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Report

An Independent Enquiry into
the Police Firing at Tapkara
and Resistance to the Koel-Karo
Project, Jharkhand

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**THE INDIAN PEOPLE'S TRIBUNAL
ON ENVIRONMENT AND
HUMAN RIGHTS**

January 2002

KOEL-KARO

**An Independent Enquiry into the Police Firing at Tapkara and
Resistance to the Koel-Karo Project, Jharkhand.**

**Tribunal Headed by:
Justice Rajinder Sachar
(Retd. Chief Justice, Delhi High Court)**

Acknowledgements

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The entire work of the IPT was conducted in co-ordination with INSAF (Indian Social Action Forum), a national forum bringing together some 450 social action groups, social movements and progressive intellectuals to resist globalization, combat communalism and defend democracy. As has already been mentioned in the report, INSAF had sent a Fact-Finding Team immediately after Police Firing in Tapkara on February 1 & 2, 2001, and it was at their initiative that the IPT was constituted to go into the larger aspects of the Project affecting the Right to Life & Livelihood of the adivasis and, subsequently, into the state repression. In this respect, a special word of thanks to INSAF State Unit in Jharkhand under the leadership of Dayamani Barla (National President of INSAF), Ghanshyam (State Convenor), Raajen Singh (National Secretary) and Amrita Das Gupta, (Regional Co-ordinator-East Zone).

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Dedicated to the victims of Police Firing on 2nd February 2001, at Tapakara,
Jharkhand.

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Introduction

The state of Jharkhand came into existence on 15th November 2000. The formation of the new state was the outcome of the long struggle by the people of Jharkhand, mainly

consisting of tribal people. Unfortunately not even 3 months had passed that the newspapers carried the report of killing of 8 persons and injury to many in a police firing at Tapkara. The social groups and individuals fighting for human rights through out the country had reacted with concern and dismay.

Tapkara is situated in Torpa Block, Sub-Division Khuti of District Ranchi, where people of the region had gathered to lodge their protest against the police excesses, which had taken place on 1st February 2001. It will be appropriate to point out that there has been a people's movement going on for decades against the proposed Koel Karo Hydro -Electric Project.

A preliminary Fact-Finding Team of INSAF (Indian National Social Action Forum) visiting the site shortly after the incident found evidence of human rights violations. The Team recommended that a People's Tribunal headed by a retired judge of a superior court be constituted to (i) investigate the incident, (ii) suggest steps to provide relief to the affected, and (iii) recommend appropriate measures to the State Government.

It was thus that a Tribunal of the Indian Peoples Tribunal (IPT) chaired by Shri Rajindar Sachar (Retd. Chief Justice of the Delhi High Court and former President of PUCL) was constituted, along with Sanjay Parikh- Advocate, Supreme Court; Shri Chittaranjan Singh - Peoples Union for Civil Liberties (PUCL), Uttar Pradesh; Dr Vinod Raina- Educationist and Environmentalist; and Adv. Sudha Bharadwaj-activist of Chhattisgarh Mahila Mukti Morcha. This tribunal held public hearings at Ranchi and Tapkara on 1st and 2nd November 2001.

The Terms of Reference of the Tribunal:

1. To assess the impact of the proposed Koel-Karo project on the lives, livelihood and future of the adivasi peoples in the region.
2. To assess the popular opposition of the adivasis in the region to the proposed Koel Karo Project which has stopped work on the project for the last 30 years.
3. To assess the background and reasons that led to police firing at Tapkara on 2nd February 2001 and the response of the administration to the incident.
4. To bring out a comprehensive report on the issue with a set of recommendations for future action.

The members of the tribunal, according to the schedule decided to hold a public meeting on the 1st November 2001 at Ranchi and a public hearing and visit to the dam site and the place of the police firing on the 2nd. On 3rd the Tribunal were scheduled to meet the concerned government officials to ascertain their version.

Visit of the Tribunal:

1st November, Ranchi:

A) The Tribunal conducted a hearing with lawyers, journalists, academicians, scientists and erstwhile public servants of the area. Oral and well written presentations were made about the Koel Karo Hydel Project, its relevance, rituals and practices of the Munda tribals and the incidents which had taken place on 1st and 2nd February 2001. The presentations made before the tribunals are enlisted below:

- The Relevance of the Koel Karo Hydel Power Project to Jharkhand's Economy - An Evaluation: Dr. Ramesh Sharan (University of Ranchi)
- Impact of the Koel Karo Project - Cultural and Social Issues: Dr. Ramdayal Munda (Ex Vice-Chancellor, University of Ranchi).
- History of the People's Resistance to the Koel Karo Project and the Genesis of the Present Incident: Ms Vasavi (Journalist, Jansatta).
- The Koel Karo Project and Displacement - Legal Issues: Shri Rashmi Katyayan (Advocate, Ranchi High Court)
- Adivasi Self Rule and the Opposition to the Koel Karo Project: Shri P.N. Soren
- International Law and its Implications in the context of the Koel Karo Project: Shri Ratnakar Bhengra (Advocate, Ranchi High Court).

B) The Tribunal also had the opportunity to study important background data and documents such as the following:

- Maps of the Submergence Zone of the Koel Karo Project.
- Facts and figures relating to the viability and impact of the Koel Karo Project as presented in the Draft Project Report as well as independent estimates.
- The official Rehabilitation Plan in respect of the Koel Karo Project prepared by the Directorate of Rehabilitation and Land Acquisition, Department of Energy, Government of Bihar.
- Minutes of the negotiations held by Smt Sushila Kerkatta- Minister of Irrigation and Power with the Koel Karo Jan Sangathan in 1985.
- Orders of the Supreme Court passed in 1989 with regard to land acquisition and rehabilitation.
- Documents regarding refusal and subsequent grant of environmental clearance to the Koel Karo project by the Ministry of Environment and Forests.
- National Guidelines laid down in 1998 in respect of Resettlement and Rehabilitation of Project Affected Persons.
- Land laws in Jharkhand - in particular the Chotanagpur Tenures Act -that recognize the customary Bhuinhari and Khutkatti rights of adivasi people.
- Conventions in International law relating to Indigenous people as ratified by the Government of India and the National Human Rights Commission.
- Newspaper reports regarding the 30 year long resistance of people in the submergence area of the Koel Karo Project.
- Newspaper reports of the incident of 2nd February and its aftermath.

- FIRs lodged by the police in respect to the incident of 1st and 2nd February and complaints and FIRs lodged by the affected persons.

2nd November, Tapkara:

On 2nd November the Tribunal visited the Police Post at Tapkara where the police firing had taken place in which 8 people were killed and several injured. The tribunal found that the police post has been abandoned. The Tribunal also visited the 'peoples barricade' near Derang village, the proposed site of the dam, the powerhouse at Lohajimi on the Karo river and also passed through a number of affected villages.

The public hearing, as per schedule, started at 2:15pm on the 2nd. It was decided that to begin with, the people who have witnessed the incident of 1st and 2nd February 2001 and those injured would be heard. The methodology adopted for public hearing was that the person who wants to depose would appear before the Tribunal, make oral statement before them and the public at large and thereafter, answer questions put by the Tribunal Members. Besides this, it was also decided that a written statement might also be taken from those deposing before the Tribunal. This methodology was duly followed during the public hearing. The Tribunal also met the medical doctor who had treated the casualties of the firing. Medical records, hospital discharge papers of the injured were also produced. These medical records are available with the members of the Tribunal as well as with the KKJS, to be made available if need be.

The Tribunal noticed a large gathering, of over 1000 people at the place of hearing. They were all maintaining a discipline of sitting quietly and at no stage interfered with the proceedings of the tribunal.

The Deputy Superintendent of Police, Sub-Division Khuti who was present at Tapkara Outpost at the time of the incident, and who was also invited to attend the public hearing, failed to appear before the tribunal. The BJP MLA of the area - Shri Koche Munda sent a letter regretting his inability to attend the hearing. The Tribunal made a special effort to meet Shri Munda to know his opinion on the matters under investigation, since not only was Shri Munda present on the spot at the time of the incident as mentioned in the police FIR, but he had also subsequently related the incident on the floor of the Jharkhand Vidhan Sabha. [See annexure-1] However when the Tribunal visited Shri Munda's residence near Torpa about 12 kilometres from the site of the public hearing, we were told that the MLA had just left.

3rd November, Ranchi:

The Tribunal made special attempts trying to meet officials of the District Administration, as well as officials of various ministries of the Jharkhand Government. Invitations to attend the public hearing on 1st and 2nd November had been sent to:

Chief Secretary - Shri Dubey

Secretary for Power - Shri Sudhgir Prasad
Commissioner for Development - Shri Krishnan
Commissioner for Tribal Welfare - Ms Raybala Verma
Superintendent of Police (Rural)

The Tribunal made efforts to meet these officials to obtain their version of events as also their perspective regarding the proposed Koel Karo Project. While the respective offices acknowledged receipt of the invitations, none of these officials were available to meet the Tribunal.

Shri Mahendra Singh, CPI(ML) MLA, elected from the Bagodar constituency in Giridih District alone appeared before the Tribunal. He had visited the site of the police firing immediately after the incident, and had also moved the Assembly to debate on the Tapkara firing. Shri Singh was able to present valuable information regarding the events of 2nd February, its background, and the response of the State Government.

After considering the statements, documents, submission by the people and taking into consideration the needed urgency, a Preliminary Report was released on the 3rd of November at Ranchi. A copy was made available to the government officials requesting them to respond before preparation and release of the final report. [See annexure-2] However the Tribunal has not received any clarification on the part of the government officials till finalization of this report.

ISSUES

For convenience and better understanding, the report has been divided into 3 main issues:

- I. Koel Karo Hydel Power Project: Its viability and impact on the environment, life and livelihood of the people.
- II. History of the Koel Karo Jan Sangathan and its struggle against the project.
- III. Police firing at Tapkara on 2nd February 2001.

I. Koel Karo Hydel Power Project: Its viability and impact on the environment, life and livelihood of the people.

The Environmental and Social Setting of the Project

The Koel Karo area is around 80 kilometers southwest and at a somewhat lower elevation to Ranchi. Where as Ranchi is situated at about 2000 feet, the Koel Karo area averages around 1600 feet. Like the entire Chhotanagpur plateau, this area too is made up of red clay, is undulating and thickly forested. The project area falls within the Singhbhum, Ranchi and Gumla Districts. As we found on our visit, the area is a picturesque combination of hillocks, rivulets and a richly diverse biomass, both natural and cultivated. It is an area of three seasons of four months each - winter, summer and monsoons.

The area is inhabited by three major cultural strains of the country, namely: Munda-Khadia, Kudukh and Sadan. Munda-Khadia who belong to the astro-Asiatic language class; Kudukh to Dravidian. The language of the Sadan is called just that, Sadani. The Mundas, Khadiyas and Uraun, indigenous inhabitants of this area are, like other indigenous people- worship nature, which explains their deep relationship for their land and all that grows or lives on it. A traditional governance system, called padha controls their social life, and facilitates community decision making.

It is an approximately 1500mm-rainfall area, swept by the southwest monsoons between June and September and again in October and November. Consequently, agriculture is prominent economic source here. Minor forest produce provides supporting subsistence and economic sustenance. Bamboo, dried grass and twigs provide material for housing. Timber needs for agricultural implements and as domestic energy are also met from the forest. Instead of widespread access to allopathic or homeopathic systems of medicine, most of the people still depend on the traditional homopathic system, which is heavily dependent on medicinal herbs found in the surrounding forests. In many ways therefore, the prominent economy in the area even now is not cash based, but of a subsistence kind, dependent on the locally available natural resources.

The Project

It is in such a setting that we need to assess the Koel Karo Hydroelectric Project. According to the Detailed Project Report (DPR) prepared in 1973, the aim is to generate 710 megawatt of power through a series of constructions spread over three districts. The project envisages damming the south Koel River at Basia, near Majikhera and Tetra

villages in Gumla district, and the north Karo River near Lohajimi village in the Torpa block of Ranchi district. The Basia dam on Koel, with 11 gates, is proposed to be 44 meters high and the Lohajimi dam on Karo, with 6 gates, will be 55 meters high. The two water reservoirs are to be linked by a 34.7-kilometer long canal.

At the tail end of the link canal, at Raitoli, there will be a 20-megawatt power generation unit. The main generation units will be situated at Lumpungkhel. Water will reach these units from the right side of Lohajimi reservoir through a 1.4-km long underground tunnel, with a discharge rate of 510 cubic meters per second. The Lumpungkhel underground powerhouse will have six units of 115 megawatts, making a total of 690 megawatts of power. Including the 20 megawatt generation at Raitoli, the total power generation thus proposed adds up to 710 megawatts. The transmission lines include the 99-kilometer long 400-kilowatt single line to Patratu and the 120-kilometer line to Chandil. This ensures the integration of the generated power with the eastern grid. Power generated at Raitoli shall be linked to Lumpungkhel through a 15-kilometer long 132-kilowatt line.

This is how the project was conceived in 1973. The project completion time was envisaged as eight years, which should have been in 1981. As of today, the end of 2001, the only construction is that of a few go-downs! The project authority is the National Hydropower Corporation (NHPC), which makes it a central rather than a state project.

Before getting into the question of displacement and the impact on the local environment, which is at the heart of the present conflict that resulted in the police firings with loss of lives, let us first examine the very rationale of the project, and the sharing of its benefits. The DPR suggests that the power generated by the project would be used to cover the peak load shortage that has been projected to be 19% during the ninth and ten-year plan periods. As is the usual logic, a mix of hydropower in the grid is considered useful and necessary to adjust peak loads and thereby help in the optimum utilization and stabilization of thermal power. The planners also point out that compared to thermal power; generation of 710 mw at Koel Karo would be cheaper, claiming that the generation of 1000mw of thermal power would cost about 3900 crore rupees, 710 mw of thermal power about 2840 crores and 710 mw of hydropower at Koel Karo about 2370 crores. The other official reason for opting for Koel Karo hydropower, as compared to other sources, is well known, though flawed, that hydropower is environmentally friendly. This myth has continued to dominate official viewpoint, since environmental and social impact like displacement, submergence of land, agriculture, species and historical sites are never part of the project planning. The beneficiary states from the project were supposed to be Bihar (now Jharkhand), Orissa, West Bengal and Sikkim.

Present Status of the Project:

It is nearly thirty years since the project was planned; river flow has generally reduced due to environmental degradation. To begin with, Bihar itself is not the former state anymore, and the project today falls within the jurisdiction of the Jharkhand State; for whose formation many people gave their lives through a sustained movement. But the

paradigm of development remains unchanged; the new state formed through an adivasi struggle refuses to accept the project.

