coincidentally they exactly add upto six (four men and two women). Interestingly the same sms was circulated by Roma on 19th that is dubbed as rumour mongering in administrative circles!

The FFT observed that the electricity supply to the wards was turned off and the windows inside the ward were shut which was causing suffocation and limited the air supply inside the general ward. People also informed the FFT that the family members of the injured were not allowed to meet them in the hospital. They also complained that due to lack of water they had to drink water from the toilet. In addition to this, the patients were not fed on time and sometimes even left without giving any food. They were left in their blood stained clothes and there were no facilities to even brush their teeth.

Jogi Shaav, aged 73 years old said that he was beaten up with a lathi on his back vigorously. He had swollen legs with marks of *laathis*. After he fell down he was brought to the hospital. Another man of similar age from Korchi village stated that there were number of women who had been *laathi* charged severely. Roop Shah from the same

village said that though he did not have any fracture but his whole body was in severe pain. Rubber bullets were fired on people on the 14th of April. Moin and Uday from Bhisur village had bleeding fingers and bandaged head. Uday also had many fractures on his body. Bhutan Shaav said that "*hum log ko chhurwa dijiye, ghar chale jaye*" (please get us released so that we can go home). The team moved to the wards where women were kept. There were not enough beds for them. All the women present there were aged over 50. They were beaten up with lathis on their head. Phoolmati said "*lathi loot liya*

List of the Injured: (Taken by the FFT from SP Shiv Shankar Yadav)

Injured on 14th April:

1. **Aklu – S/O Vikram – Village Sundari**
2. Santosh – S/O Shiv Prasad – Village Bhisur
3. Rajdev – S/O hardev – Village Mahuli
4. Shanti devi – W/O Bharat – Village Sundari

Injured on 18th April:

1. Dharmaveer – S/O Phuleshwar – Village Sundari
2. Ram Prasad – S/O Ram Dayal – Village Sundari
3. **Bhutan Saav – S/O Sarju Saav – Village Sundari**
4. Mata Prasad – S/O Ram avatar – Village Bhisur
5. Roop shah – S/O Jageshwar – korchhi
6. **Rajkariya – W/O – ramadhar – Village Bhisur**
7. **Maanmati – W/O Ram Sakal – Village Sundari**
8. **Phoolmati – W/O Balla Shah – Village Korchhi**
9. **Devkaliya – W/O Shanichar – Village Sundari**
10. **Kismatiya – W/O Ganpat – Village Bhisur**
11. Manoj Kharwar – S/O Keshwar – Village Pacharwal (Chhattisgarh)
12. **Fauzdar – S/O Keshav Ram – Village Bhisur**
13. **Uday – S/O Meval – Village Bhisur**
14. **Shanichar – S/O Ramdas – Village Sundari**
15. **Mohammad Jahur – S/O Gulam Rasool – Village Sundari**
16. **Ajibuddin – S/O Noor Muhammad – Village Sundari**
17. **Moin – S/O Aenul - Sundari**
18. Bakhori – S/O Sampat – Sundari
19. Vijendra Jaiswal – S/O Raveni – Amwar

aur hiya maar diya". (they took lathis from our hands and started beating us here) showing her back.

The FFT went and visited the chief superintendent doctor Mr. U. P. Pandey who informed us that the water is from the bathroom not toilet and is fit for drinking and that everybody drinks the same water. He even took a sip from the same to prove it to



Image : Injured villagers at the Sir Sunderlal hospital , Dudhi.

the FFT. And when asked about the treatment and facilities he kept denying the complaints of people. Later, he switched on the electric supply to the wards.

While the FFT was talking to the hospital officials and the injured people, a mob of 60-70 people gathered outside the hospital which was led by the same police officials who were interrupting us on our way to the hospital. The mob started shouting slogans against NGOs, calling out names of specific FFT member like Priya Pillai and Kavita Krishnan. They also called the FFT as people against development. Later the police inspector Sanjay Kumar Roy informed the FFT that these were activists and

supporters of the dam and they did not want any violence happening near the hospital and hence said that they will evacuate us from the hospital and take us to a safe place.

The FFT asked the Inspector that if section 144 was applied then how was the mob allowed to gather at this place and if the mob is allowed to gather then why did the police kept interrupting the FFT on their visit. To this the police replied that “You had your share of time till now and from now on we are taking over” and when the FFT asked what his response meant he said that he would sit with the FFT and talk about it later.

After this the SDM arrived and sent the mob away and also asked the FFT to accompany him in his vehicle. The team was dropped at the Robertsganj district magistrate's (DMs) office and the FFT had an interaction with the DM & the SP (Mr. Shiv Shankar Yadav). The DM & SP refused to speak with activists or NGO people and insisted that he would speak only to the journalists.

The DM said that the dam construction would continue and he will monitor the same by camping at the site. He added that the FFT was free to interpret anything from that but the administration will ensure that the construction continues. When the FFT shared about harassment by the police, the DM and SP took it very lightly and even their behavior was no better than the police officials. Thus, the team gave the letter of demands and recommendations to the officials and left for Varanasi.

Hurdles faced by the fact finding team :

The team had a difficult time with the district administration and police due to their non cooperation and were even threatened and harassed by them. The team was informed by the police officials that section 144 of the IPC was imposed in the whole district post the 18th April incident but later it was withdrawn and got replaced by section 144A². But, when the team demanded papers and document evidence for same, the police refused to provide all that.

After leaving the Bhisur village, the FFT decided to stay in one of the neighboring villages and as the team moved towards Baghadu it stopped for a while at tea shop. Around 4 police vehicles arrived at the tea shop and started making enquiry. While the team was trying to answer the queries of the police officials they started checking the vehicle and started opening and searching the bags of the FFT members. The team asked for the search warrant and the police officials refused to show one. Then the

¹ Refer to annexure for details of section 144 and 144A of CrPC

police started threatening and questioning the driver accompanying the FFT.

