

Coal Sector Loans and Displacement of Indigenous Populations

Lessons from Jharkhand

This paper deals with the issue of displacement of the local communities as part of the Coal India mining project in Parej East in Jharkhand. It analyses the report of the World Bank's inspection panel, which examined the complaints regarding the handling of resettlement and rehabilitation of project-affected persons by Coal India. The panel found numerous flaws in the planning and implementation of the project, including several instances of non-compliance with the Bank's directives.

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The World Bank provides loans for the development and expansion of India's coal mining sector, which is one of the major planks in the push for modernisation. Development of coalfields is essential in providing fuel for electricity generation and coke for steel making. The current emphasis is on the exploitation of shallow coal reserves using open-cast mining techniques, mostly in eastern India. Open-cast mining removes soil and rock (overburden) from the top of the coal by blasting, followed by removal using large earth-moving equipment (draglines and dump trucks). The exposed coal is then broken by blasting and trucked away. The excavations form a pit typically a few hundred metres long, 50 m wide and up to 80 m deep, depending on the depth of the coal and the thickness of the seam. These pits are usually left as such by the mining company after the coal is exhausted.

Open-cast mining has a large footprint. A mine producing 40 mn tonnes of coal in its lifetime (approximately 15 years) will leave a scar of about 25 sq km in area. Consequently, in a heavily populated country such as India, displacement of people is inevitable. When coal occurs in lands held traditionally by indigenous peoples, mining gives rise to questions of social justice that are difficult to put on the same platter as development messages such as 'India shining'.

Here we deal with the issue of displacement of adivasi and other local communities in the case of one particular mine, namely, Parej East in Jharkhand. Parej East mine is a World Bank-funded project and hence subject to 'stringent' guidelines and criteria against which project performance can be more openly assessed. These are set out in the World Bank's 'operational directives' (ODs) that provide a framework within which its project implementation must take place. Mining activities in Parej East mine are carried out by Central Coalfields (CCL), a subsidiary of Coal India (CIL), a public sector company.

Inspection Panel

With the aim of supporting India's reforms and the expansion of the coal sector, the World Bank (WB), in 1997 provided

finance for expansion at 25 mines of CIL. This was done under the Coal Sector Rehabilitation Project (CSR), approved in September 1997, with an International Bank for Reconstruction and Development (IBRD) loan of over US\$ 530 mn. Along with this, another loan was given for the Coal Sector Environmental Social Mitigation Project (CSESM). This was to assist in CIL's efforts to mitigate the environmental and social impacts of mining expansion in the 25 mines. It was approved in May 1996, with a loan of \$ 63 million from the International Development Association (IDA).¹ It was envisaged that after being tested and revised as necessary during the five-year time period of financing by the bank, CIL would apply the new environmental and social mitigation policies in its 495 mines.²

On June 21, 2001, a formal complaint was made to the World Bank's inspection panel (IP)³ by project affected persons (PAPs) of one village of Parej East, through the Chhotanagpur Adivasi Sewa Samiti, a local NGO. The complaint was that the bank was in violation of its own policies (in force at that time). These policies related to involuntary resettlement, indigenous peoples, environmental assessment, project supervision, disclosure of information, and management of cultural property. A preliminary assessment of the complaint found that it had substance and an inspection panel was set up to enquire into the bank's supervision of the Parej East mine.

The IP made two visits to Jharkhand for extensive on-the-spot enquiries and interviews. The panel released its 100-page report on November 25, 2002 [World Bank 2002] which lists over 30 violations of the bank's own policies, with a further 10 issues of serious concern.⁴ The bank management (BM)⁵ is the project supervisor in this case, and is obliged to submit to the bank board a response to the IP report, with suggestions for remedial action. This it did in May 2003 (five months beyond the stipulated time). The bank's board of executive directors approved the BM's response on July 22, 2003 [World Bank 2003].

It should be noted that in an IP process, the bank is technically investigating part of itself. Typically, throughout a project the BM teams consist of about three people who visit a particular project for which they have supervisory responsibility, for two or three days every six months or so. In the case of Parej East, the team (as well as a special environmental and social review

panel) visited on average about once a quarter, making it one of the most heavily supervised World Bank projects. However, BM is not 'hands-on', so the report is not just damning of the WB management but also of CIL and CCL, who have created the real grounds for these complaints.