(a) Economic Viability:

Let us first examine the economic viability of the project. The capital cost of the project in 1980 was 444.67 crores, revised to 1364.38 crores in 1991. The estimated cost in 1998 was 2840.68 crores. Since no construction has taken place to date, even if in the unlikely event the work was to start say in 2002 and miraculously be completed in the stipulated eight year period, by the year 2010, the cost would perhaps cross rupees 4000 crores. This is just the capital cost; the operating costs would similarly be proportionally of a very high order by now. Consequently, the 1998 estimate for the sale price for a unit of electricity generated by the project is a staggering Rs.5.79; one may well imagine that it is likely to climb to around the Rs.10 mark, that too if the project is completed at the earliest, by 2010. Who will pay for this electricity? Can we forget the pricing mess the Maharashtra State Electricity Board got into with Enron at Dhabol in spite of warnings. Must we repeat the folly again and again? In any case, West Bengal, Orissa and the Damodar Valley Corporation (DVC) have already backed out of the project, which means the entire burden for cost-effective utilization will have to be borne by the fledgling state of Jharkhand. Can it use electricity at around 10 rupees a unit?

In fact this is a conservative estimate considering the track record of cost and time overruns in construction of large dams not only in this country, but all over the world. A few examples are given below:

Project	Inflation adjusted cost overrun
Bargi	784%
Sardar Sarovar	714%
Selaulim	660%
Srirama Sagar	694%
Srisaillam	575%
Tawa	557%
Tehri	2900%

As it is, the plan was to feed the power into the eastern grid, with many other states chipping in, but as already stated, they have backed out. With cost escalations in the unit price, it is doubtful that even the planned beneficiaries, industry and urban areas will anymore opt for this power. Over 80% of the population living in rural areas are not even remotely going to be touched by any benefits from the project. As for the sharing of benefits, it is apparent that all those living in the project area have nothing to gain. The grave injustice felt by the local people can not therefore be wished away.

(b) Livelihood, Displacement, Resettlement and Rehabilitation:

No reliable or accurate data on displacement was made available to the members of the Tribunal. It was a matter of utmost concern to the Tribunal that there seemed to be no reliable estimate of the number of villages to be submerged by the reservoirs or displaced by construction of the channel and power production units. Nor was there any reliable estimate of the number of families/ persons to be displaced or affected by the project. Figures quoted varied widely as we see below:

- a. The DPR of 1973 put the total villages to be affected at 125.
- b. A rehabilitation report prepared by the Collector of Ranchi, B.K.Sinha, in 1986 estimated the affected households to be 7063, spread over 112 villages.
- c. According to the Koel Karo Project Director, the affected households will only be 4700, covering just 42 villages.
- d. The Koel Karo Jan Sangathan (KKJS) however estimates that 256 villages are going to be affected! The population of these 256 villages is around 1,50,000, and 90 per cent of them are adivasis.
- e. The Rehabilitation Plan of the Directorate of Rehabilitation and Land Acquisition, Department of Energy, Ranchi reads as follows:

“ The reservoir thus created would displace 26 villages in Gumla District affecting 3286 families and 1157 families in 16 villages of Ranchi district. ... The project compels displacement of nearly 25,000 persons comprising 4995 families as per the 1981 Census in 41 villages. A good 70% of the displaced persons are members of the Scheduled Tribes, 5% belongs to the Scheduled Caste and the remaining to the other categories”

- f. A Writ Petition filed in the Supreme Court by V.P Lakra on behalf of the Koel Karo Jan Sangathan in 1984 stated that about 50,000 persons belonging to 113 villages would be displaced by the project.
- g. A more recent estimate made by the Koel Karo Jan Sangathan puts the figure of villages to be affected at 256 out of which 135 will be submerged completely, and the number of displaced/ affected persons at more than 1,50, 000. It is claimed that approximately 66,000 acres of land would be submerged of which 33,000 are under cultivation, the remaining area being forested. According to the KKJS, around 152 Sarnas (sacred groves of worship) and more than 300 Sasandris (ancestral burial sites) would also be submerged.

Official data shows that there has been systematic underestimation of oustee numbers in the construction of dams, leading not only to underestimation of costs but also to untold suffering to hundreds of thousands of “nameless” citizens. The members of the Tribunal

are of the view that there is no legal or moral justification for a project whose social and human costs were not even adequately assessed. To show the magnitude of underestimation, we give below the figures for a few projects.

Project	Original estimate (Year)	Revised estimate (Year)
Andhra Pradesh Irrigation II	63,000 (1986)	1,50,000 (1994)
Gujarat Medium Irrigation II	63,600	1,40,370 (1994)
Karnataka Irrigation	20,000 (1978)	2,40,000 (1994)
Madhya Pradesh Medium Irrigation	8,000 (1981)	19,000 (1994)
Sardar Sarovar	33,000 (1985)	3,20,000 (1993)
Upper Indravati	8,531	16,080 (1994)

It is estimated that around 50,000 acres of land will be acquired for the project, of which 30,000 acres is agricultural and the rest is forest land which provides subsistence to the adivasis. Official records in Ranchi and Gumla district mention that the following would be the extent of land acquisition:

- Torpa block: 4,978 acres
- Rania block: 6711 acres
- Basia block: 14,156 acres
- Kamdra block: 468 acres
- Gumla block: 5,810 acres
- Palkot block: 14,031 acres
- Sisai block: 1,970 acres.

The total land affected by the project will be much more than the estimated official figures.

(c) Supreme Court Directives:

The response of the population is a long struggle, symbolized by the KKJS, which was formed by combining the separate Koel and Karo movements through the efforts of Moses Gudia during 1975-76. The people of this area got to know of the existence of the Koel Karo Hydel project only when government officials started coming to their village and first moves were made towards land acquisition. Initially the people believed the project would be 'people centric' plans and policies would be transparent to the public. Not trusting the Executive Authorities, the KKJS through Sri V.P. Lakra filed a Writ Petition in the Supreme Court in August 1984 on this issue. Rehabilitation Plan that was

submitted by the Directorate of Rehabilitation and Land Acquisition, Department of Energy, Ranchi before the Apex Court stated that;

“This displacement would be total in case of 25,000 persons, in the sense that these persons will not only lose their home and hearth, they will further be losing their lands. It has already been decided that it would not be feasible to provide the deprived populace with land in lieu of that lost, on any basis. Agriculture has, hitherto been their main and perhaps only skill. They will have to be, therefore settled in alternative occupation. This will no doubt be a traumatic experience for those involved....”

“The Government will therefore have to accept the responsibility for the total rehabilitation in a comprehensive sense of the term. It is absolutely essential that any plan for rehabilitation should be socially acceptable and individually satisfying to the persons involved. At the same time it should not give rise to a psychology of dependence. The displaced should be rehabilitated into their new lives without feeling the need for crutches.”

The Division Bench Of Hon’ble Justices Ranganth Mishra and K.Jagganath Shetty while passing further orders in the same petition observed:

“One member found suitable from every family whose lands are acquired shall be given employment in the Project or under the State employment of Bihar. Such appointment shall be either in Class IV or clerical jobs depending upon the availability and suitability.”

“As regards employment in Class III categories employment shall be provided through the concerned Employment Exchanges as far as possible from local persons / land oustees according to their suitability and qualifications, preference being given to oustees.

Every effort shall be made to provide on lease basis alternative cultivable land to the oustees keeping the extent of land acquired in view.

In regard to the lands available for temporary cultivation during the draw down of water, the matter shall be left to the discretion of the authorities of the project keeping the interest of the Project in view. In case any land is available to be utilised for cultivation the same shall be offered to oustees only.

The land Acquisition Officer while proceeding to complete the acquisition and determine the compensation shall bear in mind the claim of the Scheduled Tribes people in regard to Koel-Karo rights.

No dispossession from acquired land shall be effected until compensation as a condition precedent is paid.

One can say that the reason for the anti-dam movement is clear: the people were convinced that economic, social and cultural rehabilitation, which is their demand, would be impossible.

(d) Issues in Rehabilitation

On the issue of rehabilitation, it was clear from the oral and written depositions not only of the project affected people at Tapkara, but also the intellectuals and journalists who deposed before the Tribunal at Ranchi that the Jharkhandi psyche has been repeatedly scarred by the trauma of massive displacements and that all evidence shows that there has been little compensation, let alone rehabilitation for the affected people. Almost a quarter of the people of Jharkhand has experienced displacement. No doubt this stark history has played a role in shaping the opposition of the project-affected persons at Tapkara. The figures are as follows:

Purpose	Displaced persons (Jharkhand)
Mining	25.5 lakhs
Major Irrigation	16.4 lakhs
Large Industries	12.5 lakhs
Parks and Sanctuaries	11.0 lakhs
Total	65.4 lakhs

Development Project	Land Acquired (acres)
Heavy Engineering Corporation	7711
Bokaro Steel Limited	34, 227
Damodar Valley Corporation	2,88,874
Adityapur Industrial Area	34,432
Suvarnarekha Project	85,000

The National Rehabilitation and Resettlement Policy of 1998 emphasizes on rehabilitation in any large development project. Alongside it mentions special measures for adversely affected or displaced families and regarding self-employment of project affected persons.

A relevant extract of the Policy is included. [See annexure-3] According to the some of the guidelines laid down for resettlement and rehabilitation of adversely affected or displaced tribal families:

- *Prior to the acquisition of land for any project in any tribal area, an inquiry must be made by the competent revenue authorities to determine whether any tribal lands have been transferred in violation of the law on the subject. Social activists and prominent NGOs should be associated with such inquiry. Urgent measures should be*

taken to cancel such transfers and restore the rights and titles of the tribals on their alienated land before acquisition proceedings are started.

- *... All forest lands under occupation of the tribal families since 24th October 1980 or before this date shall be deemed to have been allotted or owned by the concerned tribal families. ...*
- *In the event of absence of other reliable data for evaluation of land value, the minimum land value to be provided for acquisition of per acre of tribal land shall not be less than Rs 15,000.*
- *In respect of a tribal landowner, provision of land for land is mandatory.*
- *The resettlement site for displaced tribal families should be selected with great care and in consultation with their traditional/ elected leaders or representatives of the displaced families and also with the project authorities as well as reputed voluntary organisations to ensure peaceful resettlement and harmonious living with the host communities. It should also be seen that the tribal families are rehabilitated as close to their natural habitat as possible, they should also be provided with their traditional rights on minor forest produce and common property resources, if available, near to the new place of settlement, and in case any such family can continue their access or entry to such forest or common property in the area near to the place of eviction, they may continue to enjoy their earlier rights to the aforesaid sources of livelihood.*
- *Efforts should be taken to ensure that all tribal families of the ousted villages are resettled together in a particular area, to the extent possible. For settlement of tribal families in a new locality, common property land for religious and community gathering should be allotted free of cost.*
- *The displaced tribal families shall also be compensated for loss of their customary rights /usage on forest produce in case the new site does not provide for such gathering ... @ 10 times the minimum wage at the rate fixed by the respective State Governments during a single working season of 45 days i.e. equivalent to 450 days minimum agricultural wages.*

At this stage the KKJS prepared a document defining “Sampoorna Punarvas” (Comprehensive Rehabilitation) as perceived by the people. This remarkable document of an adivasi community’s collective wisdom [See annexure-4] not only included economic but also social, cultural and religious resettlement. The Tribunal notes that the 1998 Draft National Policy for Resettlement and Rehabilitation has acknowledged the just nature of most of the demands raised in the proposal and in fact, similar provisions have been made mandatory under the Rehabilitation Package.

The people were totally let down when the government could not even demonstrate an ideal sample of rehabilitation package. In 1985 the administration selected Lohajimi for the purpose, but KKJS countered by saying that it was to be partly submerged, and a village which would be fully submerged ought to be chosen. Accordingly, Kocha village was chosen and the KKJS assisted the NHPC in its survey work. Kamda village, close to Tapkara was chosen as the rehabilitation site. Similarly Tetra village was surveyed for model rehabilitation on the Basia side. The NHPC soon realised the impossibility of social and cultural rehabilitation, particularly in re-establishing the sacred sarna and sasandiri. The impossibility of rehabilitating a mere two villages was enough to break the trust of the villagers in the administration - how could 256 villages, 152 sarna and over 300 sasandiri be relocated? Since the failure of the two-village experiment, the movement clearly turned anti-dam, with the KKJS proclaiming in 1990 that people would not evacuate their lands.

(e) The Impact on the Environment:

The tribunal visited the dam site on the 2nd of November and was captured by the untouched beauty of the region. A visit to the site revealed:

- (i) Large tracts of pristine forest falling within the submergence zone.
- (ii) Evidence of rich biodiversity. The adivasi community spoke to the existence of a very large number of plant varieties including fruit trees, tubers and medicinal herbs.
- (iii) There is a predominant use of indigenous varieties of seeds for paddy and other crops in this area, owing to traditional agricultural practices. The use of fertilizers and pesticides was also reported to be minimal.
- (iv) The occasional presence of wild animals was also reported.

It is necessary to have a proper Environmental Impact assessment before undertaking any large-scale development project. With respect to the Koel Karo project, the major scandal, the word seems appropriate, is its environmental clearance. As is well known, due to struggles at other dam sites like Sardar Sarovar, Tehri etc, it is mandatory since 1994 that any project that is likely to acquire more than 10 hectares of forest land must have a proper environmental impact analysis, based on Social Cost and Benefit analysis. Accordingly on September 22, 1998, the Ministry of Environment and Forests (MOEF) revoked the earlier sanction of 1982, seeking a proper environmental impact analysis on the basis of the 1994 policy. However, the Ministry of Power, arguing that the project had already started forced the MOEF to rescind its order within months, on January 5, 1999 to be precise.

And the fact is that the only construction that has taken place in twenty-eight years is to construct a few godowns far away from the project site, and a low bridge near Lohajimi. For all practical purposes, it is a fresh project, and given the environmental, social and cultural background of the area, it must, even by World Bank standards have a proper

environmental clearance. To claim that the 1982 sanction is still valid is a complete mockery of all-existing laws and statutes, both national and international. One uses the word international deliberately, because, if the authorities go around looking for international loans, and experience shows they will because of massive cost escalations, inadequate environmental and social safeguards of the project are going to be a major issue in such an eventuality. Such has been the pressure of anti-dam movements all over the world, as exemplified by the Report of the Independent Commission set up by the World Bank for the Sardar Sarovar dam, and later now in the lengthy and elaborate report of the World Commission on Dams. In many ways, the people's struggle in Koel Karo can be seen as a major input in the changed international attitude to the issue of dams and displacement.