The officer who was enquiring the FFT was in civil clothes and not in uniform and when the FFT started questioning and asking the officer to identify himself, he denied out rightly. Instead, the officer started harassing the women members of the FFT saying “*Aap mahila ho, bejjat ho jaoge* (You are women, you will get humiliated)” and when a male member of the FFT tried intervening the police official threatened to arrest him under the false pretense of being a naxalite – “*Isko abhi jail mein daalo yeh naxali hai* (Put him in jail, he is a naxali)”.

Responding to this harassment the FFT started calling up the civil society members and media. And when this happened another official arrived in a different vehicle and started talking to the team in a polite manner. The officer also asked the team to leave the village there and then and return after 5 days.

After a round of arguments with the officials, the team left for Dudhi and stayed in a hotel over night. The hotel staff informed us that they tried vacating the FFT because they were getting constant calls from the police & a mob that identified themselves as dam supporters.

Application of section 144 and 144 A in the second largest district of the state raises serious concerns and reflects on the dictatorial ways of the Sonbhadra district administration. Such prohibitory laws not only curb the freedom of locals to move around freely but also prevent people from outside (like the members of FFT) from entering these areas. This definitely shows that the district administration is not being transparent in presenting the facts and is not allowing scrutiny by any members of the civil society. The prohibitory laws are conveniently modified and used by the district administration to favor their own self interest. For example, the fact finding team was constantly stopped and harassed at more than one occasion, whereas the camera crew and journalists from a famous media house were not stopped and had unrestricted access to the district at the same time. This partiality reveals that the administration is threatened by the civil society members and is favoring media houses who would broadcast the news in a way that will support the administration's perspective.

Conflict of Interest Groups in Kanhar Dam project (In conversation with Ashok Choudhary, Gen. Sect of AIUFWP)

"Present conflict in Kanhar Dam Project between the state administration and the local communities has a long history of almost 40 years i.e. since 1976 when the Dam project was supposed to be started. Although, the project was inaugurated thrice (1976, 2011 & 2014) but there was not much work done till very recently. Initially, there was lots of confusion about the prospect of the project and the compensation amount. A handful of people got some compensation amount based on their size of land and by a rate decided by the department. After some years they found that the rate given to them was very low so they demanded more for compensation. But very interestingly acquisition of land was not started so there was no pressure on the people to agitate. In between some officials from Irrigation dept. would come and a fresh round of activities and buzz would be created. Otherwise, people were carrying out their normal activities. A movement of the local affected people was initiated in 2011, in the name of Kanhar Bachao Andolan when second foundation ceremony of the construction was held. But suddenly the activities in the dam site was started in 2014 resulting in the present direct conflict between the district administration and dam authorities with the local people. Some Human Right & environment groups from Allahabad and Mirzapur got involved with the movement in filing cases in H.C and in Green Tribunal. A sit in Dharna was started near the dam site and an attack was made by the local police and mafia on the dharna during the night time on 23rd December, which was resisted by the people and cases were filed against community leaders. This brought the formation of Kanhar Bandh Virodhi Sangharsh Samiti, which came to visibility as a strong protest movement and started an effort to link with other similar movements. A wider mobilization was started with other supporting organizations like AIUFWP, Mahan Sangharsh Samiti, Singhrauli and All India People's Forum (AIPF). With this a new process of mobilization of the marginalized sections of the entire region started and the earlier demand for appropriate compensation was transformed to a land right movement and that brought adivasi and dalit leadership in the forefront. This development did have a serious impact in the existing power structure of the region which has been traditionally dominated by the 'upper class - upper caste' groups. With the support coming from AIUFWP and Mahan group to the Kanhar Sangharsh Samiti a political conflict became imminent between the dominant group and the Adivasi-Dalit-Marginalized groups when participation of women in leadership became stronger. KSS leadership decided to join the Anti Land Acquisition National Movement by joining the historic 24th February Rally on Parliament Street. During the month of March-April KSS participated in various protest demonstrations and rallies in the region and also in other areas. With this, community lead by women leaders started asserting politically bringing a radical shift in the movement- from protection of river to assertion of community rights on land and water. Local dominant groups and political leaders across the parties felt threatened by the rise of new mass political movement and they openly collaborated with the administration to crush the movement and two major attacks were organized on the movement on 14th and 18th April collectively by the district administration and local dominant class- caste groups. Incidentally, this conflict between adivasi - dalit combine

and the dominant caste-class groups had already been visible in many areas in Kaimur regions .The violent attack on the Kanhar movement has made this an open reality with the active support from the govt. establishment, mainstream political leaders and even from the local media. All these dominant forces are now bent upon to break the alliance of affected people by luring the OBC members with the promise of better compensations and job opportunities. This dynamics of class-caste conflict will be the determining factor for the future course of the movement and activities. As river Kanhar flows the conflict of interest groups will also grow."



Dams Built on Rivers of Blood

Conclusion and Recommendation

It is just 2 months since the previous case of violent attack and arrest of Shobha, the woman union worker from the Kaimur Kshetra Mahila Mazdoor Kisan Sangharsh Samiti and there was a massive protest by all the people's movements including the Kanhar Bachao Andolan by camping outside the DM's office to demand an immediate release of Shobha and appointment of an independent committee to inquire into the issues of forest rights violation and cases against resisting people.

The police firing on unarmed civilians and peaceful protesters is a condemnable act and shows the undemocratic ways of dealing with people by the state government and district officials.

