

Assessment of ODA Projects and their Implications on Indigenous Peoples in Manipur

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1. INTRODUCTION AND BACKGROUND

1.1 Profile of Manipur and its indigenous peoples

Manipur is a state in the north east of India, situated strategically between South and South East Asia, bordering Myanmar to the east, with the states of Nagaland, Assam and Mizoram in the north, west and south. It has a total area of 22,327 square kilometers with a population of nearly 3 million. Manipur is a multi-ethnic state inhabited by a myriad of communities. The indigenous peoples of Manipur are one of the most economically, socially and politically marginalized communities in India. The per capita income is one of the lowest in India. The main inhabitants of this state are the Nagas, the Zo (Kuki-Chin-Mizo) the majority Meitei communities and the Meitei-Pangals (Manipuri-Muslims). Possessing a rich cultural heritage, the state has thirty-three recognized Scheduled Tribes (STs), broadly categorized under the Naga and Kuki groups, inhabiting the hills¹. The Tangkhul, the Mao, the Maram, the Anal, the Kabui, the Maring constitute the Naga, while the Hmar, the Paite, the Zou, the Thadow, the Gangte, the Simte belong to the Kuki group.² There are also tribes which are yet to be recognized, such as the Khoibu.

1.2 Key ODA players and projects in Manipur

Ever since India's adoption of neoliberal policies in the 1990s, the presence of international financial institutions, both multilateral and bilateral, in Manipur and across India's north eastern states has increased significantly. The Asian Development Bank (ADB) and the World Bank are two key multilateral banks, while the Japan International Cooperation Agency (JICA), Australian Aid and the government of France are involved in financing development projects across India's north eastern region. In Manipur, the ADB, the World Bank and the JICA are primarily involved in financing development projects, focusing on energy and water supply.

¹ "Ethnic Politics in the Hills of Manipur", Ch. Sekholal Kom, Department of Political Science, North-Eastern Hill University, Shillong, India. *Journal of Alternative Perspective in the Social Sciences* (2011) Vol 3, No 1, 147 – 167

² "Ethnicity in Manipur: Experiences, Issues, and Perspectives" By Lucy Zehol, page 5, Regency Publications, New Delhi, 1998

Japan and ODA in north-east India

Japan is one of the countries involved in extensive investments in Manipur and across India's north east.³ The Japan Bank for International Cooperation (JBIC) funded an ODA loan for the Manipur Sericulture project before it formally merged with the Japan International Cooperation Agency (JICA) in 2006. JICA has also been funding the Guwahati water supply project, with clear implications for the social and environmental issues of water supply in the city, which need to be thoroughly assessed.

During his visit to India in December 2015, Mr. Shinzo Abe, the Japanese prime minister, announced the preparations to provide ODA loans for the improvement of road network connectivity in India's north eastern states of Manipur, Mizoram, Sikkim, Mizoram, Assam, Meghalaya, Nagaland and Arunachal Pradesh. An agreement was signed between India and Japan for a ODA loans amounting to approximately 67 billion yen for the improvement of road network connectivity in north eastern states.

The Japanese ODA loan to India in 2015 reached almost 400 billion yen. The cumulative commitment of ODA until March 2013 reached 3807.763 billion yen on a commitment basis. As of February 2013, 66 projects were under implementation through Japanese loan assistance, to the total of 1640 billion yen. These projects are in the sectors of power, environment and forestry, urban transportation, urban water supply, tourism, irrigation, agriculture, shipping and railways.

French ODA in Manipur

France has rapidly become one of India's largest aid donors. In 2012, France committed \$160 million in assistance to India, including \$67 million for infrastructure and livelihood support in the Assam state. Back in 2010, French official development assistance to India stood at only \$3 million.⁴ During the visit of French President Nicolas Sarkozy to India in 2008, the French Development Agency (AFD) committed aid to energy efficiency, renewable energy development and urban transport.

³ India's economic relationship with Japan began in 1958 with cooperation on an official development assistance (ODA) loan, and also the first ODA loan Japan extended to any country. India today is currently one of the largest recipients of Japanese ODA. JICA's latest funding process is with respect to development of road infrastructure and other transportation projects. Japan is the lead donor for India since 2003-04, supporting a range of sectors including power generation, health sector, and afforestation projects to preservation of cultural heritages. Japan briefly discontinued its ODA support to India in response to India's nuclear test in 1998 but resumed it in 2002, and refocused it on economic infrastructure, environmental conservation and agriculture.

⁴ "Leading donors to India", by Lorenzo Piccio, DEVEX, 08 April 2013

The government of France is one of the few countries providing ODA loans in Manipur, focusing mostly on water and sanitation. The Ground Water Exploration Project in Imphal, the upgrade of the Kangchup Water Supply and the Imphal Sewerage Project are only some examples of French ODA loan projects in Manipur. The Imphal Sewerage Project is one of the most controversial ODA loan projects in Manipur, with regards to its potential adverse implications on local communities and the environment.