(f) The Viability of the Koel Karo Project

Given the question mark about the economic benefits, social acceptability and the environmental and cultural impacts of the project, it seems prudent to ask whether the project is at all viable. The current installed capacity for power generation in Jharkhand is as follows:

The current installed capacity of power in Jharkhand is 2590 MW broken up as follows:

Project	Thermal/Hydel	Installed capacity
Tenghat	Thermal	420MW
Patratu	Thermal	840MW
DVC	Thermal	1200MW
Sikkidiri	Hydel	130MW

A further potential for generating 4736 MW exists, namely:

Project	Thermal/Hydel	Capacity
Patratu	Thermal	420 MW
Tenghat I	Thermal	630 MW
Tenghat II	Thermal	500 MW
Chandil	Thermal	500 MW
North Kanpina	Thermal	2000 MW
Shanlih II	Hydel	186 MW
Tilanja	Hydel	50 MW
Kanhar	Hydel	450 MW

The most revealing figure is the Plant Load Factor for Jharkhand, which is a pathetic 23.89 per cent, against a national average of 67 per cent. Similarly, the transmission losses are 25 per cent, against a national average of 15-18 per cent. Quite clearly therefore, by improving the PLF and reducing transmission losses, more than the

generation capacity of 710m at Koel Karo is recoverable without the corresponding expenditure. The potential of increase at existing projects is also immense, indicating the futility of fresh investments at a new site.

The States of West Bengal, Orissa and the Damodar Valley Corporation have already backed out of the project. Thus the power generated by the Koel Karo Project will have to be consumed (and therefore purchased) by the State of Jharkhand alone. At the rates cited above, this does not seem to be an economically viable proposition.

Another factor that has to be considered while assessing the viability of the project is siltation. Considerable changes have taken place in the water levels, rates of flow, course etc. of the Koel and Karo rivers over the past 28 years. This could drastically increase the projected siltation rate, thus reducing storage capacity of the proposed dam and the overall life of the project. The Tribunal noted with concern that more often than not, rates of siltation have been underestimated in the construction of dams, and in fact siltation has often been established subsequently to be a major cause of dam failure.

The table that follows provides a comparison of estimated and actual rates of siltation of dams in Jharkhand.

Project	Estimated siltation rate	Actual siltation rate	Ratio: Actual/Estim.
Masanjor	538	2000	3.7
Maithar	684	5980	8.74
Panchet	1982	9533	4.8

These factors lead to an irresistible conclusion that the Koel Karo Project is un- viable and has grave repercussions on the socio-economic and cultural life and livelihood of the people.

II. History of the Koel Karo Jan Sangathan and its struggle against the Koel Karo Project.

A large proportion (around 75%) of the persons proposed to be affected or displaced by the Koel Karo Hydrel Project belong to the Scheduled Tribes, and the area of investigation of the Tribunal was predominantly populated by the Munda Adivasi people. The Munda tribe is the third largest in Jharkhand. Along with the Ho and Santhal languages, the Mundari language belongs to the Austro-Asiatic linguistic stock. The Munda people live in Khunti, Bundu and Tamad Blocks of Ranchi district, Tebho Ghat of Singbhum district and in parts of Gumla district. It is in the heart of 'Munda area' that the twin rivers, considered a 'boon to the people', Koel and Karo flow. The Munda people have a long and glorious history of struggle for protection of their land and land rights.

The Koel Karo Jan Sangathan commands a good deal of respect among the local people in the submergence zone. No doubt to many of the Munda people the Sangathan is not merely an organisation representing the grievances of project affected people, but led by traditional leadership, it also represents their villages and their community in the struggle to protect their land, their forest and their livelihood. The organisation also has a long history of more than 25 years, i.e. since 1974 and has earned the people's trust.

We give below a chronology of important dates in the history of the Koel Karo Jan Sangathan as traced from the written depositions of Shri Soma Munda, Ms Vasavi, and from various newspaper reports:

- 1955 : A Survey in view of the Koel Karo Project was started in the submergence zone but the people were kept in the dark.
- 1960: Roads started to be laid in the Karo region, in particular the road from Tapkara to Lohajimi. People were not aware of the purpose behind the roads being built. They in fact came for employment in constructing these roads, and objected to outsiders being brought for the work.
- 1973: By now the blueprint of the Project was ready, but even at this stage people were not taken into confidence regarding the project.
- 1974-75: It was when the process of land acquisition began for the construction of the Project Office cum Colony at Torpa that people got the rude shock that a dam was to be built at Lohajimi, and that this would inundate vast areas of their land. People resisted in the name of “Jan Sangharsh Samiti” and stopped further road construction. The project authorities came and suggested the formation of a team with whom they could relate. Accordingly a team was constituted. (This is the time when Soma Munda himself retired from the army and returned to his village Lohajimi.)
- 1975-76: Formation of the KKJS under the leadership of Shri Moses Gudia by uniting the Jan Sangharsh Samiti of the Koel area in Gumla District, and Jan Sanyojan Samiti in the Karo region in Ranchi district. Shri Moses Gudia, a schoolteacher, was evidently a much-respected tribal elder of the area and remained the President of the KKJS from 1977 onwards to his death in 1987.
- 1977-78: Sangathan initiates “Kam Roko” campaign protesting that the Government is not taking affected people into confidence. All work on the Project stops. ‘People’s barricade’ at Derang erected. Government forced to negotiate with the Sangathan to permit unloading of cement and steel (brought by the State Electricity Board) from railway wagons at Pakra Station. The Sangathan while permitting this prevents the transportation of sacks from the station. Finally the Deputy Commissioner of Ranchi agrees to tripartite negotiations on 5th January 1979 at his residence. It is concluded that the project be put on hold till a solution is reached.
- 1980: In negotiations between the NHPC officials, Commissioner & Deputy Commissioner, Chotanagpur officers from the rehabilitation department and representatives of the Sangathan,

agreement reached to conduct a joint socio-economic survey of the affected villages.

- : Detailed questionnaire prepared and administered in two or three villages. Survey processes interrupted when filled in schedules disappear from the Project office.
- 1983: The Koel Karo Jan Sangathan prepares a document for “Sampoorna Punarvas” (Comprehensive Rehabilitation) which includes economic, social, cultural and religious resettlement.
- 1984: The Commissioner of Chotanagpur calls the representatives of the KKJS to his office and appeals to them allow dam construction. Sangathan spokespersons ask him to resettle Kocha village in Koel area and Thethera village in Karo area, then the other villagers may agree to follow suit.
- 1985: Tripartite discussions held under the chairpersonship of Smt Sushila Kerkatta - Minister for Irrigation and Power, Govt. of Bihar on the KKJS Rehabilitation Proposal. Government agrees in principle to the Sangathan proposal that two model villages be resettled first but fails to actually respond
- June '84: The Government announces that if necessary force would be used to advance work on the project. Hundreds of CRPF jawans start camping in the submergence zone. After public meetings at Lohajimi and women's protests of harassment the army camp is removed.
- July 1984: In July efforts are made to conduct survey using the help of the police. The project affected people engaged in total non-cooperation with the police who were ultimately forced to withdraw.
- 1995: Bihar Government announces that Prime Minister Narsimha Rao would lay the foundation stone of the Project on 5th July.
- 1st July: Thousands of people participate in meetings, rallies and satyagrahas in every village and tola. 5000 people gather at Torpa on 10th June and 15,000 at Tapkara on 26th June. The protests culminate in the imposition of “Janata Curfew” on the midnight of 1st July 1995 against government/project-related persons, vehicles or equipment. Three more barricades erected on the road leading upto the dam site.

- 5th July: Massive mobilisation and rallies at Basia (Gumla District) and Diyakel Aam Bagaan, near Torpa (Ranchi). Meeting at Diyakel addressed by Parha Raja Paulus Gudia; MLA (Torpa) N.E. Hiro and other MLAs - Vishwanath Bhagat, Bernard Minj, Mangal Singh Bobonga and Basant Kumar Lomga; Arvind Anjum of the Visthapit Mukti Vahini; Anthony Lakda from the Netarhat Firing Range; Dr Ramdayal Munda; Prabhakar Tirki of JMM etc. All speakers say that they will not permit this destructive Project. The MLAs state that they would resign their seats in the assembly but not permit the Project. Slogans of “We will give our life but not our land” raised. PM Narsimha Rao cancels his visit. Bihar Government announces postponement of the inauguration but does not give a new date. (Based on newspaper reports)
- Jan 2001: Koel Karo Jan Sangathan obtains an appointment for 5th February 2001 with Chief Minister of Jharkhand - Babulal Marandi to request him to finally write off the Koel Karo Hydroelectric Power Project.
- 1st Feb: Derang Barricade uprooted by police. Amrit Gudia and Lorentus Gudia had beaten up by the police for protesting.
- 2nd Feb: Thousands of people gather at Tapkara O.P. to protest the uprooting of the Derang barricade and the attack on Amrit Gudia.
: Police firing killing 8 persons and wounding 36 persons.

The thirty year long movement of the project-affected people in this area under the leadership of the Koel Karo Jan Sangathan has certain features, which are relevant in the context of the events of 1st and 2nd February, namely:

- (i) The entire adivasi village communities with their traditional leaders were participants in the movement.
- (ii) The movement took a stand of determined opposition to the Koel Karo Project after the proposals for comprehensive rehabilitation and its precondition of settlement of two model villages were rejected by the Government and Project authorities. Not only this but the insensitivity of the administration added to the determination of the people.
- (iii) There was broad-based support for this movement even outside the submergence zone, and in fact all over Jharkhand. The presence of five adivasi MLAs, representatives of other displaced communities, and members of political parties in the 1995 protest against the proposed inauguration of the project amply demonstrates the same. The MLAs had

declared that they would rather resign their seats in the then Bihar assembly, rather than permit the project to be commenced with.

- (iv) The movement basically practiced “non cooperation” with the Project authorities and the government. Women were very much in the forefront of the movement.
- (v) The movement was consistently non- violent.
- (vi) The people strongly believed the incident of 1st February 2001 was totally unjustified and uncalled for.

III. Police Firing at Tapkara

This issue is in fact the basis for constitution of the Tribunal as 8 persons lost their lives and 36 sustained injuries (13 were treated in the government Referral Hospital and the rest received private medical treatment). List of injured enclosed.[See annexure-5] It is for the purpose of better understanding and clarity that the first two issues have been taken up first. In the above background, namely, the protest of the people against the dam and the barricade (not in the physical sense but only symbolically) stand as a mark of the said

protest that one has to appreciate the incidents that took place on the 1st and 2nd February 2001.

Incident of 1.2.2001

The case presented before the Tribunal by the Koel Karo Jan Sangathan is that on Feb 1, 2001, the O.C. of Tapkara OP, Shri R.N.Singh and Akshay Kumar of Rania Thana (which is within the District Ranchi) along with 20-25 armed policemen in two police vehicles were patrolling the area allegedly against MCC activists. Amrit Gudia of Gutuhatu village, an ex-military man who was returning from Derang village, saw the policemen near the Derang gate. According to Amrit Gudia, the Tapkara OC R.N. Singh ordered his men to get down from the vehicle and break the barricade. The policemen then broke the sal pole (used as a barricade) and loaded it onto the police vehicle. Amrit who was carrying the firewood dropped it on the ground and ran towards the barricade. He asked the police officers why the gate had been broken. At this point, the police started beating up Amrit. He received injuries on the head and shouted for help. Thereafter due to injuries he fell down. Another ex-military man, Lorentus Guria of Derang village who happened to be nearby and hearing the shouts ran to rescue Amrit. The police also beat him up severely. Then, the police went away. Both were carrying money which was also taken away by the police. All this happened in the afternoon between 3-30 - 4 p.m.

Amrit Guria and Lorentus Guria were examined by the Tribunal in support of the incident of 1.2.2001

Statement of Amrit Guria

According to him, he was returning from the house of Lorentus Guria from whom he had borrowed Rs. 765/- and had gone to his house to return the said sum. He did not find Lorentus Guria and was therefore, returning back when he saw policemen removing the barricade which was existing on that place for nearly 30 years as a mark of protest of the inhabitants of the area against the dam. According to him, he objected to the policemen removing the barricade, which annoyed them. They got hold of him by his neck and beat him very badly; he started shouting for help. On hearing his shouts, Lorentus Guria who was passing by also came. When Lorentus objected to police men's action, they also beat him up. He fell down on the ground. Thereafter, In-charge of the police station urinated in Amrit Guria's mouth. They also took away Rs. 765/- from his pocket. According to Amrit Guria, when he went to the police station, the police refused to take his report. Another important statement made was that the day when the firing took place on 2.2.2001, he was in the hospital due to injuries sustained on the previous day. He was discharged from there on 6.2.2001 and therefore, he was not present at the time of incident on 2.2.2001 and his name was wrongly mentioned in the FIR. His statement that he was not present at the time of firing was corroborated by Anjelina Guria, his wife, who was present at the time of firing and had deposed with regard to the incident of 2.2.2001. He also gave his statement in writing to the Tribunal.

Statement of Lorentus Guria

Lorentus Guria stated that on 1.2.2001, he had gone out to collect his pension. When he was returning with his pension amount of Rs. 1500/-, about 50 yards away from the barricade, he saw policemen beating up Amrit Guria and he was shouting "bachao, bachao." When Lorentus Guria asked the police incharge why they were beating Amrit, they started beating Lorentus also with

their fists and the bonnet of the gun. In Lorentus Guria's presence, Amrit Guria became unconscious. They also snatched Rs.1500/- from Lorentus. His name does not appear in the firing that took place on 2.2.2001.

FIRs on the incident of 1.2.2001:

A FIR (GR 52) has been lodged by Akshay Kumar Ram, Station -in-charge, police station Rania against Amrit Gudia and three other unknown persons concerning the incident of 1.2.1001. These people have been charged under Sections 341, 323, 333 and 34 IPS. In this FIR charge sheet has been filed. This FIR by the police admits that the Derang Barricade had been removed, as the police vehicle could not proceed further. The station-in-charge states that they had been physically assaulted by a few people near the barricade while returning and had to fight back in self-defense and managed to flee from the site. The FIR is enclosed.[See annexure-6]

There is a FIR lodged by Amrit Guria against R.N. Singh and 20-25 Policemen at Harijan Adhivasi Thana. This FIR has been registered as GR 79/2001 but no charge sheet has been filed before the Court so far. This FIR has also been enclosed. [See annexure-7]

An important document in regard to the events of 1.2.2001 is the statement of Sri Feroz Kumar Nageshwar Kujur, Sub-Divisional Officer of Police, Khuti, District Ranchi made during the subsequent investigation conducted by the Superintendent of Police (Rural), Ranchi. The SDO in this report does mention that the barricade was removed. However he does not mention the police being physically attacked by the villagers. Instead he states that the villagers did not see reason with the Station-in-charge and 'misbehaved'. This version by the SDO contradicts the police FIR.