Although the IP reports are usually publicly available, they seldom circulate outside those involved. The purpose of this article is to highlight some of the key issues raised by the IP (quoted here with square bracket references) to a wider audience. This is because often the mining companies claim that their activities are sensitive to the rights and needs of local communities. The Parej East mining operation, being WB financed, was subject to intensive review, and one can imagine, on the basis of this report, the pitiful situation of other coal mines that are not under such scrutiny.

We first detail some of the report's key criticisms along with BM's responses and then identify the nature of the issues or problems that have been encountered. Due to the lack and in some cases impossibility of compliance, it is hard not to conclude that some collusion must have occurred in setting up the Parej East project. This is a story of how *not* to do things.

Justice and Equity for Displaced People

Full rehabilitation of PAPs includes both income restoration and house resettlement – an aspiration that is notoriously difficult, nearly impossible as many would like to say.

With regard to income restoration, the bank's policy statement (OD 30 para 24) says that "displaced persons are assisted to improve, or at least restore, their former living standards, income earning capacity, and production levels", a statement echoed in CIL's R and R policy in that "affected people improve, or at least regain their former standard of living and earning capacity after a reasonable transition period" [CIR and R 1994].

The difficulty lies in the fact that not only do the village people lose their houses, but they are also deprived of the land and natural resources that constituted their economic survival base. The village subsistence dweller may have a small plot of land, but has access to natural resources such as springs and rivers for water, forest for fuel and for furniture, and the earth and twigs for building a shelter – all critically important for survival. Because natural resources are non-formal sources of income, they are rarely recognised or documented, and hence rarely compensated for. The wealth of these resources is transferred to the mainline economy, an economy in which the displaced communities have little or no place. The transfer of these natural resources, from one sector of the economy to another, is a major structural change, one that raises questions of inequalities within society and can lead to further impoverishment of poor people, if not carefully addressed.

The main issue raised by the petitioners to the IP was that of income restoration or economic rehabilitation. This is a critically important factor to be taken into consideration especially while dealing with people who have skills or assets.

On the issue of income restoration, the IP report squarely holds the management responsible:

A major continuing problem is the failure of income restoration... Because of the inadequacy of the income restoration programmes, some of them have been forced to spend whatever remains of their compensation simply to survive. This is an extremely

urgent matter. It should not happen in a bank-financed project. Steps should be taken to ensure compensation of these PAPs, not only because they have spent their original compensation for their assets on survival, but also for the losses and harm suffered due to delays in restoring their income potential [478].

The BM response (Annex 1.11) questions the validity of the points raised by the panel, saying that the latter did not have access to the latest data, and now "management is pleased to note that recent data indicates that the situation continues to improve... income restoration had been achieved with respect to 87.1 per cent of all PAPs entitled... it may be still too early to draw a final conclusion regarding the status of income restoration". Data is given (paras 25-28) to the effect that a large proportion of PAPs' income increased significantly, especially that of women.

There is no statement regarding the source of these figures, nor their availability for cross-checking. It could also be noted that in many cases restored income is apart from the provisions of the CSESMP. A significant number of PAPs have settled on relatives' land in other places, many live from head-loading in the adjacent local sale coal dump, and many live by running pilfered coal on cycles to local markets, an illegal activity.

In principle, income restoration can be achieved through either providing jobs in the mine, or providing replacement land, or by promoting self-employment of PAPs, or by combinations of these. We look at each of these.

Jobs in the Company

Lost income has traditionally been restored by giving a job in the company ('naukari'). This has been the most realistic means of ensuring that those give up their homes and lands 'share in the benefits of the project'. And CIL has always used this hope of naukari as a 'bargaining chip' as it has been called [World Bank 1996], to get people to willingly give their land over for mining. However, naukari is no longer being offered as an option. A radical curtailment of the workforce in the CIL subsidiaries was one of the conditions of the coal sector loans given by the bank. The curtailment is now being implemented through voluntary retirement schemes, retrenchment, and radical reduction in new employment to make way for more mechanised processes.