Key ODA projects in Manipur

- 1) the Manipur Sericulture Project financed by the Japan Bank for International Cooperation (JBIC), now known as Japan International Cooperation Agency (JICA);
- 2) the Imphal Sewerage Project and the Kangchup Water Supply Project, supported by the French Government;
- 3) the Imphal Water Supply Project, currently being processed for financing by JICA;

The details of the specific projects are outlined and discussed in chapters 2, 3 and 4.

2. CASE STUDY: MANIPUR SERICULTURE PROJECT

2.1 Description of the project

The Manipur Sericulture Project (MSP) is one of the ODA projects financed by the Japan Bank for International Cooperation (JBIC). A loan agreement for phase I of the MSP was drawn up by the government of India with a total outlay of INR 154.991 crore, of which INR 136.661 crore came from the JBIC loan and INR 18,33 crore was a contribution from the government of Manipur.⁵ Phase I of the MSP was implemented in all districts of Manipur and targeted mainly women producing international grade bivoltine silk. Phase I began with the employment of Nippon Koei Co. Ltd, a consulting firm from Japan, as the project consultant from June, 1998. The contract value for the engagement of the consultancy was 631.5 million yen out of the 635 million yen of the loan agreement.⁶ The consulting firm had been assigned to select beneficiaries and prepare the definite overall development programme (DODP). The consulting services were provided until December 2001. The original loan expiry period, June 2005, was extended till March 2008 due to delays in the project implementation. According to the DODP, the estimated project budget for phase II is 3378 million yen, including the price of consultancy services for 2005-06.

The main objectives of the Manipur Sericulture Project were: a) poverty alleviation through the creation of self-employment opportunities for 30,720 people and b) increasing the production levels of mulberry silk from 46 to 85 million tons.

Japan withdrew the financial aid which was allocated to phase II of the MSP after phase I was completed. The reasons for the withdrawal of Japan's assistance have been cited as concerns about the rule of law. However, Manipur government officials argued that the failures in implementing phase I of the project were the fault of the Japanese government and that the justification for their decision to withdraw were not convincing.⁷ A lack of efficiency and procedural irregularities on the part of the concerned state officials were also reasons for the apparent underperformance of the project.

⁵ Website of the Department of Sericulture, Government of Manipur
http://www.serimanipur.in/?page_id=137

⁶ Annual Plan, Government of Manipur, 2005-2006
http://planningmanipur.gov.in/pdf/Annual%20Plan/AP%202005-06%20Full/AP%202005-06%20Vol_1_%20Full.pdf

⁷ '700 Seri FoUs as good as dead', The Sangai Express, July 06 2013.
<http://manipurtalks.com/index.php?threads/japan-withdraw-support-for-sericulture-project-in-manipur.5624/>

A post-evaluation impact assessment of phase I of the MSP performed in 2012, based on an e-tender launched by JICA in 2011 and conducted by IC Net Limited, based in Japan, concludes that the performance of the project was unsatisfactory and presents a series of recommendations.

The evaluation report⁸ stated that the Field Operating Units (FoUs) were staffed by very few members who were genuinely interested in working in the sericulture sector. Moreover, the majority of beneficiaries had limited knowledge about the MSP. As a result, nearly all FoUs became non-functional.

The report further noted that the detailed plan of the MSP was overhauled in the fourth year of the project's implementation, causing the costs and delivery period to exceed the original target. According to the evaluation, a survey of the beneficiaries confirmed an improvement in their living standards and cocoon production, however the raw silk production and employment generation remained at 50 to 60% of the target of 2010. The effectiveness and impact of the project was rated as fair. The report stated that the main reason behind the low level of cocoon production was that nearly 40% of the beneficiaries have reduced or stopped sericulture activities; even those farmers who were continuing sericulture activities have been rearing a lower number of silkworms than the targets set due to an overall lack of knowledge in mulberry production and silkworm rearing, as well as improper rearing practices due to a lack of rearing skills and necessary equipment. There were also reports that in some of the FoU farms, farmers had been rearing poultry instead of cocoons. Shortages of electricity were also deemed to have played a part.

The report suggested that inadequate institutional support to the sericulture farmers affected the overall level of achievement and highlighted the absence of any mechanism to secure the economic independence of the farmers and cooperative societies during the transitional period of shifting from traditional farming to sericulture, which can take several years. Furthermore, the transition from traditional cultivation to sericulture affects indigenous agriculture.

8 Ex-Post Evaluation of Japanese ODA Loan Project, Manipur Sericulture Project, External Evaluators, Yuko Kishino and Yumiko Onishi, IC Net Limited
http://www2.jica.go.jp/en/evaluation/pdf/2011_ID-P134_4.pdf

2.2 Evaluation of the project outcomes

Despite the high expectations of contributing to the improvement of Manipur's economy by generating employment, the implementation of the MSP has been afflicted with a series of controversies and challenges. The lack of proper coordination and project monitoring between the implementing agency and the consultant and project financier led to the failure of the project. The ongoing armed conflict in Manipur also had an indirect impact on the project implementation. The project further suffered undue delays due to the failure of the government of Manipur to, on several occasions, finance its share. Given the focus on Japanese consultancy companies throughout the project implementation, it is clear that Japan's ODA in Manipur was 'tied aid', meaning that both the consultancy and procurement was to be performed by a Japanese company.