Incident of 2.02.01

There have been two distinct versions of the incidents, which took place on the 2nd of February; one version by the Koel Karo Jan Sangathan and the other the police version stated in the FIR.

As per the version of KKJS on the morning of 2nd February, people began to assemble at Tapkara to present a set of demands to the officer in charge. They demanded:

- O.C. of Tapkara and Rania Thanas should be immediately suspended.
- Amrit Guria should receive a compensation of Rs. 50,000/ for his injuries.
- Mundari speaking adivasi police should replace all the staff of the Tapkara and Rania Police Thana.
- The 'People's Barrier' should be rebuilt and restored in its place.

By around 11 am over 5000 people had gathered in front of the police station to present their demands. The D.S.P. of Khuti, Mr. FKN Kujur arrived at the police station and received their memorandum but said that according to the procedure he could not act on their demands and hence, had asked the Rural DSP Khuti to come to Tapkara and decide

on the demands. In the meanwhile, Mr. Koche Munda, the local MLA from BJP also arrived at the police station. Mr. Koche Munda and concerned police authorities along with the representatives of the KKJS discussed the matter and decided to wait for the Rural SP to arrive who was expected within two hours. What soon followed according to many eyewitnesses is that the team along with the local MLA came out of the police station and Mr. Koche Munda proceeded to make a phone call near the police station.

At this moment there were shouting from inside the police station, “aadesh mila hai, inko maro”. Immediately there was simultaneous lathi charge and firing by the police and people began to flee in all directions. For the next hour or so utter confusion prevailed. Nearly 150 rounds were fired by the police from inside the police station and from two concrete circular bunkers on either side of the station. The firing went on for an hour and left 7 adivasi and one Muslim dead, all below the age of 40 years including one standard nine student. More than 30 people were injured who were taken for medical treatment by the KKJS activists.

On the other hand the police said that the crowd gathered outside the police station became violent attacking the police with stones and alleged that there were also firearms in the crowd and the firing was in self-defense. They claimed that the crowd burnt three police vehicles and one motorcycle and ransacked the police station.

The INSAF Team, which visited the site immediately after the incident after meeting the people and assessing the relevant data, came to the conclusion that the firing took place without any warning. One of the injured Francis Guria was shot in the right part of his chest and was trying to drag himself to safety, when the police picked him up and took him to the police station where he was kicked and dumped next to the dead. Another victim Samuel Topno of Gondra village who was found injured by the police due to a bullet in his leg was kicked and beaten with a wooden pole. He was left to die.

According to the version of the KKJS and the INSAF report, the police reported after two days of the incident that one of their Constables was killed at Tapkara. His body was found behind the police station. From accounts of residents in the vicinity of the police station, the police themselves set fire to the vehicles and ransacked the police station after the shooting late at night on the 2nd. People living near the police station were picked up on the night of 2nd; they were beaten up and then used for loading the police belonging on to their truck. They were released the next day.

The Chief Minister neither commented on the firing nor visited the spot. No police official has been suspended; no inquiry has been instituted into the matter so far.

The KKJS while condemning the firing as unjustified and a violation of the rights of the adivasi to defend their rights, has demanded the following:

- The police Thana Ocs should be immediately suspended.

- The government must pay compensation of 15 lakhs for the dead and 10 lakh for the injured.
- From the family of each dead person one person has to be given a job.
- The government has to employ adivasi who know the local culture and language in the Police Thanas.
- An additional demand for the permanent removal of the Tapkara OP

STATEMENTS

1.Vijay Guria: the General Secretary of the KKJS, one of the first witnesses who appeared before the Tribunal supported the version of the KKJS. He stated the assault on Amrit Guria and the firing was totally unjustified and uncalled for and that there has been no government inquiry or payment of appropriate compensation to the victims and his family.

His statement was supported by Soma Munda, President of KKJS, Samuel Topno, Philip Guria, Saban Dhingra, Francis Guria, Saba Bhengra, Jaipal Surin (all injured) and Dharmadas Guria. All of them have given their statements in writing.

2.Rajen Guria: is Secretary of Koel Karo Sanghatan. He stated that dead bodies of 7 Tribals were not returned; it was only the dead body of 8th person a Muslim, which was given to the family members. Post mortem was done at Ranchi. On 4th morning dead bodies came at 7.15 a.m. but no family was permitted to identify dead bodies. These 7 dead bodies were not returned to the families of the victims and were kept in the open ground and thereafter cremated.

3.Anjalin Guria: She is the wife of Amrit Guria who was beaten up on 1.2.2001. She stated that she is an eyewitness of the incident and was present at the time of the firing. However she stated that her husband Amrit Guria whose name is mentioned in the police FIR was not present at the time of the firing and was in the hospital instead recovering from his wounds. She had felt some irritation in the eyes when she was giving water to an injured person. According to her the gathering at the police O.P. was peaceful and did not provoke the Police to start firing.

4.Dr. Mohd. Usman Farooqui: stated that he was not present at the place of incident and that his clinic is 50-60 yards away from the place of incident. At 4.30 p.m. people started coming at his clinic. He was alone at the clinic and about 40-50 people had come out of whom 10 remained in his clinic throughout night. Out of these 10, two persons were serious and one died. Local people had taken him away from his clinic. The Police did not record his statement. His name has also been mentioned in the FIR. The allegation against him is of stealing government property from the out-post.[See annexure-8]

5.Mahmood Khan: He stated that on 2.2.2001 he was not present in Tapkara and he had gone with his wife to meet and eye specialist Dr. Sushma Sinha at Beohar. He stated that his name has been falsely mentioned in the FIR.

FIRs:

There are 2 FIRs by the Police.
GR 53 is an FIR which contains the names of 9 accused out of whom 3 accused have been taken into custody who are still in jail and their application for bail is pending before the High Court for the last 2 months.[See annexure9] Charge sheets had been filed in this FIR. The other FIR is GR 0005/2001. It is about the incident of 3.2.2001 filed against Dr. Mohd. Usman Farooqui.

From the side of Public, Samuel Thorpa has lodged FIR, which is registered as GR No.80/2001. No investigation has taken place on this FIR; No charge sheet had been filed. Besides this FIR a complaint was also given to the SSP but no action has been taken on the said complaint. [See annexure-10]

CONCLUSIONS

Events of 1st February

- a. While the police speak of patrolling for extremists, the only persons specifically mentioned in the reports are unarmed villagers and members of the Koel Karo Jan Sangathan.
- b. The police had broken the barricade without any provocation knowing fully that it stands symbolically as a mark of people's protest against the dam and would certainly hurt their sentiments.
- c. There is discrepancy in the police FIR of 1.2.2001 and what SDO has stated. SDO has simply stated about misbehavior and not physical assault as stated in the FIR. It is possible that Amrit Guria was agitated by the police breaking the barricade and questioned them. The Police FIR of physical assault is therefore not trustworthy.
- d. There seems to be hectic preparedness on the part of the authorities right from the night of 1.2.2001 to tackle any form of violence the next day. For instance the deployment of armed personnel, arranging for lathi and tear gas parties for the next morning, and even ensuring the appointment of a magistrate at the Tapkara OP from the early morning hours suggests as if it was already decided by the police that they would be using force the next day.

Events of 2nd February, 2001

The events up till about 3.30 p.m. are more or less undisputed. It is clear that the project affected villagers of Tapkara region, predominantly Munda adivasis and including a large number of women and children, under the leadership of the Koel Karo Jan Sangathan had started gathering in front of the Tapkara O.P. from the morning hours. It was stated to be a gathering of 5000 people by 11 am. They were demanding the suspension of police officers who had assaulted Amrit Gudia and uprooted the Derang barrier, scrapping of Koel Karo Project etc. The demonstration was, by all accounts, peaceful. By 12 noon a reasonably high power posse of officials was present at the Tapkara O.P. including the Deputy Superintendent of Police Khunti Shri Kujur; the Sub-Divisional Officer Khunti Shri Anoop Sharan; Executive Magistrate Khunti; Station In-Charge P.S. Torpa Suresh Prasad Yadav, Station In-Charge P.S. Rania Akshay Kumar Ram and Station In-Charge Tapkara O.P. Ravindra Nath Singh. Around 35-40 policemen comprising 1/3 D.A.P. (Rania), Command Force of 1/4 J.A.P. (Hazaribagh Company), 1/6 D.A.P. (Police Centre Ranchi), 20 Lathi Party and 1/5 Tear Gas Party was also present.

At about 12.30 a delegation of the Koel Karo Jan Sangathan including Vijay Gudia (General Secretary), Soma Munda (Regional President), Sadar Kandulna (Regional Secretary) and others presented a memorandum on behalf of the Koel Karo Jan Sangathan to the officials present in the Tapkara O.P.

According to the Sangathan, their delegation was told that the Superintendent of Police (Rural) was being contacted by wireless to respond to their demands, since the officials present did not have the requisite powers to take a decision of suspending the police officials. The people accordingly continued to squat before the Tapkara O.P. in connection with their demands until around 3 p.m. when the BJP MLA of the area arrived. This version of events seems more plausible than that of the police, who claim that the delegation had “been satisfied by the discussions”. Had this been true the gathering would have dispersed.

Shri Koche Munda arrived at the Tapkara O.P. at about 3 p.m. According to the Sangathan, he canvassed the demands of the demonstrators with the officials present in the Tapkara O.P. After holding discussions in the Outpost Office he came out and addressed the villagers. Shri Munda reiterated that the officials present in the Outpost did not have the power to suspend the police officers and that the Superintendent of Police (Rural), who had been contacted by wireless, would arrive in half an hour’s time. According to the statement subsequently made by Shri Koche Munda in the Jharkhand Legislative Assembly during the adjournment motion. Shri Munda then proceeded to Tapkara Bazar to make phone calls to the authorities. When he reached the STD booth he heard the sound of firing. This account coincides with that of the villagers at the public hearing unanimously stated that almost immediately after the MLA addressing them, police rushed out of the Outpost shouting “Aadesh Mil gayaa hai” (We have got the order) and simultaneously started lathicharge and firing at the people.

In the light of Shri Koche Munda’s statement as a responsible representative of the ruling party, we are faced with the fact that at the most only five or ten minutes time could have transpired between Shri Munda’s addressing the gathering at Tapkara O.P. and the commencement of police firing. The time of police firing is also fixed by the depositions made before the Tribunal, which show that by 4.30 p.m. persons with bullet injuries, who had run away from the spot or were hiding from the police, had started to be brought by their friends and relatives to doctors in the Tapkara Bazar. Thus the crowd had already dispersed after firing at around 4 p.m.

This also means that the entire sequence of events narrated in the FIR filed by the police justifying the police firing i.e: (1) Provocative speeches by certain elements, (2) Intensive and sustained stoning, (3) Declaration of the assembly as illegal, (4) Lathi charge, (5) Bursting of 16 tear gas shells, (6) Burning of the jeep parked in front of the Outpost, (7) Trapping and surrounding of the entire police force and officials in the outpost and then finally (7) Supposed firing by agitationists all occurred within the short span of five to ten minutes.

The above discussion makes it clear that the police version on the gathering suddenly becoming violent is not only highly improbable but is not acceptable to reason and common prudence. Once a conclusion is drawn that the assembly was peaceful and there was no provocation for its becoming violent. The police version being full of incongruities, the act of police firing becomes illegal, a brutal act of police excess and violation of human rights.

In this background the other details can also be discussed. There have been implications of Mahmood Khan and Amrit Guria who were not present at the firing site. Mahmood Khan had taken his wife to Dr Sushma Sinha an eye specialist at Beohar. Similarly Amrit Guria's wife spoke of her husband being at the hospital on the 2.1.01 receiving treatment for the injuries sustained on the 1.2.02. The Tribunal in view of the conclusion drawn earlier on the police version, finds the implication of the inhabitants of the village unjustified.

Similarly the statement of the police regarding finding the dead body of a police constable on 4th February and trying to connect it with the incident of 2nd February shows the efforts made by the police in building up the case in their favour. If the constable had died on the 2nd it would have been immediately noticed and reported. The Tribunal holds that there is no connection between the constable's body and the incident that took place on the 2nd February.

With regard to the holes in the roof of the Police Post, Tapkara and the burning of the police vehicles, the Tribunal encountered different versions. While KKJS and people deposed before the Tribunal maintained that in order to create evidence in their favour the police had done this act of destruction. The police version states that the people who had gathered threw stones and put the vehicles on fire. But as discussed above, in the situation where the police were resorting to firing from all sides it would have been impossible to impute this violent act. A gathering, which had women and children in the forefront, would have tried to save their lives first as a natural instinct. Besides, it is impossible for a gathering to resort to such an act of violence within a short period of 5 to 10 minutes.

In support of the police version no one has appeared before the Tribunal. The Tribunal is left with no option but to conclude the possibility of the people damaging the police post and putting the police vehicles on fire is froth and impossible and therefore is unacceptable with the Tribunal.

The tribunal is also of the view that the police falsely implicated Dr. Mohd. Usman Farooqui in a false case of theft when he had provided immediate first aid and treatment to the injured people. He appeared before the tribunal and stated that he was not present in the place of occurrence and was infact in his clinic. The FIR against him should be withdrawn.

There is another serious issue, which needs to be highlighted. The dead bodies of the victims were taken away by the police without any inquest. The dead bodies were brought

to the village in the morning at 7:15 am on 4th February. But no family was permitted to identify the dead bodies and was thereafter cremated.

FINDINGS AND RECOMMENDATIONS:

- (1) There has been a continuous protest by the people, mostly tribals, for several decades against the Koel Karo Hydro Electric Project. The people have lost trust in the actions of the State and feel justified in their apprehensions that the project will bring havoc on their life and livelihood. It will submerge thousands of acres of fertile agricultural land, flora and fauna that form the basis of their sustenance. Their social and cultural rights will be severely affected; their community life will be destroyed; that not only will they not benefit in any manner by the project but even their legitimate rights of rehabilitation will not be given to them. Thus they will be totally uprooted from their soil.

The Tribunal is of the view that the apprehensions of the people in the region against the project are justified. The project that was conceived in the year 1973 has become totally unviable, due to passage of time. The unviability is not only on the ground of economic factor but the social and environmental costs are phenomenal. As a matter of fact it has been recorded that if the project is permitted to start at this juncture, the cost of electricity per unit will be in the range of Rs.10/- which will be even beyond the reach of industrial houses not to

speak of common people for domestic use. The Tribunal, therefore, recommends that the project be abandoned.