Based on the above observations, the team recommends the following:

- There should be an independent judicial inquiry into the police firing and violent attack against the adivasis, dalits and other marginalized who are resisting the dam construction in Kanhar Valley.
- The order of NGT 7May2015 must be complied strictly by stopping all the new construction.
- The committee formed by the NGT to review the Dam construction should immediately conduct on the spot enquiry and reveal the true facts of the Dam Construction and all legal issues.
- The district and the police officials who are responsible for this firing and attack must be suspended from service with immediate effect.
- Peace should be restored and violence should be stopped with immediate effect in the Kanhar valley.
- Civil society members and other members from outside should be allowed to visit the people who are injured to ensure transparency and to prevent further human rights violation.
- The DM and the district officials must respond to the people on their concerns relating to the environmental and forest clearances, issues of diversion and consultations with all Gram Sabhas should be mandated.

- The State Government and the MOEF must stop any construction work until the committee appointed by NGT passes its report on the Kanhar Dam project.
- There are cases of abduction of activists and others who are protesting the dam construction. This should stop with immediate effect and the police should take immediate action against the same to save the rights of people and freedom of expression.
- The state government should provide proper medical facilities and compensation to the victims who are injured and must compensate for the property damages and loss due to the attack by police.
- The state government and the district administration must implement the FRA, 2006 not just in papers but in spirit and action.

State Repression Continues!

While the report is being published many activists from Kanhar Bahao Andolan and All India Union of Forest Working People (AIUFWP) have been arrested and put in jail..

Jun 30, 2015 | <http://timesofindia.indiatimes.com/city/lucknow/Tribal-leaders-activists-arrested-for-opposing-land-acquisition-Kanhar-dam/articleshow/47882498.cms>

LUCKNOW: Police on Tuesday arrested Roma, General Secretary of All India Union of Forest Working People (AIUFWP), tribal leader Sokalo and Avijit, along with five other activists from their office at Robertsganj, Sonbhadra district, Uttar Pradesh, on charges of vitiating peace and provoking people to break law and order during agitation against Kanhar dam.

These leaders were leading agitation against the alleged state repression in Kanhar valley and were demanding action against those responsible for the police firing on villagers protesting peacefully in Sonbadhra on April 14 and 18, 2015, against illegal land acquisition in the Kanhar valley for construction of a dam.

"Tribal and activists in Sonbhadhra have been openly challenging the illegal nexus of corporate, feudal elements and the forest department. This is not the first time that these activists and tribal leaders have been arrested. In the past, several criminal cases which included serious offences like rioting were slapped against innocent tribal for demanding land rights for forest dwellers under the Forest Rights Act and agitating against corporate mafia," said activist Vijay Vineet.

The AIUFWP had on June 12 organized a rally in Lucknow demanding the NDA government to scrap the the pro-corporate land acquisition ordinance, implement land rights in the state for peasants, agricultural workers and landless. The rally was attended by thousands of forest workers, landless labourers and tribal from across the UP.

Soon after arrests, activists associated with the movement issued a statement that they strongly feel that Roma and other activists are being targeted by the administration for defending the natural resources being looted in the name of the greater common good. An appeal was also issued requesting people to send faxes and emails to the chief minister Akhilesh Yadav urging him to immediately release the activists and stop harassment.

CrPC 144A: Section 144A of the Criminal Procedure Code

(Power to prohibit carrying arms in procession or mass drill or mass training with arms)

1. The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.
2. A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.
3. No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.
4. The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.
5. The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under Sub-Section (4) to the District Magistrate.

(Source: <https://www.kaanoon.com/indian-law/crpc-144a/>)

Section 144 in The Code Of Criminal Procedure, 1973

(Power to issue order in urgent cases of nuisance of apprehended danger.)

- (1) In cases where, in the opinion of a District Magistrate, a Sub- divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.
- (2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.
- (3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.
- (4) No order under this section shall remain in force for more than two months from the making thereof: Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.
- (5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor- in- office.
- (6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub- section (4).
- (7) Where an application under sub- section (5) or sub- section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing. D.- Disputes as to immovable property

(Source: <http://indiankanoon.org/doc/930621/>)

More on NGT Judgement:

Abandoned dams; abandoned people

Authored By : Amita Bhaduri, Chicu Lokgariwar

Posted Date: Tue, 2015-05-19 16:07

Source : <http://www.indiawaterportal.org/articles/abandoned-dams-abandoned-people>

The National Green Tribunal allowed the ongoing construction on the Kanhar dam to continue despite its many illegalities. Four people who know the situation best explain why we should be disappointed.

Kanhar, 1976; Polavaram 1941. These are just two of the several dam projects that were proposed decades ago but are yet to see the light of day. Capitalist media is quick to denounce 'anti-development' activists as being the roadblocks on the glorious path of progress but there is more to it. Unlike what we are all led to believe, halting a state-sponsored project without strong legal backing isn't easy. The Supreme Court of India remains one of the country's institutions that retains respect and a reputation for being just. If some dams have been issued a stay order by the National Green Tribunal, it is not because of agitations but because the dams were environmentally and legally unsound in the first place.

There are at least three valid legal reasons why the National Green Tribunal should have halted the ongoing construction activity at the dam.

- Kanhar dam was first proposed in 1976, and land for it partially acquired from 1978-82. Environmental clearance was given in 1980 — 35 years ago. However, since it predates the Right to Information Act, the document can no longer be produced before the affected people. Implementing a project on the basis of a document none of the affected are allowed to see, is contrary to the provisions of the **Environmental Impact Assessment Notification, 2006 specified under the Environment (Protection) Act, 1986 as well as the Forest (Conservation) Act, 1980.**
- As per the **73rd amendment to Constitution**, Gram Sabhas are empowered to take decisions on whether projects should be executed or not. All the Gram Sabhas in the project-affected area have unanimously rejected the project. They have approached the Allahabad High Court regarding this (Case no. 67043/2011). The case is still pending, so the Government should not go ahead with construction till this is decided.
- According to the **Right to Fair Compensation and Transparency in Land acquisition, Resettlement and Rehabilitation Act, 2013**, if the acquired land has not been used, the process of acquisition would have to start afresh.