While claiming to follow World Bank directives, the actual implementation is restricted by criteria that filter out many genuine claimants. Such criteria include the need to possess three acres, non-recognition of 'gair-mazurwa' (village commons) land, and following age-old 'kathiyani' documents. Often, awards are based on wrong data, forcing villagers to run from pillar to post seeking to rectify them. This is because the actual possession of the land often does not match up with settlement records.

In spite of the radical curtailment of jobs, it is clear that CCL personnel continue to use it as a 'bargaining chip' to convince indigenous and local communities of their share of the benefits from mining. CIL, indeed, has a tradition of giving jobs for land lost to mining, and this tradition is banked upon. This artificial creation of job expectation was criticised by the IP:

A very misleading message (was) being given to the PAPs [224]... the previous mine manager had given PAPs promises of jobs that were not available [225]... and only during the updated census of

PAPs carried out in 1997 were the majority of Parej East PAPs presented with the fact that they would not get a mine job, and must instead choose a self-employment income restoration scheme [226]...it must have been a shock for them to discover (this) when finally presented with the reality of their situation in early 1997 [227].

Current reports from other new CCL mining areas indicate that it is still the practice of CIL personnel to build up false hopes of naukari to persuade future displacees to relinquish their land. Such 'misleading messages' are very persuasive to village people, and such blatant manipulation by officials is common practice. A similar ploy is to give jobs to families of middle men as a trade-off for winning acquiescence of the people they claim to represent. Such practices cannot but have long-term negative results when the deceit becomes clear.

The BM response (Annex 1.12) says that "despite the communications (of 6 consultative meetings with the PAPs), PAPs continued to press for provision of additional mine jobs because of the obvious economic security". The window-dressing nature of such consultations should be well known to the bank as should the suggestion that the fault lies with the obtuseness of the PAPs and their desire for the comparatively high wages of CIL employment, as against the expectations which CIL has deliberately built up over the decades, and still continues to use as its 'bargaining chip'.

Replacement Land

Another form of possible income restoration is replacement land (land-for-land), of equivalent productive value, either in another place or from reclaimed mine land.

The panel observed that, contrary to bank policy,

...this (land-for-land) option has never been offered in any of the subsidiaries visited. Partly as a result, the question of the adequacy of compensation paid for land is an important source of discontent with landowners [231] and...according to Management, CCL received no requests for such assistance. But in the RAP some 117 PAPs opted for this assistance and 115 qualified. Management also indicated that a large number of PAPs found replacement land, indicating that, with effort, it could be obtained [235].

The Panel, quoting a report of International Mining Consultants [IMC 2000], recommends that PAPs be allowed to select an area of similar size and productive capacity to that affected by the project, and that transitional costs, such as legal fees, moving allowance, and first harvest equivalent be included [234].

The BM response (Annex 1.13) claims that a certain number of PAPs had purchased replacement land, and 54 per cent of the PAPs were landless anyway. Follow-up action is 'continuing supervision will follow up on the issue of reclamation of previously mined lands'.

Self-Employment Option

With the virtual bypassing of the land-for-land option, and the effective exclusion of a company job, the project put all its hopes on a new option, that of 'assisting project-affected people in developing opportunities for self-employment' [World Bank 1996:4.6]. This self-employment option was to become the 'central pillar' [255] of the CIL's R and R policy, one on which the success

of the ESMP was to rest. The aim was formidable, namely, to turn subsistence farmers, many of them tribals, into entrepreneurs. This project might be successful for a few, but for several hundred, in a span of five years was, as NGOs predicted, well-nigh impossible. Early on, the project's to be accomplished staff appraisal report acknowledged that "training in itself for self-employment is not enough, even when it is supported by loans or grants. The majority of project-affected persons are farmers or agricultural labourers, and the transition to a new profession requires a considerable amount of follow-up assistance" [World Bank 1996:4.7].

Predictably, that central pillar was not too strong, and the IP's criticism is vigorous [244-267]. In 1994, only 26 of 418 PAPs expressed an interest in self-employment.

Yet, it is evident that three years later in 1997 most eligible PAPs had to choose a self-employment option to restore their former standard of living. There is nothing in the 1994 baseline survey of the Rehabilitation Action Plans (RAPs) to indicate that the eligible PAPs were counselled about the implication of the self-employment option, and nothing to suggest that the PAPs were aware of the implication of trying to become full time entrepreneurs [238].