- (2) The other apprehension of the people against big dams and consequent displacement is affirmed by the examples of endless sufferings faced by the displaced persons and oustees from the dams. In the first place, a time has come to seriously reconsider the construction of big dams when throughout the world there is an opposition against such big dams. Secondly, a concrete policy, in fact legislation be enacted to fully protect the rights of the displaced persons from any such projects affecting the life and livelihood. The people would be reassured of better conditions of living before their lands are acquired and they are thrown out from the place where they have been residing for years. In the Koel Karo Project there was no concrete, much less, a proper rehabilitation plan incorporating the National Policy on Rehabilitation. However, unviability of the project has rendered the question of rehabilitation redundant.
- (3) The Koel Karo Project is situated in a place full of rich bio-diversity and, therefore, execution of any project will result in destruction of rare bio-diversity, flora and fauna. It is felt that if there was proper report on the environment impact assessment, the project would not have been given clearance even on the ground of protection of environment.
- (4) The Tribunal finds that the people had gathered at Police Post, Tapkara to protest against the incident which took place on 1st February 2001. Admittedly, the gathering was peaceful and they were demanding that action be taken against the erring Police officials. The fact that the demonstration was peaceful has been spoken not only by the people who deposed before the Tribunal but also by Koche Munda, M.L.A., who was present at the Police Post and who gave statement in support thereof at the Floor of State Legislative Assembly. [See annexure] In view of the material available before the Tribunal it cannot be accepted that all of a sudden the crowd became violent when there was not even any provocation to do so. The way in which firing took place from all the three sides appear to be a clear case of police excess. There appears to be no justification for gun firing, killing 8 innocent people and injuring as many as 36 persons.
- (5) The Tribunal takes note of the fact that with regard to the FIR filed by the people against the policemen no action has been taken against the erring policemen whereas in the FIR filed by the police, challan has been filed and further proceedings are going on. As discussed above, in the police FIR certain innocent persons who were not even present at the place of occurrence have been implicated. The Tribunal views it with concern that the doctor Mohd. Usman Farooqui who gave immediate first aid and treatment to the injured was also implicated in another case by the Police. It is a case of serious violation of law that even the dead bodies of the victims were not handed over to their relatives and no inquest was conducted at the place of occurrence on the dead bodies. If

there was any justification in the version of the police they should have ordered a Magisterial Inquiry but even that minimum legal requirement was not fulfilled.

- (6) The FIRs by the police which have been lodged against the local inhabitants, which also include the members of Koel Karo Jan Sanghatan are being used as a machinery for persecuting and terrorizing the local inhabitants. It is a tool to suppress people's movement, which is their democratic legal and constitutional right. These FIRs should, therefore, be unconditionally withdrawn.
- (7) The dependants of those who died in the police firing are paid a compensation of Rs 5 lakhs. Similarly, the 36 injured persons also be paid compensation of Rs. 2 lakhs.
- (8) It is also recommended that due to the injuries sustained, out of 36 persons some have suffered permanent disablement and, therefore, they should be provided with additional compensation besides employment.
- (9) The State Government should take steps against the erring police officials departmentally and the FIRs filed by the People be investigated and tried in accordance with law.

Signed

Justice Rajinder Sachar
Adv. Sanjay Parikh
Chittaranjan Singh
Dr Vinod Raina
Adv. Sudha Bharadwaj

ANNEXURE 1:
Extract from Vidhan Sabha Proceedings

Chairman: The proposal to suspend the proceedings of the house under rule 98 of the Procedure and Work Governance Manual of Bihar Assembly sent by Shri Mahendra Pratap Singh and nine other honourable members has been accepted for general consideration under the rule 43. This session will go on for two hours. The member sending the proposal will get five minutes each while other members will get only 3 minutes each and 40 minutes have been allotted to the government for giving reply.

Honourable member Shri Mahendra Pratap Singh Ji, its your turn,

Shri Mahendra Pratap Singh : Chairman sir, special debate has started on the issue of Tankara Shootout. In this context I want to submit few things. Few days after the incidence, the government clarified its position. Even within this house and outside the government has made that it clear the people killed in the shootout deserve to be killed. I would like to enlighten the government through the facts, which I have with me. I have brought with me the copy of the FIR filed at the police station. It is clearly mentioned in the FIR that people reached their at 10 o'clock. I'm drawing your attention to this fact so that the government gives its reply based on facts. Sir four thousand people reached at 10 o'clock, at 12:30 their representatives ask for the suspension. At 3 pm the local MLA whose name is mentioned in the FIR talked to the representatives and assured that suspension will be the top priority and no other thing will be discussed. This is also mentioned in the page no. 3 of the FIR that there should be immediate suspension. The MLA also gave the assurance that SP has already started from Ranchi and will be reaching soon. In the light of these facts I just want to ask the government how the crowd, which was sitting there silently from 10 to 3 and was assured that SP has left Ranchi to reach here, can suddenly get violent? The government should reply this. Secondly, I want to say that the government in its statements had said that the government's representative had put its outlook before the people but they were so intolerant that they attacked the police outpost and put on fire the police vehicle. Fired in self-defense and afraid from the fury of the crowd ran away to Torpa. The people allover the world protects their own people and they count those who escaped the attempt on life. They talked about violent attacks on second and on third at 7 o'clock they came to know that their constable Jaleshwar Ram has been killed. I want to underline this fact because constables are appointed under a command, and every command is supervised by an in-charge. An its reply police is submitting that gunshots were fired in self-defense, but I submit that they ran away at 3:30 and assemble at Torpa, but their counting was received at 6 o'clock on 3rd. I'm saying that this whole story is based on lie, there can be no other example of such naked lie. A thousand policemen were not there. Which policeman was where on what date is with the command. That's why I want to submit the government is telling a big lie and is trying to defame a democratic movement.

The second point, which I want to raise, is that Koyal Karo Movement is there for the last three decades this movement has its own history. That's why the government has no satisfactory reply as to why movement turned violent

The fourth point, I want to raise, is that their representative demanded immediate suspension. It is the moral duty of the elected representative that he pays heed to the people's problems. Therefore I can say that these talks were deliberate.

Sir, they talk about the law. I want to submit that whatever may be going on under their rule but its not a rule of law. There are top police officers. Human right commissions and other democratic organisations have issued guidelines to the states that whenever a victim approaches the police an FIR must be registered immediately and if after inquiry it is found that the allegations are wrong then suitable action must be taken. The villagers of Tapkara reported the incident for the three times: one at harizan Thana at Ranchi and the other at Torpa and the third at the office of SP rural. You are saying that it is the rule of law and are not recognizing the legal rights of officers but you have not registered the FIR. Really you do want to rule by law. So we want to expresses our feeling through you that in the light of these facts you should issue

directions to registered the FIR on all the three matters and those responsible for not registering the FIR should be punished and should issue instruction to cancel the proposal of Koyal Karo Scheme, which is at the core of the dispute till it gets the support of the people. The government has got such a right and I request the government to reply in the light of the questions raised by me.

Shri Koche Munda: Chairman Sir, today for the first time I'm speaking in the assembly on Tapkara incidence.

Chairman sir, I'm the local MLA of this area. Being the local representative of the people, I got the information that a crowd has assembled in the area. I was assured but even then I went there as I belong to this area and asked people what has happened. The incident was small in nature. I thought when incident was small then why so many people had assembled. People told me that they have assembled there since long but no body is listening to their grievances. They said that their demand should be immediately fulfilled. I told them I would talk to the police officials. I went inside to talk and when came out I found that SP was tribal, DSP was tribal and in-charge of police outpost was a harijan. They talked to me. SP told me that the demands of the people are beyond his jurisdiction. So I asked him who can look into these demands. He told me that SP rural is the right person. I said that I'll call him immediately and went towards STD booth. I assured the people that SP rural is coming and he will listen to your demands. But they said that it should be done immediately. I said that I'll talk to him on phone and I went towards a booth. The moment I reached there I heard the firing of gunshots. Innocent tribals had also reached there and they talked to me nicely, but I don't know who were the unsocial elements instigating the people to throw stones and those elements were trying to somehow defame this government. Thus people were instigated, they threw stones and the police had to fire in self-defense. I now end my submission.

Annexure 2

PRILIMINARY REPORT OF PEOPLES TRIBUNAL HEADED BY SHRI RAJINDER SACHER, RETIRED CHIEF JUSTICE OF THE DELHI HIGH COURT

The Adivasis people in the Koel-Karo region have been opposing the Koel-Karo Hydel Power Project, which was conceived by the Central Water Commission in 1956 and handed over to the national Hydel Power cooperation in 1980. Because of the opposition of the people no work could commence at the dam site for the last 30 year. On 2nd February 2001 police of Tapkara police post, opened fire on a gathering of Adivasis people resulting in the death of 8 people beside serious injury to many.

A fact of finding team that visited the site just after the firing in February 2001, consisting of member of INSAF and the Indian People's Tribunal (IPT) decided to constitute a People Tribunal under the Chairmanship of Justice Rajinder Sacher (Rt. Chief Justice of the Delhi High Court) to hold a public hearing on the issue. The other eminent members of the tribunal are: Sanjay Parikh – Advocate Supreme court; Vinod Raina – Expert in Environmental Issue; Chittaranjan Singh – Advocate and Social Activist (PUCL-UP); Sudha Bharadwaj – Advocate and Social Activist with CMM.

The Peoples's Tribunal headed by sri Rajinder Sacher, Rt. Chief Justice of Delhi High Court and former President, Peoples Union for Civil Liberties (PUCL) heard the advocate, journalists and eminent person in Ranchi on 1.11.2001 and discussed with them various aspect of the Keol-karo Project and police firing at Tapkara. Thereafter on 2.11.2001, the tribunal visited Tapkara and the proposed dam site at Lohajimi. Later at 2.30 pm, a public hearing took place where aggrieved persons, eye – witnesses and those injured in the firing of 2.2.2001, gave their sstatement, orally as well as in writing. Document concernering the project and firing were submitted before the tribunal. No government official turned up for making any statement or giving any clarifcatrion, both on 1st or 2nd and until the preparation of this report of this preliminary report, though they were officially invited in writing.

After considering the statement, document, submission by the peoples, and taking into consideration the needed urgency, this premliminary report is submitted, which will be soon followed by a detailed final report.

The preliminary finding is as follows:

1. the police indulged in indiscriminate firing on 2.2.2001 on the people who had gathered at Tapkara seeking action against the police man, who on 1.2.2001, had arbitrarily demolished their barricade and recklessly beaten-up two tribal. There was no provocation for the firing, much less any justification. The forces used by police was excessive and inhuman, it was against all accepted norms. The illegal firing took away the lives of 8 innocent peoples besides seriously injuring many. It is needed surprising that no judicial inquiry into the incident was ordered immediately; in such a serious matter, taking a moral/ legal responsibility, the Home minister should have resigned. This has been consistenly demanded by PUCL and other human rights organization in cases of such police firing. Though the local MLA was present at police post, his name was not mentioned in any of the FIR which prima facie cast's serious doubt about the truthfulness of the statement made by the police in their version of the incident. While no action has been taken against erring police hearing, the committee heard the persons who were seriously injured. Most of them have become physically invalid. Police on the other is using these using cases as a weapon to harass and terrorise the people. The tribunal is of the view that the police cases against the people be dropped forth with and the victims of the families who died or injured be properly compensated. The state government should also take action against the erring police officials. It is a matter of regret that in the newly formed state jharhand, 4 police firing have taken place killing 16 person in tribal and other areas, within a short period of one-year.
2. the Koel-Karo dam project even as initially conceived in the year 1973, was unviable, economically unsound and divesting in term of its affecting vast tract of fertile agriculture land rich

bio-diversity and live hood of people – mainly consisting of Munda tribal. Local people’s resistance against coming up of this project, from its inception, cannot be said to be unjustified and is clearly understandable. This project has lost all its relevance after passage of nearly three decades. Reason in support of its unsustainability will be given in the final report.

The member of the tribunal were deeply impressed by the rich bio-diversity, fertility of soil and breath taking beauty of the Koel-Karo River. It is nature rare bounty, which at all cost must be preserved. It is apparent that the human – nature relationship, representative of sustainable livelihood in term of the use of natural resources. An external intervention resulting in the involuntary displacement of thousand of people from the area would not only be a gross violation of human rights, but would be an onslaught on their tradition and culture which they have followed and preserved for centuries.

During public hearing, the tribunal took opinion of the people about the dam. All have unanimously opposed it.

Similar consideration forced the authorities to abandon the proposed dam in the silent valley in Kerala in the eighties. This should have serve as a precedent for a similar action in the serene valley adjoining the Koel-Karo project area – the yet to start proposed dam project should be abandoned.

The tribunal is, therefore, of the opinion that the government should abandon this project and communicate its decision to the people so that they are relieved from decades of psychological trauma and lurking fear of displacement. The member of the tribunal found as a matter of fact that basic facilities like roads, schools; hospitals were totally ignored during these years for the reason that this area would fall in the submergence Zone under the proposed project. Let the government take up the task of providing them good roads, schools, and hospital in the right unrest at the earliest. We should not forget that these people are entitled, like other, to the dignity of life and means of livelihood, which our constitution ensures, without any discrimination.

Justice (Retd) Rajinder Sachar
Adv. Sanjay Parikh
Chittaranjan Singh
Vinod Singh
Adv. Sudha Bharadwaj

Date: 03.11.2001

Place: Ranchi

Annexure –3 **Extract from National Rehabilitation and Rehabilitation Policy**

In 1998 a ‘National Policy (Packages and Guidelines) for Resettlement and Rehabilitation’ was drafted by the Government of India. No doubt the need for drafting such a policy arose owing to repeated experiences in post independence India that “*the presumption that displacement is an inevitable consequence of all developmental efforts needs to be reassessed in the light of the enormous costs of human suffering of such projects*” (Preamble). And also that “... *Today project-affected people are no longer in a mood to suffer passively. Consequently there has been growing protest ... Unsatisfactory arrangements for rehabilitation and resettlement creates opposition to acquisition of land*” (Preamble). Although this policy has unfortunately not come into effect so far, not having been notified in the Gazette of India, yet the Tribunal regards this document as a serious response of the Government of India to the “*growing protest*” and “*opposition*” of project affected persons. Hence it was a subject of study of the Tribunal.