A case was filed in the National Green Tribunal based on an application filed on December 22, 2014 by O.D. Singh (UP People's Union for Civil Liberties) and Debadityo Sinha (Vindhya Bachao Abhiyan) against the UP Government and Ministry of Environment, Forest and Climate Change (MoEF&CC) for carrying out construction activity of the project without statutory clearances under EIA Notification, 2006 and Forest (Conservation) Act, 1980. The judgement was given on May 7, 2015.

Reactions on the Kanhar judgment

"The NGT judgment on Kanhar dam is most disappointing", said Himanshu Thakkar, South Asia Network on Dams Rivers and People. "Lakhwar Dam on the Yamuna is another case that was taken up till 1992 and then abandoned and now has been taken up again without fresh environmental clearance. Many other projects are in a similar situation and need to go through fresh appraisals, no doubt. We in

fact are saying that **the environmental clearance needs to be reviewed and reconsidered for such projects every few years, say every five years**", Thakkar added.

According to Roma Malik of the All India Union of Forest Working People(AIUFWP), the deliberations of the National Green Tribunal are inconsistent with its judgement. She says, "The people opposing the Kanhar Dam have always stated that the dam was built in an illegal manner; this has been validated by the National Green Tribunal in its judgement of May 7, 2015. The court has decided that the demands of the Dalits and Adivasis of the dam-affected villages are correct. Despite this, in just one sentence at the end, the Court issued directions to complete the existing work just to make the State happy. There is a complete stop on new construction. The reality is that all the work that is going on is new construction. Thus **there is a discrepancy between the Green Tribunal's 50-page deliberation and the direction given at the end**".

"The observations of the National Green Tribunal and its directions are not consistent", felt Parul Gupta, Advocate from the side of Peoples Union of Civil Liberties, Uttar Pradesh and Vindhya Bachao Abhiyan — the applicants in the case. "It's a painful irony that the National Green Tribunal's observations approve the major contentions raised by the applicants and points that the old clearances of 1980s holds no good with respect to the present changes in the environmental conditions. It also notes that the very substantial work of the project is still to be completed. Yet the National Green Tribunal did not halt construction activity on the grounds that huge amounts of money have already been spent on the project. The judgment states that delaying the same at present for want of fresh clearances under law would neither serve the interest of the environment or ecology nor would it serve any public purpose", said Parul Gupta. The court's observation that "the case, examined in the light of the principles of sustainable development and the precautionary principle, would tilt in favour of the State is disagreeable", Gupta said.

Debadityo Sinha, Vindhya Bachao Abhiyan, an applicant in the case said, "the judgment is a mixed one. While **it provides partial relief** by directing that a committee comprising of experts of Ministries, Principal Chief Conservator of Forests and Indian Institute of Technology, Kanpur will look into critical issues like complete Resettlement and Rehabilitation and would study the environmental and ecological impacts from all aspects including environmental flow requirement of the river and impact on the elephant corridor, the decision is greatly tilted in favor of the State". In particular he felt that the environmental clearance should not have been linked to the date of acquisition of the land, as project activity had not commenced at the site. "While the court notes that stoppage of work would further enhance the cost of construction it has not taken into account the cost of infrastructural losses leave apart the social and environmental losses should the project continue in its present form", he said.

Several projects in India carry in their trail the same sorry tale. While the judgment says that the "project is intended to provide and inject better facilities of living", it is the project affected people who will be left to negotiate their new lives over the ruins of their ravaged existence.

Kanhar: To be or not to be?**Authored By: Roma Malik**

Posted Date : Sun, 2015-05-17 07:20

Source: <http://www.indiawaterportal.org/articles/kanhar-be-or-not-be>

The May 7th Kanhar judgement by the National Green Tribunal validated the protesters' claims, but then also allowed the Government to 'complete earlier work'. Isn't the NGT contradicting itself?

The last month has been one of great activity around the illegal construction of the Kanhar dam in Sonbhadra district of Uttar Pradesh. In the two episodes of firing on peacefully protesting adivasi dalits, the Uttar Pradesh government violated the constitutional and democratic rights which are the core of our social fabric at the behest of local land mafia. What has happened since?

The NGT judgement

O.D. Singh and Debadityo Sinha had filed a petition in December 2014; the National Green Tribunal issued its judgement on May 7, 2015. This judgement clearly indicates that the construction of the Kanhar dam is illegal and it has proved that the claims of the dalit adivasi people were correct. Despite this, in an apparent attempt not to antagonize the government, the NGT has allowed "the construction or activity that is under way" but has put a stop on any new activity without specific recommendations of the High Level Committee. But the fact is that all current construction work is new work. Hence there is a contradiction in the analysis given in the 50 page judgement regarding the various legal flaws on the construction of the dam and the one line direction allowing construction or activity.

It is important that people analyse and understand court judgments like the NGT order of May 7, 2015 which has in effect blown away the very basis of the construction of the Kanhar dam. All the facts put forward by the petitioners have actually been accepted by the court — that the project has no appropriate forest clearance and that the claims of the Uttar Pradesh government is incorrect. The court has also accepted that the project activity had hardly commenced in the year 2006, and thus the project cannot continue without obtaining the Environmental Clearance in terms of the EIA Notification of 2006. The project also has no clearances under the Environment (Protection) Act, 1986 and Forest (Conservation) Act, 1980.

The Sonbhadra district administration's submission that an insignificant percentage of adivasi population would be affected by this dam has also been proved wrong by the court. In reality, 7,500 families from 25 villages, the majority of whom are tribal, will be displaced and will need rehabilitation. The NGT has in this judgment expressed serious concern on environmental issues and has pointed out that Kanhar river is a major tributary of the Son which is a major tributary of Ganga. Due to construction of several dams and water diversion structures on the Son including the Rihand Dam and Bansagar dam, the river Son is already facing great threats to its existence.