Further, the panel says that it was misleading to advocate training/self-employment as the means to restore most eligible PAPs' standard of living in East Parej [252]. At the most it could only provide a supplementary source of income [253]. Further, the original RAP⁶ did not reflect the actual situation [56], the appraisal failed to ascertain the adequacy or feasibility of the self-employment strategy [243], it relied almost entirely on non-farm jobs as strategy [258], "the Panel could not find any report of a professional analysis of the pre- and post-relocation (casual) labour market" [102], implementation since 1998 failed to follow up on market survey [240], after a market survey was finally conducted in March 1998, the management failed to ensure that the recommended follow-up measures were taken [243], and it was unrealistic to expect to be entrepreneurs in five years and feasibility should have been reviewed on appraisal [267].

The failure of 'self-employment opportunities' was recognised by the bank management [257], but when it puts the onus for the failure back on to the PAPs, the IP retorts that it

is surprised that management would accuse those who never asked to be relocated, of 'not making the necessary effort', to do something that was imposed upon them, by those who acknowledged that such schemes had mostly failed elsewhere [249].

CIL's response to the failure has been to modify its R and R policy to introduce a one time cash grant of Rs 50,000 for acquisition of home and land. The panel's retort to this is:

presenting a poor oustee, whose previous source of survival included a small patch of land, with a check, probably more money than he or she has ever seen or expect to see in a lump sum, may be a legal way of getting them to move on, but it should not be confused with development [88].

The BM response (Annex 1.4) denies the absence of casual labour opportunities, mentions an agreement that CCL has made with contractors to employ PAPs, and claims that income restoration has been achieved with respect to 87.1 per cent of the PAPs (para 25). Its action plan is, "during supervision the Bank will seek additional information and statistics on the issue of casual labour provided for PAPs". Again, both the claim of

agreement with contractors and that of percentage achievement, are unsourced management assertions.

Monetary Compensation for Lost Assets

The basic principle of the World Bank's OD 4.30 3b is that displaced persons should be compensated for their losses at full replacement cost⁷ prior to the actual move [58]. Such compensation applies to land, houses, and other non-moveable properties such as wells.

Regarding land compensation, the panel reviews and confirms the difficulties regarding compensation: namely, "that many PAPs have not been and are not being compensated at full replacement cost which would enable them to buy similar land, and hence are still suffering" [66,72], the system is known to provide inadequate compensation [65,68] as middle men take a share [68], it involves under-reporting of sale-prices [66], that even with the customary 30 per cent 'solatium' (compensation given for loss) it is still less than replacement cost [73], it is based on rates at the date of notification, not date of payment (sometimes a 10-year difference) [71], and there is lack of transparency with regard to itemised details of the compensation [76].

Examining the question of acquiring land through direct negotiations, the panel quotes Coal India officials as "shying away from them...because there is always the risk of allegations of corruption", but then asks why it is being done in other types of projects, and echoes the opinion of NGOs that "this is nothing more than an excuse to avoid the perhaps higher costs of privately negotiated purchases in the coal projects" [70].

The management's BM Response (Annex 1.2) outlines the intricacies of determining the current value of land, and repeats the present CIL policy, including the claim of 15 per cent interest given for each year after acquisition. It believes that the method used 'was considered adequate'. It fails to mention that the PAPs never receive awards with itemised details of the area, grade and rates of the land, and of the same interest and solatium, and never know how much they are getting for what. (When a member of the NGO asked at CCL Ranchi headquarters for an itemised copy of the award, he was told he could not have one "because there might be a mistake!"). And the management's claim that anyhow many get enhanced compensation after tribunal appeals further serves to show that the original rate is inadequate.

For house compensation, the panel notes that its process and basis also lack transparency, are open to abuse, and raise serious questions [82, 85]. The management response merely repeats CIL policy, but again fails to address the lack of transparency in its implementation and the fact that the PAPs are at the mercy of officials and bureaucrats. Action to be taken is a mere 'continuing bank supervision'.

In the tribunal system (for reviewing compensation claims), it is not appropriate that PAPs should have to go through a lengthy and costly judicial process to get just compensation, especially since not all PAPs can afford the direct costs of an appeal process and, even if they could, they would end up losing unless the costs of the appeal were added to their award. Even then the delays and uncertainties associated with the process could result in tangible harm, especially since the awards are subject to further appeal by CCL. It is unfortunate that CCL is appealing (to the high court) all these decisions [74].