In regard to the approach to resettlement and rehabilitation this national policy lays down (emphasis ours) that:

- (i) Each large development project involving transfer or change in land use of one hundred acres of land or more and leading to displacement must be **first subjected to a holistic appraisal as to the desirability and justifiability of the project. The public and particularly the people likely to be affected must be given due opportunities to of information and hearing and be allowed to examine all aspects of the project including the ‘public purpose’ and also the possibilities of achieving the same objectives through non-displacing or less displacing alternatives.** ... The burden of proof is on the requiring authority to establish that the proposed project is the best among available alternatives to achieve the given objective with minimum displacement.” (Para 3.1.3)
- (ii) “It shall be a **compulsory obligation on the part of the project planning and implementation authorities to involve and consult the representatives of the affected communities**, including women and members of disadvantaged groups, in all phases of planning, execution and monitoring of the RR plan. The entire decision making process regarding RR plans must be completely transparent. The comprehensive plan for resettlement must be made public. ... It is mandatory and enforceable that the project affected people must be given the right to participate at this very stage so that they can bring their full weight to bear on the design and content of the plan.”
- (iii) “Whenever a project results in creation of or augmentation of a livelihood base benefiting a class of people, as in an irrigation project, **the plan for resettlement must ensure that the displaced/affected people have the first right on the benefits....**” “In all irrigation projects a PAP losing agricultural land would have first claim on land in the command area.” “For non irrigation projects, the new settlement must be as close to the factory site and township as possible so as to ensure maximum access to the newly created economic opportunities.” (Para 3.1.18, 3.1.19 & 3.1.20)
“Incidental benefits which may be naturally generated on account of implementation of the projects shall be made available to the PAFs either free of cost or at such concessional cost as may be decided by the RR authorities in consultation with the project and representatives of the PAFs. E.g. Creation distribution network and providing electricity connection to the PAFs settled around a power generation project; Construction of field channels for supply of irrigation water to the PAFs at a cost borne by irrigation projects etc.” (Para 3.1.27)
- (iv) “The resettled people must be able to rise above the poverty line and **enjoy a better standard of living than before displacement** comparable with people benefiting from that specific project or with people who have been beneficiaries of the developmental process in general” (Para 3.1.12)
- (v) “There can **statutorily be no physical dislocation without prior implementation of the rehabilitation package** for the affected family with regard to the alternative livelihood and assets including alternative agricultural land (where applicable), cash compensation (where applicable), and alternative dwelling accommodation with related infrastructure when homestead is required. It is clarified that facilities such as clean drinking water, pre-school and primary school facilities and basic health care facilities must be in position and fully functioning even if a small number of families are initially resettled.” (Para 3.1.9)

We quote here the guidelines laid down in respect of adversely affected tribal families in this document:

SPECIAL MEASURES FOR RESETTLEMENT AND REHABILITATION OF ADVERSELY AFFECTED OR DISPLACED TRIBAL FAMILIES

Prior to the acquisition of land for any project in any tribal area, an inquiry must be made by the competent revenue authorities to determine whether any tribal lands have been transferred in violation of the law on the subject. Social activists and prominent NGOs should be associated with such inquiry. Urgent measures should be taken to cancel such transfers and restore the rights and titles of the tribals on their alienated land before acquisition proceedings are started.

... All forest lands under occupation of the tribal families since 24th October 1980 or before this date shall be deemed to have been allotted or owned by the concerned tribal families. ...

In the event of absence of other reliable data for evaluation of land value, the minimum land value to be provided for acquisition of per acre of tribal land shall not be less than Rs 15,000.

In respect of a tribal landowner, provision of land for land is mandatory.

The resettlement site for displaced tribal families should be selected with great care and **in consultation with their traditional/ elected leaders or representatives of the displaced families** and also with the project authorities as well as reputed voluntary organisations to ensure peaceful resettlement and harmonious living with the host communities. ... It should also be seen that the tribal families are rehabilitated as close to their natural habitat as possible, **they should also be provided with their traditional rights on minor forest produce and common property resources**, if available, near to the new place of settlement, and in case any such family can continue their access or entry to such forest or common property in the area near to the place of eviction, they may continue to enjoy their earlier rights to the aforesaid sources of livelihood.

Efforts should be taken to ensure that all tribal families of the ousted villages are **resettled together in a particular area, to the extent possible. ... For settlement of tribal families in a new locality, common property land for religious and community gathering should be allotted free of cost.**

The displaced tribal families shall also be compensated for loss of their customary rights/usage on forest produce in case the new site does not provide for such gathering ... @ 10 times the minimum wage at the rate fixed by the respective State Governments during a single working season of 45 days i.e. equivalent to 450 days minimum agricultural wages.

In regard to employment/ self employment of project affected persons, the policy states:

- (i) "All project affected persons (PAPs) who have not been provided agricultural land will be eligible for resettlement in employment in the new livelihood opportunities that arise because of a project. For such PAPs **it will be the direct duty of the project to ensure the assured and sustainable livelihood of the PAP in the new livelihood opportunities that emerge directly or indirectly from the project.**" (Para 5.5.1)
- (ii) "**All unskilled and semi-skilled direct employment in the project must always go to a PAP**, as long as any such persons are available for employment. Those with appropriate qualifications must also be given **first priority for skilled positions.**" (Para 5.5.2)
- (iii) "Many projects, including public sector units in the past, have attempted to evade this responsibility by giving such on-going tasks to contractors which could adequately be implemented by PAPs. This must not be permitted as long as there are any eligible PAPs seeking employment." (Para 5.5.3)
- (iv) "Since all such projects have long gestation periods, therefore the project with the assistance of the District Rural Development & District Urban Development Authorities must **systematically ensure full literacy as well as the creation of necessary skills to render the PAPs eligible for employment for semi-skilled positions**, and for those with sufficient educational qualifications for skilled positions." (Para 5.5.3)
- (v) "In addition to allotment of homestead land and constructed house, non-agricultural rural families should be provided with **allotment of constructed shops or working sheds** including land required for the purpose so that artisans, small traders and other self-employed persons can start their vocations in the place of resettlement." (Para 3.2.5)
- (vi) "Where neither agricultural land has been provided nor a regular factory job has been given, a rehabilitation grant equivalent to 750 days minimum agricultural wages prevailing on the day of displacement has to be provided to the displaced families ... to cover a gestation period of around three years to establish a new livelihood" (Para 3.2.4)

The purpose of quoting the above is to bring onto record the yawning chasm between what is now accepted by the Government of India as being 'mandatory' on the part of project and RR authorities and the stark ground realities. Needless to say, if there could be any finding in the course of the investigation of the

Tribunal relatable to the 'National Policy Guidelines on Resettlement and Rehabilitation', it was only their persistent and blatant violation.

Annexure –4
Sampoorna Punarvas of KKJS

At this stage the KKJS prepared a document defining “Sampoorna Punarvas” (Comprehensive Rehabilitation) as perceived by the people. This remarkable document of an adivasi community’s collective wisdom (reproduced below in translation) not only included economic but also social, cultural and religious resettlement. The Tribunal notes that the 1998 Draft National Policy for Resettlement and Rehabilitation has acknowledged the just nature of most of the demands raised in the proposal and in fact, similar provisions have been made mandatory under the Rehabilitation Package.

Koel Karo Hydro Electric Power Project Torpa Ranchi Rehabilitation Proposal

Social and Cultural Rehabilitation

1. The resettlement site of the project-affected families will be notified as a separate village bearing the old name. Along with this the traditional rights of the scheduled tribes in the old villages will also be protected. The displaced will be given the traditional Bhuinhari and Khuntkatti rights at the resettlement site. And a consolidated land will be given to each maintaining the sanctity of Pachnai, Bhunda and Mahto etc.
2. Bhuinhari and Khuntkatti land will be provided for the Sarna and Sasan at the resettlement sites and the government shall bear the cost of relocating them according to the traditional rites.
3. The residential and social arrangements of the project-affected people at the resettlement sites will be made in accordance with the tribal practices and culture. For this 25 ‘dismil’ Basgeet land will be provided free of cost. Those oustees who do not wish to avail of homestead land will be given compensation for their land. Those families who are wholly dependent on agriculture for their living and who cannot be given a job by the government in this project or elsewhere, and whose entire land will be acquired for this project will be provide at least two acres of fully irrigated land. A model resettlement village will be created on this basis for the people to see. Those families who wish to settle elsewhere or wish to sell their agricultural land will be given proper advice and assistance by the government.
4. Provision will be made for the places of worship, ‘shmathan ghat’ and cemetery for followers of various religions at the resettlement site.
5. Civic facilities like well, primary school, and dispensary etc. will be provided at the resettlement site.
6. The holiness and sanctity of the Sarna land cannot be compensated, hence the government will be liable for the entire land and necessary penalty for the Sarna.
7. Akhada, Community Hall, Platform etc. will be provided at the resettlement site.

Economic Rehabilitation

1. The rate of compensation for the land acquired from the project affected persons will be calculated as per the Land Acquisition Act on the basis of the capitalized value of 20 years.
2. The compensation for the entire land shall be paid within two years and no tax shall be chargeable on the same. Also those persons who have been cultivating and occupying any land for at least twelve years will be compensated for the same, whether or not the same is registered in his/her name in the government records.
3. The displaced families will be compensated for their houses, trees, wells and ponds.
4. The payment of compensation will be made to the ‘raiyyats’ by cheque. The compensation amount will be deposited in their bank accounts.
5. Interest will not be deducted from persons belonging to scheduled castes and tribes on amounts placed in fixed deposit.
6. 100% of Class IV posts and 75% of Class III posts in NHPC will be reserved for Displaced families.

7. Employment will be guaranteed in Class IV and Class III posts in various departments in the whole of Chotanagpur region for all those persons completely displaced by the project.
8. One member of all those displaced families, which do not have a member, qualified for a post of Class III or Class IV grades, will be appointed for unskilled work on the project.
9. Electrification of the project affected villages and their surroundings will be given high priority, and energy and necessary government facilities will be provided to ensure that displaced persons can engage in small industries or trade.
10. The job of earthwork and breaking stones, and contracts of value less than 10 lakhs to be carried out under the project will be given to displaced persons on a competitive basis. No advance deposit shall be demanded for the same. Rather the deposit shall be gradually be deducted from the payments made as the work progresses.
11. The small shops at the construction site and colony of the project will be reserved for the displaced persons and all the displaced families will be included under the IRDP scheme.
12. Those displaced families who will not be able to get jobs will be provided proper training and technical assistance to take up small businesses under the government development schemes at the resettlement site.
13. The persons affected by the project will be provided various kinds of training. The NHPC in its workshops and with its machines shall provide practical training to trainees as a mini Industrial Training Institute.
14. The provisions ensured to the persons displaced /affected by the project will be codified under a Special Rehabilitation Act.

Annexure 5:
List of Injured People in the Police Firing on 2.2.2001

LIST OF PERSON INJURED IN TAPAKARA FIRING

S.No	Person Name & Father/ Husband's Name	Age	Village	Identification	Panchayat	Block	Admit date	Relief date
1.	Samual Topno S/o Late Suleman Topno	48	Gondara	Received bullet injury on left heel	Koyanara	Raniyan	2.2.01	17.3.01
2.	Francis Gurhiya S/o Late Joseph Gurhiya	38	Gondara	Received bullet injury below right solder	Koyanara	Raniyan	2.2.01	16.3.01
3.	Savan Mengara S/o Late Lukas Mengra	40	Gondara	Received bullet injury on left heel	Koyanara	Raniyan	3.2.01	20.3.01
4.	Iliyas Gurhiya S/o Late Masidas Gurhiya	35	Tapakara Beharatoli	Received bullet injury on left hand	Tapakara	Torapa	2.2.01	16.3.01
5.	Masidas Gurhiya S/o Late Nikodim Gurhiya	30	Koyanara	Received bullet injury on right hand	Koyanara	Raniyan	3.2.01	12.2.01
6.	Kumulen Gurhiya S/o Prabhu Sahai Gurhiya	25	Koyanara	Received injury on head	Koyanara	Raniyan	4.2.01	16.2.01
7.	Anem Topno S/o Late Junas Topno	25	Biratajam Toli (Koyanara)	Received bullet injury on left hand knee	Virata	Torapa	3.2.01	9.3.01
8.	Jaipal Sureen S/o Late Patras Sureen	45	Tapakara Behra Toli	Amputation of one finger of left foot	Tapakara	Torapa	3.2.01	21.2.01
9.	Paulus Gurhiya S/o Late Joahan Gurhiya	40	Kalet	Received bullet injury on right hand knee	Kangdiri	Torapa	3.2.01	8.3.01
10.	Denish Kandulana S/o Ruha Kandulana	33	Korhakil	Received bullet injury on forehead	Banai	Raniyan	3.2.01	
11.	Ajeet Kandulana S/o Peeyus Kandulana	22	Korhakil	Received bullet injury on foot	Khantana	Raniyan	3.2.01	
12.	Chocha Kandulana S/o Jetha Kandulana	25	Korhakil	Received bullet injury on left foot	Khantana			
13.	Sukhdev Pahan S/o Pandu Pahan	60	Tapakara (Tetar Toli)	Received bullet injury on forehead	Tapakara	Torapa		
14.	Junul Dahanga S/o S/o Khristochit	18	Kochakhas	Received bullet injury on right	Tapakara	Torapa		

	Dahanga			hand				
15.	Mangal Guriya S/o Sombara Guriya	25	Champabaha	Received bullet injury on forehead	Tapakar	Torapa		
16.	Silwanti Gurhiya D/o Johan Gurhiya	20	Kocha	Received bullet injury on right leg below knee	Tapakara	Torapa		
17.	Amus Gurhiya S/o Late Siras Gurhiya (Silas)	12	Lohajimi	Received bullet injury on hand	Tapakara	Torapa		
18.	Raman Gurhiya S/o Budhava Gurhiya	12	Lohajimi	Received bullet injury on hand	Dumanghiri	Torapa		
19.	Arvind Gurhiya S/o Paulus Gurhiya	18	Dimbukel	Received bullet injury on right leg	Koyanara	Raniyan	5.2.01	10.2.01
20.	Jaun Kandulana S/o Anakaletus Kandulana	22	Korhakil	Received bullet injury on right leg below knee	Khantana	Raniyan	3.2.01	12.2.01
21.	Martin Kandulana S/o Late Joseph Kandulana	35	Korrhakil	Received bullet injury on right leg below knne	Khantana	Raniyan	3.2.01	12.2.01
22.	Masidas Kandulana S/o Samuel Kandulana	18	Jaipur (Batada)	Received bullet injury on left hand below solder back	Jaipur	Raniyan	3.2.01	3.3.01
23.	Herman Gurhiya S/o Gakhriyal Gurhiya	30	Gutuhatu	Received bullet injury on solder	Tapakara	Torapa		
24.	Jenga Gurhiya S/o Soman Gurhiya	45	Gutuhatu	Received bullet injury on left leg	Tapakara	Torapa		
25.	Santosh Horo S/o Johan Horo	35	Sarana Toli (Torapa)	Received bullet injury on hand and leg	Torapa (Diyankil)	Torapa		
26.	Susana Gurhiya S/o Bicha Kandulana	25	Gutuhatu	While running received bullet injury on leg	Tapakara	Torapa		
27.	Amrit Gurhiya				Tapakara	Torapa		

Annexure 6:
Police Firing Lodged on 1.2.2001

FIRST INFORMATION REPORT (Under Section 154 Cr.P.C.)