The post-evaluation conducted by JICA on phase I of the MSP failed to identify lapses on the part of JICA, both with regards to the feasibility study, the possible challenges and how to address them and with regards to the coordination with the project implementing bodies. It is however unreasonable to blame the members of FoUs for their lack of knowledge on the MSP and on sericulture. Overall, there is a need for a comprehensive assessment of the reasons for the failure of the MSP project in a Manipur, where small scale silk industry flourishes.

3. CASE STUDY: IMPHAL SEWAGE PROJECT

3.1 Description of the project

The French government provided an ODA loan for the undertaking of the Imphal Sewerage Project (ISP) in Manipur. The loan amounts to €8.735 million and was signed in December 2001. The deadline for completion of the project was 2004. However, the new deadline is now March 2016. The project implementing authority is the Public Health Engineering Department (PHED) of the government of Manipur.

The ISP aims to make Imphal a clean city with modern sanitation facilities. The project is the first of its kind in the north east and is envisaged to be extended to other districts such as Churachandpur and Bishnupur. In fact the ISP is reported to be a pilot project of the French government designed to test the sustainability of these types of projects with the goal of reproducing the prototype of the sewerage system in French cities and possibly in other countries in case of success.

Aid received for this project is tied and hence requires purchase of machinery from French companies. Degremont, a French company, is involved in the installation of mechanical and electrical machinery for the project. Simplex Projects Limited, a multinational corporation is also involved in the construction work on phase I of the project. Acqua Technique, a subsidiary of Safege MNC, reportedly installs turnkey waste water installations in Imphal.

3.2 Evaluation of the project outcomes

The Imphal Sewerage project (ISP) is one of the most controversial projects in Manipur due to its multifaceted impact on social, environmental, economic and other areas of life as well as due to its extensive delays and to the mounting uncertainty about the success and practicality of the project. The project, originally scheduled for completion in 2004, has been plagued with undue delays and at the end of December 2015 is still nowhere near completion. The construction of the ISP has caused enormous inconveniences and rights violations in the local communities.

One serious concern relating to the ISP is its impact on communities in Imphal and the surrounding areas. Due to the construction works, some of the key roads connecting Lamphel to Langol Housing Complex and the Shija Hospitals and Research Institute have been rendered unusable for several years. The area of Thangmeiband Watham Leirak has been turned into parking lots for buses and heavy vehicles since sections of the road have been dug out for laying pipes. Furthermore, the water supply to many households in and around Watham Leikai had been cut off, forcing inhabitants to purchase bottled water for daily consumption.

The digging of manholes in many areas in Imphal such as Kanglapat and Thangal bazar has led to a number of fatal accidents due to the holes being left uncovered. The digging up of roads and delays in laying pipes and filling up the resulting canals with earth led to dust pollution in the winter and excessive mud formations in the summer, causing further inconveniences to communities.

The construction of the Sewerage Treatment Plant (STP) at Lamphelpat is projected to have significant adverse environmental impacts on the wetlands due to the direct disposal of sludge from the STP. There has been a complete lack of environmental impact assessment (EIA) or social impact assessment (SIA) of the project, nor have any mitigation plans based on communities' involvement been prepared.

Speaking to the people who live nearby the building site, their dismay is apparent at the fact that their personal lives had to be compromised to adjust to the changing environment. L Ramananda, a resident who owns a small grocery store, expressed his anguish over the bad condition of the road and the never ending building of the sewage plant. He said, "Even businesses along the road are dead as hardly anyone crosses the road – there are no customers."

The laying of the pipelines had been done on an intermittent basis by a large number of sub-contractors who reportedly had no experience of undertaking such work. There are concerns about the pipeline maintaining the proper gradient as the laying of different sections has been carried out by different sub-contractors. Another aspect of the project is the need for substantial volumes of water for the drainage of household sewage through the sewerage pipes. Imphal is already facing high water scarcity, which is only increasing. In an unprecedented turn of events in Manipur, rivers ran dry in Imphal during winter 2014, which is attributed to the high rate of deforestation in the state. While it has been a serious challenge to provide an adequate supply of water for the Imphal area alone, the question of where the PHED will get the required volume of water to run and flush the drainage networks arises.

Another project challenge is the quantity of power required to operate the electrical pumps which push the waste through the sewerage pipes to the treatment area. As the state is facing a huge power deficit and is not able to meet even the bare minimum requirement of power per household, there are concerns about the availability of power. Considering the uncertainty of the success of this project on various counts enumerated above, a question about the rationality of the sacrifice by the citizens of Imphal town arises.