The Order has noted that the project is bound to result in a huge loss of forest area — a large number of trees were felled despite strong opposition by the tribals which is a gross violation of the provisions of the Forest (Conservation) Act, 1980. It also referred to the T.N. Godavarman v. Union of India and Others, W.P. (Civil) No. 171/96, where it was contended that forests are vital components for sustaining life support systems of the earth, for preventing any damage to them, and that development should be consistent with the protection of the environment and not at the cost of degradation of the environment.

Any threat to ecology can lead to the violation of the Right to Enjoyment of Healthy Life guaran-

teed under Article 21 of the Constitution of India and needs to be protected. The court has asserted that there is a need for a proper cost benefit analysis particularly because no opportunity has been granted to the affected persons to raise their concerns and grievances, and also because significant changes have taken place in the environment due to a drastic increase in population, industries and development of coal mines etc.

Escalating costs: From Rs. 28 crore to Rs. 2259 crore

The honourable Tribunal has also laid bare the huge cost escalations in this long delayed project, which was initially approved for an estimated cost of Rs. 27.75 crore in 1979 with a revised estimate of Rs. 69.47 crore. In the 106th meeting of the Advisory Committee of the Central Water Commission held on October 4, 2010, the estimated cost of the project was quoted as Rs. 652.59 crore, as per price levels of 2008-09. Of late, it has been revised to Rs. 2259 crore. The scope of the project was expanded in this long time period which is also a reason for the cost escalation.

NGT uncovers the truth

It is evident from the NGT judgment that the UP government and the UP Irrigation Department have tried their best to mislead the Tribunal with many incorrect facts. The UP government informed the tribunal that this is an inter-state project which had been sanctioned in the year 1976, and the Environmental Clearance was accorded in 1980. The UP government also mis-stated facts about clearances from the neighbouring states of Chattisgarh and Jharkhand where villages would also be submerged – giving an idea that that clearances were obtained during the initiation phase of the project, but in reality such clearances were actually obtained in 2010 and 2012 respectively. They also said that this project was meant to provide irrigation facilities to drought-prone areas of Duddhi and Robertsgunj in the Sonbhadra district (when this region has the much talked about Rihand dam which is supposed to be a large scale irrigation project though waters from this dam is being used to meet the needs of the energy producing companies of this area).

The government claimed that work on this project has been going on from 1980. However, from the documents on record, the court observed that it is clear that the construction and related activity of the project had come to a halt and had not been carried out for a long time until 2014 for the want of funds, and due to the absence of fresh permission from the Central Water Commission. The Tribunal also noted that after the Environmental (Protection) Act, 1986 came into force, the Ministry of Environment and Forests had issued a Notification dated January 27, 1994 requiring any person who desires to undertake any new project and in any part of India, or the expansion or modernization of any industry or project listed in Schedule I to the Notification, to submit an application to the Ministry to seek Environmental Clearance for the project. Schedule I to the Notification included hydro power, major irrigation projects and / or their combination including flood control projects. In view of the peculiar facts and circumstances of this case, it was expected of the UP government to seek Environmental Clearance in terms of the Notification of 1994, which apparently they did not.

The Tribunal has also observed another very important fact about the Kanhar project — that this is not a site oriented project but a huge project, which will have diverse impacts on a very large area and a number of villages falling in the territory of the three States namely Uttar Pradesh, Jharkhand and Chhattisgarh. It has also raised questions regarding compensatory afforestation activity carried out by the Forest Department as per the permission of the Governor of Uttar Pradesh approving the diversion of 2422.593 acres of forest land situated in Dudhi Forest Division of District Mirzapur to the Irrigation Department. The Tribunal found that against an area of 980.40 hectares diverted for the irrigation project, the area brought under compensatory afforestation in terms of the statement filed by a Divi-

sional Forest Officer, Renukoot Forest Division is only 666 hectares of forest plantations and 80 kms of road side plantations.

Environmental stress to Sonabhadra

The industrial development that has taken place in Sonabhadra district in the last 30 to 40 years has created a great deal of environmental stress. The Singrauli region was identified as a critically polluted area by CPCB in 1991. Consequently, the Government of India placed a moratorium on the setting up of new industries in 2010. Thus, the environment clearance of 1980 makes no sense in the changed situations and warrants a fresh approval. Ultimately however, despite expressing so much concern about the environment and the state of the people of the region, the order passed by the Tribunal is not in consonance with the concerns expressed.

The tribunal order ultimately bases itself on the cost factor only and allows construction work to continue because it felt that huge amounts of public funds have already been spent on the project — a project which is costing the nation nearly 100 times the original estimated cost of Rs. 27.75 crore at 2013 price levels. Stoppage of work would further enhance the cost of construction and would be an unnecessary burden on the public exchequer. Thus, any direction for stoppage of work or demolition of the project would certainly not serve either the ends of justice or the environment.

The order of the tribunal is contradictory because in its interim order of December 24, 2014, it had asked the government to stop all construction because appropriate Forest Clearance had not been produced. But construction work continued and trees continued to be felled despite this interim stay order. For stopping new construction and seeing to it that all environmental and forest clearance norms have been adhered to, the Tribunal has set up a High Level Committee which does not however have any representation from mass organisations, scientists or any geological and expert organisations. This is a matter of grave concern.

There is no clarity on who will actually ensure that no new construction is being done or that all conditions as set out by the tribunal order are being followed. The ground reality is that the Sonbhadra district administration, police and UP government is only focused on silencing peoples' voice by using state power. In such a situation, where is the guarantee for people under Article 21 of the Constitution safeguarding their Right to Life? This Right is not being guaranteed by the government, judiciary, political parties or mainstream media — which seem to have completely surrendered to corporate designs. The landless and marginalized communities are beginning to forge a fighting unity on the ground to challenge this state of affairs.

Unfortunately the NGT order does not take in to account this emerging political ground reality and in effect tries to weaken the peoples' resolve and support the unsocial elements and land mafia in their greedy overtures. But whatever be the given situation it will be incorrect to underestimate the democratic values of this country because it is our firm belief that the peoples' struggle would be victorious.