1. Dist. : Ranchi Sub.Div.: Kumai P.S. : Torpa
Year : 2001 FIR No. 002 Date : 1.2.2001
2. (i) Act : IPC Section : X
(ii) Act : X Section : X
(iii) Act : X Section : X
(iv) Other Acts and Section X
3. (a) Occurrence of Offence : Misc. Obstruction in duty and assaulted.

Date : Thursday Date from 1.2.2001 date to : -

Time period : 6th from 17.00 hrs.

(b) Date of receipt of information at police Station : 1.2.2001 Time : 20.00 hrs.

(c) Date of registration of FIR : 1.2.2001 Time 20.00 hrs.

(d) DD No. 16 Time : 20.00 hrs.

4. Type of information : written MAD No. 75

5. Place of occurrence :

- (a) Distance and direction from P.S. : 18 Km. On South East Beat No. V
- (b) Address : Village Dearng P.S. Torpa, Distt. Ranchi
- (c) Name of P.S. if outside the jurisdiction of
Police Station : Distt. :

6. Complainant / informant :

- (a) Name: Akshay Kumar Ram
- (b) Father's name : Sri Muneshwar Ram
- (c) Date of Birth : 10.1.1967 Nationality : Indian
- (d) Passport No. Date of Issue Place of issue
- (e) Occupation : service
- (f) Address : Village Mundariya, P.S. Leshliganj, Dist. Palamu A/A Rania, P.S., Dist. Ranchi

7. Particulars of Known/suspected/unknown accused persons:

Amrita Guria, Village Gutahatll, P.S. Torpa, Distt: Ranchi and three unknown persons

8. Physical structure, built and deformities of accused persons:

- | | | | | |
|------------|------------------|--------------------|---------------|------------------|
| 1.sex- | 2.Date of birth- | 3.Build -4.Height- | 5.Complexion- | 6.Identification |
| mark | 7.Deformities: | 8.Teeth: 9.Hair: | 10.Eye: | |
| 11.Habits: | 12.Dress Habit: | 13.Language: | 14.Burn mark: | |

15.Leucoderma: 16.Mole: 17.Scar: 18.Tattoo:

The Officer –Incharge of P.S.

Sir,

It is respectfully informed that on 1.2.2001 at 1.00 hrs. OP Tapkara Incharge Shri Ravinder Lal Singh informed me over telephone that the secret information of MCC terrorist roaming in the village Derang, Lchashingi, Kolet, illegally in his OP Area and villages Kochnara and Trilling Erang etc. of the area of my police station. I also came to know secretly that in Gajpur and Larpur etc villages in my police station area, some unknown persons are roaming and are asking numbers of houses etc. of the people of the area. Therefore, in view of Director General of Police standing Order No.7/2000, we made plan of raid in those areas and in this connection, information was also given over telephone to Sub-divisional Police Officer, Khunti.

I along with reserve force in truck No.BPS-5915 Tapkara OP Incharge with one section force and chowki 5/3 Guria in another truck No.BR14A-5666 moved for Lohadengi area. When we reached near Lohadengi, saw in the middle of the road one timber block as barricade which was tied with iron rod chain and without removing it we could not move ahead. Before finding out the possible hideouts of terrorist in the forest of village Lohadengi and Doreng, information was sought from rural people about their place of roaming. After that while on return at about illeg.hrs near the barricade illeg.persons were found standing on the road and when we reached near them, they blocked our way and I and OP of Tapkara got down and asked them as to why are you blocking the way and who are you and why have you come in our way and who are you then they said-Who are you and why have you come in our area without permission and challenged us and asked as to why barricade was removed. Without our permission ,no one can go and move. Then we said we had come to find out the whereabouts of MCC terrorists. On our saying this, one person putting hand on my shoulder tried to snatched weapon and said that we would tell you what the terrorist means and saying this they started attacking us. While defending us we tried a lot to make them understand but they have refused to budge and somehow making the whole vehicle to drive along the road we moved ahead. On our reaching, chowkidar Eleng Guraia informed the name of that person as Amrit Guria of village Gutahalli, P>S.Torpa, Dist. Ranchi who is absconder of BSF. Names and addresses of his accomplice could not be known. You are requested that legal action against them may be taken.

Yours faithfully,

SD/- AKSHAY KUMAR RAM

1.2.2001 O/C of P.S.

8. The reason of delay in reporting by complainant/informant: X
9. Details of property stolen/involved/recovered: X
10. Total value of property stolen/involved/recovered: X
11. UD case No. if any : X
12. Contents of FIR:

The written report of the complainant the basis of FIR. Original Report attached with the original and true copy attached with others.

SD/- SURESH PD.YADAV

1.2.2001

Officer Incharge Torpa P.S.

Ranchi

13. Action taken_ since the above report reveals commission of offence U/S as mentioned at item No.2 registered the case and took up the investigation/directed Mahender PD.Ram ,Rank ASI, to take up the investigation.10 code No.262

14. Signature of thumb impression of complainant/informant:

15. Date and time of forwarding from Police station to court.

Signature of Officer Incharge of P.S.

SD/-

SURESH PRASAD YADAV

5.2.2001

Designation: Officer Incharge ,Torpa P.S.
Ranchi

Annexure 7:
FIR Lodged by Amrit Guria on 1.2.2001

The Station-in-charge

Sir,

I Amrit Guria, s/o of Jaimasih Guria, village Gutuhatu, Lothratoli, thana Torpa, OP Tapkara. Dist Ranchi, aman Advasi ex-serviceman. I gave a written complaint to the station-in-charge, Harijan Thana, that on 1-2-2001 Thursday at around 4.30pm. I was coming from Derang to Gutuhatu when I saw that station-in-charge, Mr.R.N.Singh and Mr.Akshay Kumar Ram. Station-in-charge, Rania, and about 20-25 policeman had uprooted the bannet constructed on the large truck. This barrier was put up by the Keol-Karo jan sanghathan about thirty years ago and this was recognized by the local authorities when they were loading then I asked the station-in-charge Tapkara, OP said "Sala are you the big boss (Lat Sahib) of this area" I said, for my home I am a lat sahib, and I am also an ex-serviceman. At this he started abusing me with the abuses related to my mother, sister status, my tribe and my identify of Adivasi, as well as my Munda Community and further caught hold of me at my neck. The station-in-charge, Tapkara OP Mr. R.N.Singh then gave an order to the police man a " sale assault and finish him off, he calls himself an army ,man". At this about 10-12 policeman started attacking me and surrounding me hit me with their rifle belts, kicks with shoes on and blows and I was seriously hurt on my hands, back and waist and I started bleeding from my body. And they also stole rs.765/- I cried for help on hearing my cry Mr. Lorentus Guria, s/o late Clamra Guria village Darang came running but they also attack him and made him bleed like me, further Loterntus Guria had Rs. 1500/- of his pension money with him. This also they forcefully took from him, and at the order of OP station incharge Mr. R.N.Singh i was urinated upon in my mouth. I somehow managed to reach my house in a serious condition and with the assistance of my family members and villagers. I was taken around 8.30pm. to referral hospital and he was given treatment.

The above mentioned officers had attempted to kill me an pursuance of a planned conspiracy due to the presence of witness they left me for dead and I ran away. Due to wounds and bleeding I was considerable weakened and after returning from hospital I remained in my bed today I am feeling somewhat better, and therefore am tendering this petition the delay due to the above mentioned facts therefore it is pleased that immediate and appropriate action should be taken against the criminals for which I will be most grateful

Faithfully

Amrit Guria
Village Gutuhatu, Lathatholi
Thana Torpa, Dist- Ranchi
Jharkhand

Annexure 8:
FIR Lodged against Doctor Mohd. Farookui

FIRST INFORMATION REPORT (Under Section 154 Cr.P.C.)

Time from : 3.2.2001 Date to :

1. Dist: Ranchi Sub.Div.: Kumai P.S. : Torpa
Year : 2001 FIR No. 005 Date : 5.2.2001
2. (i) Act : IPC Section : 147, 448, 457, 380
(ii) Act : X Section : X 379, 435, 427, 341, 506
(iii) Act : X Section : X
(iv) Other Acts and Section X
3. (a) Occurrence of Offence : Misc. Day Saturday.

Time period from : 4th time to : 10.00 hrs.

(b) Date of receipt of information in police Station : 5.2.2001 Time : 16.00 hrs.

(c) Date of registration of FIR : 5.2.2001 Time 16.00 hrs.

(d) DD No. 88 Time : 16.00 hrs.

4. Nature of information : written/oral :Self Statement MDP No. 49

5. Place of occurrence :

- (d) Distance and direction from P.S. : 10 Km. On Scuth East Beat No. V from the P.S.
- (e) Address : Tapkara or P.S. Torpa, Distt. Ranchi
- (f) Name of P.S. if outside the jurisdiction of
Police Station : Distt. :

6. Complainant / informant :

- (g) Name: Suresh Prasad Yadav
- (h) Father's name : Officer Incharge of Torpa P.S.
- (i) Date of Birth : Nationality : Indian
- (j) Passport No. Date of Issue Place of issue
- (k) Occupation : service
- (l) Address : Sub-Inspector of Police, Torpa P.S., Dist. Ranchi

7. Particulars of Known/suspected/unknown accused persons:

(1) Md. Nizam Khan (2) Dodo Khan (3) Ahmad Khan (4) Dr. Rakiw Khan (5) Faruki Khan
All R/o Tapkara and 50 unknown persons.
All P.S. Torpa, Distt. Ranchi

8. Physical structure, built and deformities of accused persons:

1. Sex
2. Date of birth
3. Build
4. Height
5. Complexion
6. Identification mark
7. Deformities/peculiarities

8. Teeth:
9. Hair
10. Eye
11. Habits
12. Dress Habit
13. Language/Dialect
14. Burn mark
15. Leucoderma
16. Mole
17. Seat
18. Tattoo

Self statement of Suresh Prasad Yadav, O/c Torpa P.S. recorded on 5.2.2001 at 10 am at Takara OP. My name is Suresh P. Yadav. I am posted as O/c of Police Station Torpa. In connection with the investigation of Case No. 4 dated 3.2.2001 U/S 364/302/201 IPC of Police Station Torpa. I along with ASI Mahender Ram and illeg. Reached at Takara O.P. at 10.00 hrs and saw that all the items of Tapkara O.P. wooden etc. are missing and Govt. Chowki, Table, Almirah etc. are missing and door of O.P. and entrance gate, doors, windows are damaged and removed and remaining items have been burnt. At that time Halqa employee Shri Raj Kumar Pandey came at Tapkara OP and informed that lock of his residence in the office is broken and household items and some records etc. are also missing. In the meanwhile Shri Ramanush Singh Block Cooperative Publicity Officer, Torpa also came at Tapkara OP and informed that iron bars and 150 bags cements stored in the room of camps behind OP for construction of Community Development Centre in Tapkara have also been stolen. Regarding the incident, illeg. Informed that Mohd. Nizam Khan, Dodo Khan, Ahmad Khan, Dr. Rakiw Khan, Dr. Faruki Khan all residents of Village Tapkara and other about 50 persons have taken away the items of Tapkara OP, and employee's house hold items and cement, stell rods etc. stored in the camps have also been taken away and have burnt the remaining items stored in OP. This incident is of 3.2.2001 at 10.00 hrs. As they were blocking the way and were threatening to kill, therefore, could not report to the Police Station. They have stolen the property worth about Rs. 1.5 lakhs and have burnt the remaining items, and have damaged O.P.

The written statement of above stated facts of himself was recorded. From the above statement, cognizable offence U/S 147/448/457/380/379/435/427/341/506 IPC is made out. Hence, the investigation of this case was handed over to ASI Mahender Ram and formal FIR will be registered on return to Police Station.

Sd/- Suresh P. Yadav, 5. 2. 2001
O.C., Torpa Police Station

Returned to PS and registered, Torpa P.S. Case No. 0005/2001 dated 5.2.2001 U/S 147/448/457/380/379/435/427/341/506 IPC. ASI Mahender Ram will please investigate the case.

Sd/- Suresh P. Yadav, 5.2.2001
O/c Torpa PS

9. The reason of delay in reporting by complainant/ informant : X
10. Details of property stolen/ recovered : X
11. The total value of property stolen/involved/recovered : X
12. UD Case No. if any: X
13. Contents of FIR – The self statement of complainant. Basis of FIR. Original report attached with original and true copy attached with others.

Sd/- Suresh Pd. Yadav, 5.2.2001
Officer Incharge Torpa PS, Ranchi

14. Action taken : Since the above report reveals commission of offence U/S as mentioned at item No. 2, registered the case and took up the investigation/directed Mahendra Prasad Ram ASI to take up the investigation IO Code No. 262.

15. Signature or thumb impression of complainant.

16. Date and time of forwarding to Court from P.S.

Signature of OC

Sd/- Suresh Pd. Yadav, 5.2.2001

Designation : Officer Incharge, Torpa, P.S., Ranchi

Annexure 9:
FIR Lodged by Police on 2.2.2001

This is to inform that today on 2.2.2001 at 10.00 am, the D.S.P. Khanti, along with a force of ¼ went to deal with the proposed peaceful demonstration by local people at Tapkara O. P., regarding the tussle between the Suresh Prasad Yadav, Officer –in-charge, Torpa, and a force of 1/8 D.A.P., along with the help of villages of Derang to take action against M.C.C. extremists. Due to big crowd present the Torpa Thana jeep, BR14 P2071 and the gypsy of the D.S.P., BR14 P2226 was parked on the west of Tapkara O.P., under the Bargarh tree. Already present at the Tapkara O.P. were the following. Akshay Kumar Ram, Station-in-charge Rama, along with a force of 1/3 D.A.P. and command force of ¼ J.A.P. Hazaribagh company, Ravinder Nath Singh, O.P. In Charge, Tapkara O.P, with a force 1/6 D.A.P. and from Police Centre Ranchi, 20 Pati force and 1/5 gas force was present. Then at 11.30 am, on the order of Executive Magistrate Shri Anup Sharan, Khanti, Sub-Divisional Officer, Khanti, came in a jeep BR14 P13/1 to band law and order under control, and due to crowd he parked his vehicle where other vehicles were also parked.

At the O.P. about 3-4 thousand people were there who were demanding the suspension of O.P.-in-Charge Tapkara and Office-in-Charge Rania. This agitation was being led by Vijay Guria, Village Gututratu, Thana Torpa, and others. At around 12.30, a delegation led by Vijay Guria gave a memorandum to the D.S.P. Khanti and the Deputed Magistrate. Which mainly demanded the suspension of O.P.-in-Charge Tapkara and Office-in-Charge Rania. The D.S.P. Khanti informed the delegation that he would send the memorandum with the demands to the Senior Police Officers with his recommendations and that suspension can take place only after investigation. Vijay Guria and the delegation of representatives agreed and they also requested the D.S.P. that he address the crowd and explain what he has said to the people. The D.S.P. and Deputed Magistrate went to explain the matter to the people, but some persons were provoked and said that this is no decision and we will not agree to it.