The PHED officials who had initially examined the project proposal of the French government failed to take into consideration the necessary technical and other requirements for the successful execution of the project. The availability of an adequate quantity of water and power, the complexity of laying down underground pipelines, in proper gradients, under already existing roads, the feasibility of connecting sub-pipe lines to each household and the economic conditions of the residents in the project area should have been minutely examined. This exercise seems to not have been carried out, leading to the multiple problems and delays.⁹ The financial health of the government of Manipur and its ability to produce its contribution also need consideration.

⁹ A rejoinder to the article – “Imphal sewerage project getting its final thrust” Jun 01, 2014 The Sangai Express <http://www.thesangaiexpress.com/a-rejoinder-to-the-article-imphal-sewerage-project-getting-its-final-thrust/>

4. CASE STUDY: INTEGRATED WATER SUPPLY PROJECT

4.1 Description of the project

The Integrated Water Supply Project (IWSP) consists of a number of elements:

- a) The construction of the Mapithel dam, primarily as the key storage of water from the catchment areas of Thoubal river;
- b) The tunneling through the Mapithel hill range and the laying of pipelines from the tunnels to the water treatment plant proposed in the Chingkheiching reserve forest;
- c) The upgrading of the Water Supply Infrastructure in Imphal

The key components of the Integrated Water Supply Project (IWSP) will be co-financed by the JICA and the government of India, while the project will be implemented mostly by private corporate bodies. The Ministry of Urban Department is to fund the tunneling works while JICA focuses on upgrading existing and creating new infrastructure for the Imphal town water supply.

The final approval of the project for a Japanese ODA loan to be provided by JICA is expected in 2016. JICA has indeed launched a preparatory survey for the Imphal Water Supply Improvement Project, which resulted in a pre-feasibility report in March 2015. The report was prepared by three Japanese consultancy companies: NJS Consultants Co. Ltd, Nippon Koei Co. Ltd and Sanyu Consultants Inc. in cooperation with JICA and was presented to the government of Manipur. According to the pre-feasibility report, the project financing and implementation is envisaged for completion on 31 December 2022.

Some of the work components of the Integrated Water Supply Project and their implications for indigenous communities are described below.

Mapithel dam construction

The dam is one of the most controversial projects in Manipur due to its numerous negative environmental and social impacts. The submergence of forest and agricultural land¹⁰ is in clear violation of existing forest laws of India, such as the Forest Conservation Act, 1980 and the Forest Rights Act, 2006. This has led to a legal confrontation between the affected communities and the

¹⁰“Mapithel Dam amidst Militaristic Development in Manipur”, The Sangai Express, 14 December 2008 <http://sinlung.blogspot.in/2008/12/mapithel-dam-amidst-militaristic.html>

government of Manipur. Indeed, a case on this project is still on going at the National Green Tribunal under the Supreme Court of India for the violation of forest rights of indigenous peoples.

Nonetheless, the Irrigation and Flood Control Department (IFCD), the project authority, began blocking the Thoubal river and submerging agricultural land, forest and homestead land in January 2015. Another case is also pending at the Manipur High Court on the violation of the rehabilitation and resettlement agreements of affected communities.

Filling up the dam reservoir, without addressing the effects this may have on the affected communities, and in absence of a holistic impact assessment of the Mapithel Dam project, has led to serious concerns among the Tangkhul, Meitei and the Kuki people who are set to lose agricultural land and the basis of their livelihoods.

The construction of the Mapithel dam has already led to the displacement of several thousand people living along the Thoubal river in the Mapithel hill range and valley. The Mapithel dam submerged over 1000 hectares of rice paddy field, Jhumland and homestead land. A total of 595 hectares of forest areas have been submerged. A total of 565 square kilometers will be affected by the catchment area treatment. The rehabilitation process of the Mapithel dam involves a series of irregularities. The rehabilitation and resettlement plan was unilaterally prepared by the government of Manipur in 1998 and imposed upon the affected communities.

The government of Manipur began the construction of the Mapithel dam without requesting the mandatory forest clearances. A forest clearance was requested only on 31 December 2013 after the affected communities filed a case before the National Green Tribunal. There has been no environmental impact assessment ahead of the launch of the Mapithel dam project. An assessment of the impact on ecology, seismology, social and cultural life, or health of the affected people has not been conducted.

Indigenous communities living downstream of the Mapithel dam have suffered disproportionately as a result of altered river flows, loss of natural resources such as fish and floodplain agriculture as well as the depleting amount of sand and stone. Among the downstream villagers, the most affected are the communities living at Tumukhong village. A serious concern among the residents of the downstream portion of Thoubal river is the possibility of dam breakdown due to low quality workmanship. There have been reports of work intensification to meet deadlines, which involves night time work where earth and rocks as well as other unsuitable materials are used to fill the dam without quality assessment. Furthermore, once the dam has been constructed, the villagers of Tumukhong will find it difficult to send their children to school.