As the departed shayar Harjeet had written —

”Munsif ka saach sunhari siyahi mein chip gaya

waise woh jaanta hai khatawar kaun hai”

(Truth hides beneath the golden ink of the judge, But he knows who the offenders is)

News paper Articles

Furquan Ameen Siddiqui, Hindustan Times | May 17, 2015 |

Source : <http://www.hindustantimes.com/india-news/why-villagers-protesting-against-one-up-dam-project-are-living-in-fear/article1-1348117.aspx>

At Sugwaman village in Uttar Pradesh's Sonbhadra district, villagers watch quietly as the yellow arms of earth movers dig into the grassy knoll beside the river bed and dumpers collect the excavated soil. The machines arrived in the village in December last year and have been digging since, uprooting trees and reducing hillocks to nothing.

In the past five months, the metal excavators have reached the doorstep of Ram Parmesh's small mud house. 25-year-old Parmesh was born in the house, just like the many generations of his family before him. Now, his family is staring at imminent eviction as machines rampage over his farmland preparing for the dam coming up next door.

Parmesh's story is no different from that of thousands of others unfortunate enough to live on land that the state wants. In this case, the land is being sought for the Kanhar Sinchai Pariyojna, an irrigation project located downstream of the confluence of the rivers Pagan and Kanhar. It was hoped that the dam would irrigate the drought-prone farms of the Duddhi and Robertsganj tehsils of Sonbhadra.

What makes this project particularly absurd is that it was passed almost 40 years ago in 1976 when the first foundation stone was laid by ND Tiwari, the then chief minister of UP. The project soon ran into difficulties, primarily because of a lack of funds. By 1984, construction was entirely stalled, and for two decades, the project was forgotten. Former UP chief minister Mayawati's attempt to revive construction in 2011 was strongly opposed by about 5,000 villagers.

The issue cropped up again when the state's irrigation minister, Shiv Pal Yadav, laid yet another foundation stone in 2012. Events took a serious turn when, on April 15 this year, the police guarding the dam site opened fire on protesting villagers injuring over 35.

Since then, a fence has come up around the site near Amwar village and a large UP Provincial Armed Constabulary (PAC) contingent has been blocking the main road, forcing villagers to take a dirt track around the fence to reach their villages. Parmesh's house is now inside the fenced area and to get there, you have to crawl through an opening cut into the wire fence. A few pigs, cows and hens roam around in the yard unfazed by the noise of the digging machines. "Policemen come here often and abuse us; they ask us to leave this house soon," says Parmesh. "We have a big family, where do I take them? What should we do with our animals?"

LIVING IN FEAR

Getting to the village is not easy. We had to sneak in through a circuitous route to avoid trouble. A fact-finding team that had visited the site a week before were trailed by police and briefly detained. Once in the village, we made our way to the house of the president of the Kanhar Bandh Virodhi Sangharsh Samiti, Gambhira Prasad. The administration has arrested Gambhira, who led the sit-in protests.

"We had been protesting peacefully for over four months but no one listened. So our leaders decided to protest by stopping the construction work. But even before we reached the site, the PAC started beating us and fired on us," said Gambhira's brother Rajendra Prasad. Gambhira's wife described how the police hadn't spared the women and had dragged them by the hair and beaten them with lathis. The fact-finding team found that many were injured badly and bore marks of the blows.

"People are so scared now that they are willing to take whatever compensation they can get and leave," says Aklu Chero, a local tribal leader from Sundari village. The police shot Chero during the protest. The administration claims Chero was shot when a group of about 500 protestors attacked the policemen and tried to snatch the inspector's revolver.

Frightened villagers were reluctant to talk to or even be seen with us. Their fear isn't baseless. After the two protests in April that turned violent, the police registered cases against 16 people, and about 500 nameless cases too, giving them the power to arrest anyone anywhere.

"It took us years to create awareness among villagers and to encourage them to demand their rights. One wrong step and it's all gone. It'll be really difficult now to bring them back again," says Maheshanand of Gram Swaraj Samiti, which fights for the rights of the villagers.

CONFUSION REIGNS

The dam's reservoir will submerge several villages in UP, Chhattisgarh and Jharkhand. According to the initial estimate in 1976, 11 villages in UP and four villages each in Chhattisgarh and Jharkhand would have been submerged. Civil society groups, however, claim that more than 80 villages will be submerged. This means the UP government will be destroying 80 villages in one region to benefit 108 villages in another.

Meanwhile, in Chhattisgarh, the water resources department has revised the number of affected villages to 19 but a concrete survey is yet to be carried out. Most villagers are unclear about whether the dam will affect their houses and farmlands. In Chhattisgarh's villages, locals speak of how the state's former irrigation minister Ramvihar Netam had assured them that not even a single acre of his state would go under water. Netam's village Sanawal is likely to be submerged.

Amid all this confusion, on April 30, Chhattisgarh finally decided to withdraw its support for the dam until 'a detailed survey is conducted of the villages that are likely to be marooned and compensation is paid'. "Apart from the pending survey of affected villages and compensation disbursement, the Chhattisgarh government gave a go ahead to UP government in 2010 without even obtaining a consent from gram sabhas as required before land acquisition in the Fifth Schedule areas," said Alok Shukla of Chhattisgarh Bachao Andolan.

Sonbhadra, which is the second largest district of UP, is rich in minerals and has nine power stations, which together should generate over 10,000 MW of electricity. Many of the villages nearby are still waiting for electricity. The story of exploitation and insensitivity playing out in the district is an old one.

When inaugurating the Rihand dam near Renukoot - about 40 km from Sugwaman - Jawaharlal Nehru had famously said that he would convert the region into the Switzerland of India. The construction of the dam eventually resulted in the forced relocation of nearly 100,000 people from 146 villages. The families received meagre compensation. Ironically, today, Sonbhadra is one of the 250 most backward districts in the country. It is a drought-prone area with farmers practising subsistence farming supported by off-season work like collecting mahua flowers and tendu leaves.