The management response (Annex 1.2) claims that there 'is a functioning government grievance redress mechanism' and fails to answer the panel's statement about the fact that the claimant has to give heavy lawyer's fees, or why CCL then appeals against the enhanced award in the high court.

Reclamation of Mined Land

A common sight in coal-mine areas is moon-like landscapes, large voids and mountains of overburden, the land irrevocably scarred and destroyed, unfit for any productive use. As worldwide mining practice shows, systematic topsoil preservation, ongoing back-filling, and revegetation can prevent this.

The IP report says that the World Bank Project Agreement⁸ "clearly spells out CCL's obligation in Parej East...that Coal India shall carry out the environmental action plans, and...shall promptly inform the borrower and the association of any material deviation in respect of the implementation there" [354]. Further, the Panel reports: "The environmental action plan (para 224) states that 'it is proposed to remove the top soil from the quarry and overburden dump and conserve it for re-use during the biological reclamation stage'" [360]. Further, quoting the environmental and social review panel, it says, "The commitment to reclamation of mined land in CIL's environmental policy is clear and unambiguous. The policy includes a commitment to progressive reclamation to achieve a post-mine land form and use consistent with the EMP, maximising backfilling, preservation and re-use of top soil" [367].

Despite these requirements, "...the panel was not shown nor did it observe any top soil conservation during its visit to the Parej East Open Pit" [363], and "although requested at the site, no documentation or information on the five-year CSESMP mine reclamation programme was ever provided to the panel team" [364]. Besides the "staff were unable to provide the panel with evidence that the eventual configuration and rehabilitation of mined area were being planned" [365]. This was best summed up by CCL itself: "CCL's senior mine management told the panel that CCL had no intention of reclaiming the mined areas for post-mining use [372]. The panel also quotes the earlier Environmental and Social Review Panel [ESRP 2000] as saying that, "at present virtually no effort is being made to reclaim mined land...all the top soil resources of the mined land are being destroyed through burial in overburden dumps...we have seen little evidence of any fundamental change in attitude to overburden management and reclamation since our first visit..." [368]

Drawing on reports of International Mining Consultants [IMC 2000: Paras 3, 4, 5, Sec 2.1], the inspection panel points out that there is a lack of legal requirement and financial incentive needed for such land reclamation [372]. Hence, "because present legal conditions prevent the transfer of land acquired under the CBA Act, the IMC recommends that Coal India Limited should lobby the government to amend existing legislation to allow for the eventual transfer of reclaimed land...the implementation of the IMC recommendations is vital" [377].

The panel makes some concrete suggestions: "for planning new mines, CIL (should) explore the possibility of utilising the available backfill to maximise the area restored to productive land uses" [373], that "each subsidiary of CIL be required to prepare and implement an environmental management strategy...", and that "Coal India improves planning systems for new mines, with particular reference to land use issues and reinstatement of mined

areas of agricultural use” [377]. It notes that “improving reclamation of mined land in the future...is...an issue...fundamental to CIL’s future environmental and social performance” [376].

Such restoration of mined land could also be used as a base for income restoration [288-91]. In December 1997, management and CIL agreed on a land-based restoration scheme to be carried out on unused or reclaimed mine land [288]. It did not materialise. CCL first responded by saying that there was no land available, and then told the inspection panel that there was no financial incentive to undertake such land restoration [290]. Yet, “this would have been the most promising possibility for restoring or improving the lives of PAPs...” [291].

The panel’s indictment is strong, although it does conclude that “at the same time, this does not constitute a formal violation of Annex C of OD 4.01 as far as land reclamation in Parej East is concerned” [375]. The management’s response (Annex 2.5) is merely to pick out this one last sentence, note the panel’s finding of compliance, and dismiss the whole issue with “no action to be taken”!

The recommendations of the IP point out the urgent need for changes to both CIL policy and its legal structure to protect rural land and the indigenous poor in Jharkhand.

Wider Issues of Process

The panel makes incisive comments and recommendations on many other issues such as information sharing and consultation, the indigenous peoples’ development plan, NGOs as implementing contractors, resettlement sites (their size and legal possession), land held under customary title, and access to forest sources. Lack of space does not allow even a summary treatment of them here.