Tunneling and impacts in Leikoiching village

The villagers of Leikoiching village in the Ukhrul District are directly affected by the creation of the infrastructure for the proposed integrated water supply project in Imphal town, funded by JICA. The village has already lost its land to the Mapithel dam project, which was used to create an approach road for the dam construction. The creation of the road led to the appropriation of a huge tract of agricultural land for which none of the villagers were compensated. There has been no information, environmental impact assessment, social impact assessment or environmental management plan provided to the villagers either by the state government or by the private companies. At no stage was a consultation with the affected communities conducted.

The creation of the water supply tunnel will directly affect the village of Leikoiching, primarily its agricultural land, by the tunneling, building of the approach road and laying of GI pipelines for water diversion. For indigenous peoples, the loss of their land will ultimately lead to their impoverishment and loss of culture and tradition. The creation of two approach roads for the tunneling works will have a significant impact on the forest areas, which communities use for their livelihood and survival.

Over 50 hectares of horticultural land will be affected due to tunneling works and the disposal of muck in Leikoiching village. Horticulture through the cultivation of pineapple, banana, papaya and cassava is the main source of income for the Leikoiching villagers, in addition to sustenance from wetland rice cultivation. Farmers on average earn just over two lakh INR (close to 4000 USD) annually from horticulture.

The creation of an approach road for tunneling works and laying of pipes will be another source of adverse environmental impact and will lead to wide-scale land appropriations. It is common to create multiple roads for tunneling works, as was witnessed in the ongoing tunneling works for the Indian Railways in the Tamenglong district. Many of these are abandoned at a later time due to their infeasibility, ultimately leading to a loss of land for villagers. Usually such land loss is excluded from consideration for compensation and rehabilitation works. Private companies involved in such tunneling works and the creation of approach roads usually lack a clear policy and process on providing compensation for communities who lose their land. Also in this case, no environmental or social impact assessment have been conducted.

Upgrading the water supply infrastructure for Imphal

A key component of the Integrated Water Supply project is the upgrading of the existing water supply infrastructure. The main purpose of the Imphal Water Supply System project proposed and outlined in the pre-feasibility study conducted by JICA in March 2015 was to reconstruct most of the existing outdated water supply facilities and to establish a new water supply system providing uninterrupted supply.

The JICA study team emphasizes proper service pipe connections, installation of customer meters and establishment of a customer database for the proper functioning of the water supply system. The new plan also stresses the need to revise the current water tariff. The upgrade plan further envisages policy changes, in particular the Manipur Power Policy from 2002, with the guidance of a Japanese consultant, to be engaged through global e-tenders based on the terms and conditions of the Japanese ODA policy. For the new Imphal town water supply system, water is planned to be produced at the 14 existing Water Treatment Plants (WTPs) in addition to the 45 new MLD WTP to be created.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

The following negative implications of the projects in the case studies have been identified:

a) Impact on the right to life and livelihood

One of the most significant impacts of the JICA financed Imphal Water Supply Project (IWSP) and the French financed Imphal Sewerage Project (ISP) is the impact on the right to life of the indigenous communities of Manipur. The diversion of waters of the Thoubal river for the water supply project and subsequent creation of infrastructure, including tunneling works, laying of pipelines, creation of water treatment plants (WTP) and disposal of the treated affluent in Lamphelpat wetlands will have a significant impact on the livelihood of the indigenous communities. There is clear violation of their community ownership of land, such as forest areas in Mapithel valley and in Lamphelpat wetlands. The submergence and destruction of agricultural and forest land, both by the Mapithel dam and the tunneling works, will impact the indigenous peoples' ability to sustain themselves.

b) Problematic rehabilitation and resettlement

Rehabilitation and resettlement is one of the clearly contested areas of the ODA projects in Manipur, in particular with regards to some of the vital components of the IWSP, such as the Mapithel dam construction. The tunneling works at Leikoiching for water supply have already commenced despite the fact that the villagers of Leikoiching have not been informed if and how their loss of land will be compensated and their livelihood impacts rehabilitated. The villagers had already lost their land for the purposes of road construction for the Mapithel dam without any compensation.

There has not been a participatory and detailed impact assessment of the tunneling and laying of GI pipes for the IWSP based on which a holistic rehabilitation framework could be devised; this would have been especially relevant for the tunneling works at Leikoiching as well as for those affected by the Mapithel dam. The villagers were denied basic information on the project and how it will affect their land, traditional economy and way of life. Communities which will lose their land and be impacted by the environmental contamination in Lamphelpat wetlands due to sludge disposal will not receive any compensation either. A detailed plan for compensation and rehabilitation has yet to be finalized as the Leikoiching villagers insist on receiving clear information on the proposed plans, such as the environmental impact assessment, the social impact assessment, the environmental management plan and a detailed project report.