LEGAL BATTLE

Kanhar dam is yet another example of the government's indifference towards locals, but what makes the case unique, apart from its long gestation period, can be gleaned from the three cases being fought in different courts. The UP government claims to have acquired most of the land between 1978 and 1982.

A petition in the Allahabad High Court contests the validity of such acquisition when the work has remained suspended since 1984. As per the Land Acquisition Act, 2013, if the land acquired has not

been used for five years, the process should start afresh.

The other case before the National Green Tribunal (NGT) questions the validity of the environmental clearance taken three decades ago without taking into account the significant environmental changes since then. "Under the EIA (Environmental Impact Assessment) Notification of 2006 by MoEF, any project which has not started project activities at the site should not proceed without obtaining a fresh environmental clearance," said Debadityo Sinha of Vindhya Bachao, who filed the petition in NGT.

On May 7, the NGT bench gave a green signal to the construction already underway but stayed any new construction. The NGT also set up a committee to assess the impact prior to any new construction. The state had responded by saying that the work was never stopped, arguing that it has been underway since 1984 in the form of technical research. This is an absurd claim as actual work only began last December when the earth movers rolled in.

Displacement and rehabilitation have become problem areas for 'development' projects. In response to queries on the dam, the Sonbhadra District Magistrate office handed over a six-page document enlisting the benefits of the dam and detailing the benevolent steps undertaken by the state. The document states that land for the dam was acquired under the 1894 Land Acquisition act and so doesn't need to adhere to the 2013 amendment.

Despite that, the document continues, the state government is ready to compensate three generations of the initially-surveyed 1044 families with Rs 7.11 lakh each along with a 150sqm plot a small distance from the dam site.

People like Parmesh, who have no choice, have agreed to take the compensation. The DM's office claims to have distributed a part of the relief to 529 families. But many are sceptical. Ainul Haq from Sundari village regrets calling his son Moin back home from Surat. Moin's left arm is bandaged; he has three stitches on his head and marks of lathis on his body. The police also broke his shoulder at the protest.

"Is this is what we get for demanding our rights?" asks Haq. His neighbour Seraj Ahmed chips in: "Our granaries are as big as the plots they are offering us and so are our cowsheds. How will we survive if they take away our lands? It'll be better if they just dig our graves in those plots and we'll go lie there on our own."

Mridula Chari | Apr 21, 2015 |

Source : <http://scroll.in/article/722030/activists-and-villagers-threatened-as-up-police-continues-crack-down-on-anti-dam-protest>

Activists and villagers threatened as UP police continues crackdown on anti-dam protest.

Protestors at Kanhar Dam and a fact-finding team from Delhi have been threatened with police cases and further assault.

Protestors at Kanhar Dam and a fact-finding team from Delhi have been threatened with police cases and further assault.

After police firing in Sonbhadra, Uttar Pradesh, marred an anti-dam protest on Ambedkar Jayanti last week, activists have now accused the police of further brutality on the morning of April 18 as it

attempted to clear protestors, mostly tribals, from the dam site.

The police allegedly attacked protestors with rubber bullets, tear gas and lathis. They chased protestors back to their villages, where they also vandalised their homes.

On Monday, a fact-finding team from the Chhattisgarh Bachao Andolan released a report stating that the district police and around 500 to 1,000 Provincial Armed Constabulary surrounded the site of the protest and “beat and chased the villagers right up to their villages”.

It is not yet clear how many people were injured in this round of attacks, but at least 14 people from four villages have been admitted to a block hospital in nearby Duddhi. Many women were beaten on their thighs and buttocks. The April 14 attack left 39 people injured, of whom 12 had serious injuries. As *Scroll* reported last week, one person is still near death in a Varanasi hospital. The police allegedly also seized tents and generators at the site of the protest and burned posters and banners.

Villagers have been protesting at the site of the proposed Kanhar Dam since December 23, following an order by the National Green Tribunal to stay construction until it could hear the case.

However, the proposed height of the dam has been increased from 39.9 metres to 52.9 metres, expanding the submergence area and intensifying fears, the report said. Even more shocking, it added, is that affected villages in Chhattisgarh have not even been informed that any part of their land will be submerged.

As the Uttar Pradesh state government continued construction despite the order, villagers on April 14 decided to intensify their protest by blocking the approach to the dam, leading to the first police backlash. After the police firing on April 14, the protest swelled with people streaming in from surrounding villages. All protestors have now been dispersed. Unidentified people cleared the dam site of all machinery on Saturday morning.

Villagers targeted

Police action has been followed with direct threats, both to villagers and to activists who came to the area after the initial news of police firing on April 14.

After the protests made front-page news in Uttar Pradesh papers, the district magistrate visited residents of Sundari village, one of several affected, and asked them to make a list of demands, said Gambhira Prasad, an activist leading the protests, but now in hiding.

“The DM said that he would give our requests to the government, so that is going on at the side,” Prasad said. “But we don’t know what will come of that.”

The Chhattisgarh Bachao Andolan might have an answer. Dominant caste leaders held a meeting in Sundari on Sunday, saying that they would give their consent to the government.

“Most of them were quoting the DM Sanjay Kumar belligerently saying that he had said that all protest and movements should stop,” the report said. “Otherwise he would foist so many cases that they would rot in jail for the rest of their lives and use up all the compensation in paying lawyers.”

The Uttar Pradesh government suspended the last district magistrate, Dinesh Singh, for being lax on development work. The police has filed cases against around 956 people in all.

Meanwhile, those who had joined the protests after news of the April 14 firing spread have now dispersed to their villages. Not everyone has been able to leave the area. The police has shut off an area around Sonbhadra, claimed Prasad.