In general, the BM response claims that the bank “has made every effort...(11)...remains committed ..to the achievement of the objectives of the CSESMP (41)...intends to continue supervising the CSESMP project until all outstanding issues have been resolved (37)”. Its press release is similarly soft on the bank, stressing that “the panel commended the bank supervision team’s subsequent attempts....”

It is difficult to reconcile the bank management’s commending itself for every effort, with the inspection panel’s strident criticisms containing over 30 counts of non-compliance. There is a disturbing inconsistency here. Has the bank really heard its own inspection panel? What of the latter’s many recommendations of coal sector policy changes vital to its sustainability? And it is more difficult to see how the board of executive directors could approve the BM’s response. For, the latter responded 24 times with ‘no action to be taken’.

Moreover, the two main thrusts of the BM’s follow-up commitment have both been rejected by the government of India, and this was known to the board at the time. These were to be: firstly, “to advise government of India on apparent entitlements for subsistence allowances” as per the Parej East RAP, in the form of a lump sum payment made to the 121 eligible PAF’s of the sum of US\$ 3,00,000, to be disbursed by March 31, 2004. The second was the setting up of an independent monitoring panel (IMP) to follow up the various issues. Even if not rejected, this would have been of doubtful value as the experience with an IMP in NTPC’s Singrauli area has shown. There, the IMP made many recommendations but these were not binding on the bank or the borrower, NTPC. In fact, NTPC resisted the efforts of the

IMP for improvement, and failed to implement its recommendations. The bank and the inspection panel remained silent spectators. As such, the IMP was of no benefit, and was basically an escape strategy for the bank to exit the project.

Now, it seems, we are left with the oft-repeated phrase ‘ongoing supervision and monitoring’. The panel has recorded that this was already one of the most-supervised World Bank projects ever. The bank undertook 21 supervision missions between 1996 and 2001. However, the panel found that “the supervision team’s knowledge of ground realities was limited, and for that reason, their efforts to resolve problems had virtually no impact on the ground” [458]. A total of \$1.6 million was spent on these supervision missions, compared with \$ 3,00,000 that was being offered as follow-on compensation for the PAPs!

How, then, will the bank continue to ‘supervise and monitor’? The key issues are the commitments of GoI and CIL to meet the guidelines/ODs set by its financier. Will the bank be satisfied with the reports given by them, and use the reports as evidence that these issues have been sufficiently addressed? The past few years’ experience suggests that this course of action would indeed be a mistake.

In response, the bank management says it has learnt a number of lessons. These include realistic assumptions about organisational change; strengthening legislations; mechanisms for institutional coordination; critical issues to be resolved before implementation; obligations of implementing agencies to be made clear; innovative approaches for income restoration to be explored; and conducting an analysis of resettlement options. These are lessons that should have been learnt a priori, especially as many of them were pointed out by NGOs even before the project started [Bhengra 1996], and with hindsight they seem obvious. What of the bank’s claimed relations with civil society? One would like to see more reference to specific actions that could be taken to improve future performance, and on humanitarian grounds, and one would like to see more reference to the ways the PAPs are adjusting to or surviving the massive changes in their lives.

Policy Changes

The panel report makes many constructive recommendations for high-level policy changes. These include:

– Amendment of national legislation to ensure the concurrent reclamation of mined land, to create incentives for the surrender of this land after mining to GoI, with or without compensation, and for the use of reclaimed land for income restoration [372, 377].

– In early planning, to make an area plan that includes the social and environmental impact of surrounding mines and ancillary industries (already existing and those planned) so that a truly accurate EIA and EAP may be formulated [46]. To make the RAPs’ action specific to projects [56].

– As part of a base line survey, to enumerate common property resources, value them, establish the income from them, and provide a proper basis for compensation [194, 200].

– With regard to CIL’s R and R policy, to remove discretionary language which leaves loopholes (e g, ‘where *feasible*’,... ‘a *reasonable* transition period’, ‘will *persuade* contractors’), to give a definition of adult individuals, to include a sworn affidavit as evidence that a person is a legitimate PAP, to spell out appeal mechanisms for PAP grievances, to increase the plot sites to be

at least 200 sq m [45], and to make an evaluation of the long term results of the new cash settlement approaches [88].