India responded to the June 2010 letter of the UN Special Rapporteur on indigenous peoples, Mr. James Anaya, by maintaining that the government had instituted an expert review committee, with state authorities, experts and village representatives to review the rehabilitation and resettlement issues of the affected communities which had already held five rounds of meetings as of May 2009. In reality, the government of Manipur unilaterally withdrew from the expert review committee in 2011, with the rehabilitation process of the Mapithel dam remaining to be one of the most contentious cases in the development history of Manipur.

c) Violation of indigenous peoples' human rights

The implementation of ODA projects in Manipur is marred with violations. The implementation of the IWSP and the subsequent blocking of the Thoubal river to fill the Mapithel dam has led to multifaceted violations of indigenous peoples' human rights as well as wider environmental challenges and concerns.¹¹

Violation of Free, Prior and Informed Consent

The denial of the provision of information related to the Mapithel dam and the IWSP, which is a key aspect of free, prior and informed consent, crucial to secure a human rights based approach to development, causes serious concerns about the projects. The villagers of Leikoiching are completely unaware of the project planned within their village and to what extent their land will be affected. They are concerned about the forceful attempts of the government of Manipur to pursue the project, as it had done with the Mapithel dam construction, which began with the intense militarization of dam site areas.

The implementation of the Mapithel dam project involves a clear violation of the international norms on free prior and informed consent (FPIC) outlined in the UN Declaration on the Rights of Indigenous Peoples, 2007. Moreover, as per the Art. 371(C) of the Indian Constitution, any development program that affects indigenous peoples requires the approval of the Hill Areas Committee (HAC) of the

¹¹ Human rights are not mainstreamed within JICA, which seems to consider them the responsibility of the concerned governments. In JICA's February 13, 2015 response to a letter from Human Rights Watch of December 22, 2014, JICA states that the responsibility for addressing rights concerns is with the recipient governments and not with itself: "project proponents, including recipient governments, bear the ultimate responsibility for the environmental and social considerations of projects," and "JICA stress that recipient governments must hold the ultimate responsibility for environmental and social considerations as ownership of the recipient government/region is a major premise of JICA assistance." This appears to be an effort by JICA to avoid responsibility for addressing human rights violations related to its projects.

Manipur Assembly. However, in the case of the Mapithel dam project, the consent of HAC has not been sought.

There has been a lack of consultation and due process to obtain explicit consent from the villagers of Leikoiching for the tunneling works by the project authorities, the government of Manipur or by the private corporate bodies involved in the tunneling works of the IWSP. There has been no public hearing or a process for obtaining consent for the setting up of the Sewerage Treatment Plant (STP) at Lamphelpat wetlands and also for the plans to dispose of earth and sludge at the Lamphelpat wetlands from both the STP and the WTP.

Limitation of Stakeholder Consultations

The proposed JICA sponsored IWSP has failed to involve affected communities in the few consultations organized by the project authority. A stakeholder meeting for the preparatory survey on the Imphal Water Supply Improvement Project in Manipur, organized by PHED and sponsored by JICA in October, 2014 in Imphal limited the participation to representatives of the PHED, the government of Manipur and selected media. Though the media covered the stakeholder consultation, the information made available was limited to basic information about the purpose of the project and failed to produce the vital and necessary documents such as the environmental impact assessment, the social impact assessment, a detailed project report or an environmental management plan on the possible implications of the projects or any remedial measures.¹²

Militarization and Civil Rights Violations

The Mapithel dam construction also led to civil rights violations. On 3 November 2008, over forty people who were protesting the construction of the dam and demanding respect for their basic human rights were brutally beaten and tortured by the Indian Reserve Battalion and the Manipur police, who were stationed close to the dam building site. The victims were all women belonging to the different communities of Manipur: the Meitei, the Nagas and the

¹² This is in contradiction with the JICA's guidelines for environmental and social considerations from 2010 where it is stated that JICA addresses environmental and social impacts from the early project stage until the monitoring stage, to ensure accountability and transparency in implementing cooperation projects, ensuring participation of stakeholders in decision making processes with regards to environmental and social considerations, disclosing information to ensure accountability and promote participation of stakeholders and to accord serious attempts at prompt implementation of projects.

Kukis. One woman, Ms. Lungmila AS of Louphong village, Ukhrul District, was hit by a tear gas shell in the head and continues to suffer from the incident.

Military presence on the Mapithel dam construction site located on the indigenous peoples' land has caused human rights violations. The UN Special Rapporteur on Indigenous Peoples' Rights recommended the government of India respect the rights of the indigenous peoples impacted by the ongoing Mapithel dam construction on 24 June 2009¹³ and highlighted the situation in his 2009-10 report.¹⁴ These recommendations continue to be unimplemented.

d) Privatization of development

The construction of the Mapithel dam and the implementation of the integrated water supply project involves private corporate bodies coordinating closely with the government of Manipur and JICA, with full facilitation by the Indian government. The ultimate aim of the IWSP is to commercialize and privatize the water supply in Imphal. There is clear intention to privatize the water supply, installing water meters as well as increasing the water tariff within to the pre-feasibility report for the Imphal Supply Project prepared by JICA. Cities across India, like Delhi, are already witnessing controversy in similar privatization processes. The JICA study devotes substantial time and effort to find means of increasing the water tariff, which is currently being provided at a subsidized rate in consideration of the social conditions of both the urban and the rural poor in the Greater Imphal area.