“Our guests from Delhi are not being allowed to go away,” Prasad said over the phone. “They had tried to drive their cars back, but were turned back in Duddhi itself.”

Despite repeated attempts, *Scroll* could not reach the district magistrate. The sub-district magistrate

put down the phone after hearing *Scroll's* query.

Activists under watch

Even as the administration attempts to negotiate with villagers, it continues to target activists who came from outside the affected area to investigate these incidents.

Two separate fact-finding teams, one from Delhi and another from Chhattisgarh, went to the site of Kanhar dam on Sunday after reports emerged of the firing on April 14. The Delhi team, which included Kavita Krishnan, secretary of the All India Progressive Women's Association, and Priya Pillai of Greenpeace, is yet to file theirs.

On Sunday evening, as the Delhi team finished its visits to villages around the Kanhar dam area and headed to another outside the affected area to spend the night, its members were informally detained by a group of policemen. Led by a still-unidentified man in plain clothes, the police searched their car and bags and also attempted to intimidate the car's driver.

"When Priya [Pillai] and I tried to intervene, the man in civil clothes wagged his finger at us and told us, 'You are women, aapki beizzati hojaegi,'" Krishnan said.

Another member of the team, Debaditya Sinha stepped between them, at which the plain clothes man threatened to arrest him as a Naxalite.

"What we need to focus on is why the people are opposing dams," Krishnan said. "You can't take away both their land and livelihood. Many tribals collect mahua from forests even if they don't own land. How will they survive? The government needs to offer them land and rehabilitation in exchange for what they are losing, not just compensation. That is the issue here and that is why they are opposing the dam."

List of Injured villagers and police men

(Provided by the Superintendent of Police, Shiv Shankar Yadav to the fact finding team)

दिनांक 14.04.2015 की घटना से संबंधित:-

घायल पुलिस अधिकारियों/कर्मचारियों का विवरण :-

- 1-श्री कपिलदेव यादव, प्रभारी निरीक्षक, थाना दुद्धी।
- 2-श्री अशोक सिंह यादव, थानाध्यक्ष, वमनी।
- 3-श्री सर्वेश कुमार सिंह, थानाध्यक्ष, विन्धमगंज।
- 4-श्री महाबीर यादव, उपनिरीक्षक/चौकी प्रभारी, अमवार।
- 5-श्री चन्द्रशेखर यादव, उप निरीक्षक, थाना दुद्धी।
- 6-श्री चन्दन सिंह, आरक्षी थाना दुद्धी।
- 7-श्री सुनील यादव, आरक्षी, थाना दुद्धी।
- 8-श्री फूलचन्द्र मिश्रा, आरक्षी, थाना दुद्धी।
- 9-श्री राजेन्द्र यादव, आरक्षी, चौकी अमवार।
- 10-श्री संजय यादव, आरक्षी थाना वमनी।
- 11-श्री अतुल कुमार, आरक्षी, थाना विन्धमगंज।
- 12-श्री देवेन्द्र सिंह, आरक्षी थाना विन्धमगंज।

घायल प्रदर्शनकारियों का विवरण:-

- 1-श्री अकलू पुत्र विक्रम निवासी-सुन्दरी।
- 2-श्री सन्तोष पुत्र शिवप्रसाद निवासी-भीसुर।
- 3-श्री राजदेव पुत्र हरदेव निवासी महली।
- 4-श्रीमती शांती देवी पत्नी भरत निवासी-सुन्दरी।

दिनांक 18.04.2015 की घटना से संबंधित:-

घायल पुलिस कर्मियों का विवरण :-

- 1-श्री गौरीशंकर यादव, मुख्य आरक्षी, पुलिस लाईन, सोनभद्र।
- 2-श्री अमृत राम, मुख्य आरक्षी, पुलिस लाईन, सोनभद्र।
- 3-श्री अविनाश राय, आरक्षी पुलिस लाईन, सोनभद्र।
- 4-श्री बृजेश कुमार, आरक्षी, थाना-ओबरा।

घायल प्रदर्शनकारियों का विवरण :-

- 1—श्री धर्मवीर पुत्र फुलेश्वर निवासी सुन्दरी।
- 2—श्री रामप्रसाद पुत्र रामदयाल, निवासी सुन्दरी।
- 3—श्री बूटन साव पुत्र सरजू साव, निवासी सुन्दरी।
- 4—श्री माता प्रसाद पुत्र रामअवतार निवासी भीसुर।
- 5—श्री रूपशाह पुत्र जागेश्वर निवासी—कोरची।
- 6—श्रीमती रजकरिया पत्नी रामअधार निवासी—भीसुर।
- 7—श्रीमती मानमती पत्नी रामसकल निवासी—सुन्दरी।
- 8—श्रीमती फूलमती पत्नी बल्ला शाह निवासी—कोरची।
- 9—श्रीमती देवकलिया पत्नी शनीचर निवासी—सुन्दरी।
- 10—श्रीमती किसमतिया पत्नी गनपत निवासी—भीसुर।

11—श्री मनोज खरवार पुत्र केशवर निवासी पचरवल, थाना पनावल, जिला— बलरामपुर (छत्तीसगढ़)।

12—श्री फौजदार पुत्र केशवराम निवासी—भीसुर।

13—श्री उदय पुत्र मेवल निवासी—भीसुर।

14—श्री शनीचर पुत्र रामदास निवासी—सुन्दरी।

15—मु० जहूर पुत्र गुलाम रसूल निवासी—सुन्दरी।

16—श्री अजीबुद्दीन पुत्र नूर मुहम्मद निवासी—सुन्दरी।

17—श्री मोईन पुत्र एनुल निवासी सुन्दरी।

18—श्री बखोरी पुत्र सम्पत निवासी सुन्दरी।

19—श्री विजेन्द्र जायसवाल पुत्र रामवेनी निवासी अमवार।



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