– To create a legal framework for recognition of land formally in possession of people under customary tenure arrangements, not just registered raiyati land [158,170,179] and for the PAPs to be given legal titles to their resettlement plots [146].

– To establish public information centres at projects where information in a form and language meaningful to the PAPs is available [394].

There is little in the BM's response to indicate much acceptance of the panel's recommended policy changes. One professed objective of the CSESMP was to test the effectiveness of government policies [World Bank 2003]. Such policies may be based in the Coal Bearing Areas Act, in directives of the coal ministry, in CIL's R and R Policy, in the implementation of that policy by CIL's subsidiaries, and as concretised in project-specific RAPs.

Questions Regarding Bank Strategy

Commitments: Strategies to gain loan approval include commitments made a priori and then broken. For example, the Parej East environmental impact assessment (on the basis of which the project is approved) gives an unambiguous commitment to reclamation of mined land [354]. Yet CCL's senior mine management made it clear to the inspection panel that they had no intention of reclaiming the land for post-mining use [372], nor was the inspection panel able to find any evidence of such reclamation [363,364]. We are faced here with the hard reality of commitments made (by both the borrower and the bank) at the planning stage (to get project approval), and yet apparently wilfully ignored at the implementation stage. This raises questions about the credibility of the bank's commitments.

Further, to what degree is the bank committed to follow its own operational directives? The CSESMP provided a situation where it was clear that the ODs could not be implemented, for instance, Indian land legislation that made it impossible to give the required recognition to customary held land. Yet the bank went ahead. Here, we are not referring merely to lapses in implementation of the ODs, but to the predictable and foreseeable impossibility of their being implemented. To what degree are its own operational directives binding on the bank?

Exaggerated claims. The Bank's Staff Appraisal Report of April 1996 stated that for the 25 mines "implementation of the environmental and social mitigation project will safeguard the rehabilitation of 9,260 people and the proper resettlement of about 10,000 people. The implementation of the indigenous peoples development plans will improve the lives of about 1,86,000 people, of which 56,900 would be tribals" [World Bank 1996:4.2]. A basic defect in the project is that from the beginning there was heavy 'oversell' of its capabilities. Such oversell is found elsewhere in the planning documents,⁹ appearing to exaggerate the value of the product in the hope that it would be approved by the board. Such exaggeration, when accepted, has allowed the mining to go ahead, with the goals of environmental and social rehabilitation virtually impossible to achieve.

Another example is that of post-mine reclamation in the EMP. This suggested that only about half of the 253 ha of mine area would be reclaimed for agricultural land after mining, while the rest would be left to fill up with water. The water, it was argued, would help the local population, as a source for irrigation, drinking or industrial demand [EMP 6.4e]. The panel countered

this by saying that the water would be inaccessible, as it would be "tens of metres below the surrounding countryside and separated from it by vertical quarry rock faces" [357], further pointing out that it would be very costly to pump for irrigation, and impossible to use for drinking as it would be poisoned by contact with coal seams. Why then are such claims made?

Misrepresentation: In the whole section on consultation [410-448], the IP makes it clear that consultations with affected people have been either bypassed or passed off with mere disclosure of information [421]. The BM had claimed that consultation requirements had been adequately fulfilled [412]. Yet these claims collapsed under the scrutiny of the IP – this with reference to the indigenous peoples development plan (IPDP) [328-330], the EAP [424], RAP [429-434], the host community [430], and NGOs [441-448]. The issue here is not one of consultation, but the bank's misrepresentation in falsely claiming that these consultations had been done satisfactorily.

Another example of misrepresentation is that of the IPDPs, formulated by a reputed consultancy firm in Kolkata. For each of the different mining projects, there was to be a different development plan, each plan with information specific to the particular villages affected by the project. The IP points out that in the IPDPs of the projects, 'the whole of chapters 4 to 8 (of each IPDP) are all repeated verbatim', the claimed 'felt needs' of widely divergent villages are all the same, with no location-specific information [311-313]. All this was presented to the bank, and accepted by it, as competent consultancy. The bank had covered this up by firmly claiming that the IPDPs had been formulated with due consultations [328-330]. It is interesting to note that this aspect had been pointed out by local NGOs as far back as 1996.¹⁰

Supervision: Early in the project, international NGOs¹¹ pointed out that the bank's performance indicators were all 'input indicators' (money invested, persons appointed, time frame adhered to, etc), but that they were not matched by 'output indicators' of the ultimate outcome of these inputs on the ground. Such a 'check-box' appraisal of inputs would not seem to have helped the project [464].