Private companies ranging from consultancy firms, such as Nippon Koei Ltd, to those providing equipment, supply works and technical services such as Degremont, to those directly involved in construction work, such as Simplex Construction and Coastal Companies are the ones who benefit most from these ODA projects, irrespective of whether the projects deliver on their intended objectives and targets.

e) Consultants and development

One of the key challenges for ODA projects in Manipur is the reliance on consultants from donor countries charging high consultancy fees. Japan's ODA support requires consultancy services, including for procurement and contract work, which need be undertaken by Japanese or Japan based

¹³ A/HRC/15/37/Add.1 <http://unsr.jamesanaya.org/PDFs/Communications%20report-FINAL.pdf> (page 92-103)

¹⁴ Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, James Anaya, Addendum, Cases examined by the Special Rapporteur (June 2009 – July 2010) (A/HRC/15/37/Add.1)

consultancy firms. Nippon Koei Ltd is the consultant for both the MSP and the IWSP, in both cases funded by JICA.¹⁵ Similarly, the technical support for the French funded Imphal Sewerage Project is undertaken by French companies. Degremont, a multinational company and a subsidiary of Suez, provides technical support for the Sewage Treatment Plant at Lamphelpat wetlands in Imphal.¹⁶ This is due to the requirements of French aid, which tie the provision of ODA to the procurement of services of French technical and consultancy firms.

Project consultants typically charge substantial amounts of the total project cost. The cost of Japanese consultancy services for the MSP is almost one fifth of the total project budget, which means a substantial amount of the loan goes back to the donor country in the cost of consultancy services. The government of Manipur is obliged to continue to pay these charges irrespective of the success or failure of the project.

f) Arbitrary application of environmental norms and sustainability

The Integrated Water Supply Project and the Imphal Sewerage Project will have larger implications on the sustainability of the environment in the Mapithel hill range and in the Lamphelpat wetlands. The Mapithel dam has already led to the submergence of more than 585 acres of forest land.

The two projects have also involved the arbitrary application of existing environmental norms and safeguards. The pre-feasibility study report prepared by JICA, while highlighting the planned forest clearances for the Mapithel dam, failed to mention the likely violations involved in this process. The forest clearance for the Mapithel dam was implemented fraudulently in violation of the Forest Rights Act, 2006.¹⁷

The cumulative impacts of the installation of the STP and the disposal of sludge and earth from the WTP on the Lamphelpat wetlands and further down in Loktak wetlands through the Nambul river have not been assessed for environmental impact and, accordingly, no environmental management plan has been prepared. The sludge disposal in the Lamphelpat wetlands will affect fishing and collection of seasonal plants and vegetables from the wetland. No public hearing or environmental

¹⁵ “Progress of Manipur Sericulture Project (ID-P134)”, Annual Plan for 2005-2006, Government of Manipur http://planningmanipur.gov.in/pdf/Annual%20Plan/AP%202005-06%20Full/AP%202005-06%20Vol_1_%20Full.pdf

¹⁶ “Sloppy sewerage project gets final thrust”, The Sangai Express, 28 May 2015 <http://www.thesangaiexpress.com/page/items/39181/sloppy-sewerage-project-gets-final-thrust>

¹⁷ “Green tribunal halts Mapithel dam in Manipur”, Down To Earth, 10 December 2013 <http://www.downtoearth.org.in/news/green-tribunal-halts-mapithel-dam-in-manipur--42946>

impact assessment of the planned discharge of heavy metal present in the sludge from IWP and IWSP was ever conducted.

In its letter to the PHED on 10 October 2014, the Directorate of Environment of the government of Manipur, while clarifying the non-requirement for an environmental clearance for the WTP at Chingkheiching, explicitly mentioned that the project should not have any adverse environmental impact on the ecosystem of Chingkheiching and the adjoining Yaralpat wetland, located close to the WTP site. However, the failure to consider the environmental integrity of the wetlands became evident when the PHED conceded to the request by the JICA study team on 20 October 2014 to dispose of the earth left over from the creation of the WTP at Chingkheiching and the sludge generated from the STP in Lamphelpat wetlands. The PHED is simply not the competent authority to allow for such disposals.

The IWSP has been unilaterally classified by JICA as a category B project, under which no environmental or social impact assessment need be conducted. This nontransparent process fails to take into consideration the effects on local communities and the wider social and environmental impacts of the IWSP. The environmental implications of ODA projects financed by the JICA and the French government in Manipur have not yet been assessed.

g) Corruption and fraudulent practices

A clear case of corruption has already been exposed by a news report on the purchasing of DI pipes for the IWSP. The Huiyen Lanpao, one of the English-language daily papers in Manipur reported on 26 October 2015 on the controversy surrounding the tendering and purchase of pipelines for the water project even before the drilling of the tunnels began.¹⁸ According to the report, the e-tender for the procurement of the DI pipes was launched in June 2014. Three companies, Jindal Saw Ltd, Electro-steel Castings Ltd and Lanco Industries Ltd, were the bidders. Out of these, two companies were selected to provide the pipes at INR 36,325 per meter from both companies. However, at the time of the launch of the e-tender, the market price of the pipes was INR 24,688 per meter. The pipes were therefore procured at above market price, causing a total loss of around INR 19 crore to the state of Manipur. This is a clear case of corruption. After the tender, the pipes were delivered to the concerned department even though the tunnels in which these pipes are to be laid are yet to be drilled. MS Coastal Project Ltd, which plays a major role the drilling of the railway line from Jiribam to Tupul is responsible for the drilling work of the IWSP.

¹⁸ “Govt buys DI pipes before drilling tunnel”, The Huiyen Lanpao, 25 October, 2015 <http://e-pao.net/GP.asp?src=19..261015.oct15>

h) Impact of loans: increased debt

Both of the JICA projects in Manipur, the MSP and IWSP for Imphal town, are ODA loans. The challenge with this type of financial support from international multilateral and bilateral banks is that it comes in the form of a loan with obligatory interest payments. The implication of these loans in Manipur has never been considered in the project approval process or discussed with communities.

The government of India decided to withdraw the Special Category Status (SCS) of Manipur, along with that of several other states' across India in January 2015, obliging the state to bear 50% of all development financing within it. However, Manipur faces challenges in financing the significantly lower 10% of its share under the Special Category Status, as it continues to be one of the poorest states in India with limited sources of revenue. Manipur continues to suffer from a precarious financial situation despite being a beneficiary of five year plans in India for the last half a century. The state almost entirely depends on the central budget of the government of India. Under the new arrangement, it will face increased pressure to finance the debt coming from ODA loans and likely become highly indebted to international financial institutions. What is likely to follow are drastic cuts in the social sector and in social protection schemes, affecting the most vulnerable. The ODA loans will mean more debt and increased pressure to open up Manipur's water, forest and land for corporate exploitation.

i) i. Policy conditioning

The JICA ODA loan in support of the IWSP comes with a number of suggested policy changes to the Manipur Water Supply Act of 1992, as per the JICA pre-feasibility study. The act allows the PHED to set water tariffs, including the flat rate, and to adjust rates on metered charges on the basis of number of points of installation or the dimensions of the water pipe connected. Based on the act, the state government of Manipur adopts flat rates for their water supply services. The current water tariffs came into effect in April 2011, based on the Governor's order dated 31 March 2011. JICA observed that the tariff was set in due consideration of the social conditions in Manipur, providing a reasonable level of affordability of the water service, despite the challenges of water supply. The status of water provision as a social service may have prevented the state officials from insisting on a strictly regimented and controlled system of tax collection and prosecution for non-payment.

The policy change suggested by the JICA pre-feasibility study will allow for the private sector to play a greater role in the determination of the prices for water supply in Imphal. The policy changes will also lead to more prosecutions in the case of the non-payment of fees.

5.2 Recommendations

For Donors

- Ensure the recognition of indigenous peoples' rights over their land and resources; request their free, prior and informed consent to all development projects financed on their land;
- Conduct detailed environmental and social impact assessments before financing projects. The Imphal Sewerage Project and Integrated Water Supply Project in Manipur should conduct such studies irrespective of their classification as category A or B projects;
- Provide all project related documents, especially the detailed project report, the environmental and social impact assessment and the environmental management plan to communities before the implementation of projects on their land;
- Conduct a clear review of the effectiveness and results of ODA projects in Manipur; withdraw the loan in case the results are unsatisfactory;
- Institute effective complaint mechanisms for communities adversely affected by ODA projects and mainstream human rights laws and treaties into projects.

For Governments

- Review all ODA projects for their compliance with human rights standards, especially the UN Declaration on the Rights of Indigenous Peoples;
- Request free, prior and informed consent of all indigenous communities in all decisions relating to the introduction of ODA projects on their land;
- Conduct an assessment of the larger implications of ODA projects, debt servicing, access to land and implications of access to basic and social services;
- Abstain from any policy change, such as the changes proposed to the Manipur Water Policy of 2002, at the request of consultants, aimed towards advancing corporate interests.

For Development Partners/ Development Finance Institutions

- Establish a clear complaint and redress mechanism for communities affected by private sector development projects;
- Establish a clear accountability standard and mechanisms to ensure redress for indigenous communities for violations by private enterprises;
- Adhere to existing human rights provisions for indigenous peoples' rights in all project involvement on indigenous peoples' land and territories and in particular fully adhere to the provisions of the UN Declaration on the Rights of Indigenous Peoples.

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