Conclusion

The experience at Parej East has shown that the World Bank, despite its guidelines and ODs, seems incapable of properly supervising the coal mining projects it funds, particularly with regard to effectively dealing with people displacement and environmental mitigation. The bank management has been ineffective and turned a 'blind eye' to CIL/CCL's seemingly wilful disregard of its ODs and guidelines. It should have been apparent at the outset that, owing to legal conflicts, some ODs could not be complied with. One could be forgiven for thinking that there has been some degree of collusion to get the project initiated and coal production started at the expense of social and environmental impacts.

The bank has to make an implementation completion report (ICR), for which it is to undertake a census of PAP incomes. How will this be done? Will there be full and transparent consultation on the draft ICR? The controversial coal sector rehabilitation project closed without any consultation being sought on its ICR, which contains the management assessment spin concerning the coal sector environmental social mitigation project that the panel has criticised. What happens to the 'time-bound

action-plan' for CIL to extend these social and environmental mitigation measures beyond the 25 supported mines [299, 480]? Where is this action plan publicly available? No answers are available so far.

Finally, who takes responsibility for the 'non-compliance', for the ruined countryside, and for the families who have lost their land and income? The bank? The Indian government, as the borrower? CIL? Whoever may be actually liable, it is clear that the local communities, indigenous and poor, continue to carry the burden of development, to make India more and more shining. [277]

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Notes

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- 1 At the early planning stage, the CSESMP was conceived as a component of the CSR, but in November 1995 the project was split into an environmental and social component, the CSESMP, and an investment component, the CSR. Progress on mitigation activities was linked to the CSR through a series of covenants in Schedule 9 of the CSR loan agreement. This meant that disbursements under the CSR for any particular mine would be contingent on timely and effective implementation of the mine-specific RAPs, EAPs and IPDPs.
- 2 Due to unsatisfactory performance under the CSR of coal sector reform and financial covenants, as well as unsatisfactory performance in economic rehabilitation under the CSESMP, the management informed the ministry of coal and CIL on January 20, 2000, that it was moving towards suspension. On July 25, 2000, the management cancelled the undisbursed balance of the CSR loan. Coal India, however, decided to continue with mitigation programmes started under the CSESMP. On April 20, 2001, it extended the CSESMP closing date by one year to June 30, 2002. At the time the extension was granted, about \$24 million was undisbursed. The CSESMP project eventually closed on June 30, 2002, with approximately 79 per cent fund utilisation.
- 3 The inspection panel is a quasi-independent body created by the World Bank as a mechanism for holding the bank accountable for violation of its policies and procedures. The three-member panel investigates claims brought by claimants for inspection.

- 4 The report is available at: www.inspectionpanel.org
- 5 'Management' refers to bank officials responsible for appraisal, reviewing, approving, negotiating and supervising the two loans. 'Requesters' refers to the people and the supporting NGO, CASS, which made the claim to the bank's inspection panel - 'the Panel'.
- 6 The rehabilitation action plan (RAP) for the Parej East Project. (It has four editions: an earlier one undated (u/d), and in 1998, 1999, 2000).
- 7 According to the World Bank Operational Manual, OP 4.12, 'replacement cost' is the method of valuation of assets which helps determine the amount sufficient to replace lost assets and cover transaction costs. In applying this method of valuation, depreciation of structures and assets should not be taken into account. For example, for houses it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset (OP 4.12 fn 12, Annex fn 1).
- 8 Article II, Section 2.01.b.
- 9 World Bank (1996), nos 1.8, 1.9, 2.11, 2.24, 2.25, 4.3
- 10 *Report on the East Parej OCP*. Submitted to CCL and World Bank by the Chhotanagpur Adivasi Sewa Samiti and the Jharkhand Janadhikar Manch, April 20, 1996.
- 11 Letter by Peter Bosshard of Berne Declaration to Jean Francois Bauer of the World Bank, June 12, 1997.

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