The started giving provocative the speeches to the crowd. On enquiring from the Chowkidar and other local persons, it was revealed that the ones doing the provocation were, Mohd. Nisam Khan, Pradip Kumar Gupta, Mohmud Khan, Jakir Khan, Taryab Ansari and Prakash Chowdhury and others. At around 15.00 hours, the Torpa M.L.A. Shri Koche Munda came and spoke to the magistrate and D.S.P regarding the demands of the people, further he also asked for the immediate suspension of the two officers. On being told by the D.S.P. that he is not competent to give orders for the suspensions, it was decided that the S.P. (Rural) should be called to decide on the demands of the people. Accordingly the message was conveyed through the wireless. Shri Koche Munda said that he would talk again after the arrival of the S.P. and after addressing the people in the local language proceeded towards the Tapkara Bazar. After his leaving, Mohd. Nisam Khan, Pradip Kumar Gupta, Mohmud Khan, Nakir Khan, Taiyab Ansari, Om Prakash Chowdhury and others provoked the people by telling that if one is to save oneself from police terror, one should make the best use of today. And the O.P. has to be destroyed. Because of their speeches the crowd was provoked. They repeatedly used slogans against the police. Mohd. Nisam Khan, Mohmud Khan, Pradeep Kumar Gupta, Om Prakash Chowdhury, Jakir Khan, Taiyab Ansari and others started abusing the police and exhorting to assault the police, began stoning the police. On their provoking so, the crowd was aroused and began stoning from three sides.

Magistrate on duty, Police Officers, Khanti and other police officers moved forward and told to stop the stoning, but it had no effect on them and stoning continued from all three sides. Then the Magistrate Ranchi 2, in a loud voice declared the crowd an illegal assembly and ordered everyone to move from there, but on this they became militant and shouting Maro Maro intensified the stoning. Seeing the crowd attacking in such manner. The Magistrate ordered the In-Charge of the Lati force to attack and disperse the agitationists but on being attacked by the rods, the crowd did not disperse but became even more militant. Due to stoning, the Lati force men were injured. To control the situation he gave orders to open tear gas. On releasing tear gas the agitationists moved a little away from the O.P. but immediately with more vigor began throwing stone, and boulders and began advancing towards the O.P. and the D.S.P., kept screaming and telling to stop the stoning and move away, if not they will be compelled to shoot, on this the agitationists became more aroused and began stoning with more intensity. Due to which the D.S.P. Khanti and the Officer-in-Charge of the Tapkara O.P. were seriously/grievously wounded on the heads and other

policemen were also bleeding and wounded. Due to the wind direction and speed not being appropriate, the tear gas was not having the desired effect on the crowd. Once again Magistrate repeatedly and loudly appealed to the crowd to stop the stoning and to move away, but it had no effect on the agitationists.

At that moment the tear gas In-Charge informed that all the 16 tear gas cells have been released and that there is nothing more to use. Just then the agitationists set aflame the Rania thana, jeep No. BR 14P 2007 that was parked in front of the Tapkara O.P. and from the western side could be heard the firing of shoots from which it became known that the agitationists were also armed. Just then the agitationists were highly agitated and entered the premises of the Tapkara O.P., throwing bigger stones and shooting that the jeep has been burnt, now burn the police with their uniforms and snatch their arms. The Magistrate and all of us policemen, to escape the stones and boulders and the had to enter into the O.P. building. Seeing that there was danger to government property and life and for self defense, the Magistrate the D.S.P. Khunti to fire four rounds on the militant crowd, and accordingly the D.S.P. Khunti offered the In-Charges of the Tapkara O.P. and Rania Thana D.A.P. At this the agitationists became more aroused and started throwing big stones on top of the O.P. Seeing the situation getting worse the Magistrate. Once again ordered the Khunti D.S.P. to fire five rounds each at the agitationists on all three directions. Accordingly, at the orders of the D.S.P. Khunti, the Torpa Thana, Tapkara O.P. and the D.S.P, Khunti, In-Charges fired five rounds in three directions on the agitationists, but even at this the aroused agitationists did not relent their stone throwing, but instead became more angry and intensified their stone throwing, further just then it was seen that on the west, near the brigarh tree, high fire flames and smoke were seen and it seemed that the two jeeps parked under the tree, one belonging to the Magistrate and the other a gypsy; belonging to D.S.P. Khunti had been set ablaze. Seeing the mood and anger of the agitationists intensifying, he once again ordered the D.S.. to the ten rounds each towards the east, west and in front. Accordingly, Rania thana JAC/o-7, and the force from Hazaribagh fired ten rounds each in the three directions. In spite of the JAP firing on the agitationists, their aggression was not reduced and they got more incensed in their stone throwing, and some of them climbed on to the stairs and walls of the Panchayat Bhawan next to the O.P. and began stoning from there. Due to the stoning the roof of the O.P. asbestos, bricks and stones started falling. Due to which some other policemen were also injured and from their bodies blood was flowing and all the police officers, Magistrate and police force were surrounded in the O.P. and some agitationists were calls maro maro, burn the O.P., burn all of them, shouting loudly all the time were stoning. Inside, all of us were trapped and our lives were in danger and it seemed as if they would storm the O.P. and kill as mercilessly. From the western side, the sound of continuous firing could be heard. The situation was so terrifying that neither was there safely in remaining inside, and nor was there safety in coming outside. Accordingly the ordered the D.S.P. Khunti to the 10-12 rounds in all three directions, obeying which the Jawans of the JAP, under the orders of the D.S.P., fired 10-12 rounds each in all three directions and on the agitationists. At this, the agitationists stopped stoning and scattered and even the firing from the west ceased.

Then the Magistrate, the DSP and the rest of the policemen came out of the O.P. and in the outer premises of the O.P. two wounded were found and in the west of the O.P. Chabutra one person was found dead, further outside the premises on the west of the entrance door another person was found dead.

On the east side of the entrance door another person was found wounded. In front of the O.P., where the Rania thana jeep was burning two more dead persons were found. Near the O.P. fencing, another person was found dead and beside him another persons was wounded. On the west of the O.P., near the bargarh tree, the DSP Khunti's gypsy, the Magistrate jeep and the Torpa thana jeep were burning. There one wounded was found. All the wounded were lifted and brought to the O.P. About fifty yards west from the O.P., the empty shells of 12 bore was found. The wounded on being asked their names said the following –

Elias Guria S/o Masidas S. Suria Yakti Toli Thana Torpa
Joseph Guria S/o Julm Guria, Gondra, Thana, Rania
Suleman Topno, Village Gondra, Thana Rania
Francis Guria S/o Joseph Guria, Village Gondra, Thana Rania
Bora Pahan S/o Miku Pahan, Champabaha, Thana Torpa

Due to the stoning by the agitationists, Mr. P.K.N. Kujur, D.S.P. Khunti, Ravinder Nath Singh, O.P. In-Charge, Tapkara, Govind Ram, Police 4/6, Shivcharan Kalindi, Police 1807. Rusheshawan Police 40 Satyender Narayan Rai was wounded grievously. Myself and Akshay Kumar Ram, Thana In-charge, Rainia, Police 611 Ram Kumar Singh, Police 103 Yashodharan Chowdhury, Police 374 Ajay Kumar Singh, Mitu Ram, Police 187 Lalu Baita, Police 1631 Indra Prasad Police 1711, Shambhu Singh police 667, Ajad Prakash Pandey police 831 Mahender Prasad Sahu Police 378, Sudhir Kumar Thakur Mahender Yadav, police 1870 Ajay Bage, police 23 Surender Singh, Rajender Jha, police 1797 Rajesh Mumar police 254, Shamim Khan were injured variously and received wounds on different part of the body.

The Torpa Referral hospital's Medical Office In-charge was informed via through the Torpa Police Station regarding the wound and treatment of the injured. Then as far as possible it was for the bullets to travel, in that range the area was examined. No other injured or dead was found. The DSP Khunti was wounded grievously and in an unconscious state that's why myself and thana In-charge Torpa jointly in the examination of arms and ammunitions found that the following rounds were fired, Ramanuz, 2 round, 1797 Rajesh Kumar 5 rounds, both the Tapkara O.P. armed guard police 378 round Sudhir Kumar Thakur 2 rounds, Rania Thana DAP guard, Mahender P. Yadav 5 rounds, Police 66 Iftikher Khan 15 rounds, Police 288 Kanhaiya Yadav 10 rounds Police 324 Ajay Kumar Singh 15 rounds were fired on the agitationists. The tear gas team Hawaldar Santosh Kumar Kayam 8 rounds, superintendent 187 Lalu Batta 8 rounds. A total of 16 rounds tear gas cells were released.

While conducting, at that time, gypsy driver 1300 Edwin Hansdah came in a condition in a torn uniform and told that after the stoning during the commotion, some anti-social elements came to the west of the O.P. and under the brigarh tree. They damaged and roke the glass of the bus no BR 14P 2432 parked there. The driver of the bus was attempted to be caught by some persons, but he managed to give them the ship from their cluches, though his clothes was torn in the process, never the less, he somehow managed to take the bus towards Torpa police station. He went for to some distance and hiding watched, and he saw that the agitationists were torching and putting fire to all the three vehicles parked under the tree. After the agitationists had fled he returned to the O.P.

It is my claim that Mohd. Nizam Khan, Mahmud Khan, Pradeep Kumar Gupta, Om Prakash Chowdhury, Taiyab Ansari, Jahir Khan, all these named, and those injured in the police firing namely, Samuel Topno S/o Suleman Topno, Frnacia Guria S/o Joseph Guria S/o Junas Guria, all of village Gondra, Thana Rania, and Bora Pahan S/o Jhiku Pahan Late Champawaha, Elias Guria S/o Maidas Guria, Village Chuka Toli both of Thana Torpa, District Ranchi and other unknown three to four thousand villagers made an illegal gathering and tried to kill murder us and with the intention of destroying the O.P., attack the police personnel on duty, and injured the police personnel and burnt the government vehicles and destroyed the O.P. building and other government properties in which about 20 lakh worth of property was damages.

Therefore, it is requested that on FIR be lodged against the above named persons.

Yamuan Ram, Pllice Inspector, Division Torpa, District Ranchi Camp Tapkara O.P.

**Annexure 10:
FIR Lodged by Samuel Topno**

The Station-In-Charge
Harijan Thana, Ranchi

1. Samuel Topno, so late Samuel Topno, village Gonda , Thana Raina , Dist Ranchi, is a poor Adivasis. I am rendering this, written compliant from the Rajender Medical College hospital. That on 1.2.2001 the station-in-charge, Raina Thana, Mr.Akshay Kumar and the station-in-charge. Tapkara O.P. Mr.R.N.Singh, along with some police man had beaten up Mr. Amit Guria and Mr. Lorentus Guria. When they had objected to the police from taking Barrier that had been set up in the of village Derang, in the Koel-Karo region, and in protest against the police atrocities. I reached the Tapkara O.P. on 2.2.2001 at around 3.30.pm. in a peaceful procession. Along with me two others, Philip Guria and Dharamdas Guria. After reaching there. I was quietly standing, on the North-west of the Tapkara OP, near the camp office. At this moment, all of a sudden; the OP policeman suddenly started firing due to this, I moved back, but I was wounded a little above the left heel due to a bullet. Because of being hit by a gun shot, I was unable to walk about and my two friends Philip and Dharamdas lifted and carried me to another spot in a house of the north side of the Thana. After this three boys, whose name I cannot recall now, were carrying me, on the cast of the Thana premises on the road tubirtola but the four policemen chased us. On the police chasing us, the three boys left me and ran away. The four policeman lifted me in a sack and laid me on the cast of Thana Premises.

The same four policemen remained there with me, and they kept talking about killing me. All four rifles with them. One policeman said to the fire from afar, but another said there is no order to fire, hence they did not fire at me, but after taking a bamboo from there fence, after placing it on my neck, two policeman began applying tremendous pressure on my neck with the intention of killing me. Due to this, an acute pain was felt on my neck an breath was beginning up to stop. I kind of fainted and they me dead left. After 5-6 minutes on amongst the same police am came to check whether, I had died or not, when he saw that I was not dead yet, then he climbed on to my neck with his booted feet with the intension of killing me, and due to this my eyes closed. I passed out after sometime when I regained consciousness then one policeman came and asked my name and writing it. Wait away. Their one nurse bandaged my bound and gave me injection etc. after this salam chowkidar and another person picked me up and laid me down in front of the O.P. they left five dead person behind there. And taking five people and me along in a small vehicle they brought us to RMCH, Ranchi. Amongst the wounded, one Lukas Guria died on the way one Soma Joseph Guria, and others died in front of the T.O.P due to police tinning and bullets Soma Joseph had received bullets in his land and stomach apart from that about 10 person were wounded whose treatment was going on at RMCH. Amongst the dead leaving one, and the wounded, all are Adivasis. Police atrocities were committed o the Adivasi due to which the following persons died or were wounded.

List of those dead due to police firing

- ❖ Samit Dahanga, age-14, s/o Raphial Dahanga , via Jaipur, Rania, Ranchi.
- ❖ Sundan Kandulna, age-17, s/o Bokhare Kanddula, via Bania, Rania, Ranchi
- ❖ Prabhu Sahav Kandulna , age 32, s/o late Daud Kandulna, via Garakel, Ranchi
- ❖ Soma Joseph Guria, age -45, s/o Junas Guria, via Gondra, Rania , Ranchi
- ❖ Lukas Guria age 30, s/o Jaimaasih Guria, via Gondra, Rania, Ranchi
- ❖ Sursen Gurai., age 13 s/o Mikhael Guria, via Champadih, Torpa, Ranchi
- ❖ Bota Pahan, age 60 s/o Late Tomba Pahan, via Champadit, Torpa, Ranchi
- ❖ Jamal Khan, age 60, s/o late Allauddin Khaa, via Tapkara,Ranchi

List of those wounded

- ❖ Mr.Aliyas Guria, vai Chukatoli, Tapkara
- ❖ Mr.Kumulen Guria, via Koynara
- ❖ Mr.Samual. Topno, via Gondra
- ❖ Mr.Paulus Guria, via Kalet
- ❖ Mr.Mashidas Kandulna, via Bandha, Jaipur
- ❖ Mr.Salam Bhengia. Via Gondra
- ❖ Mr. man Lopno, via Kovana
- ❖ Mr. John Kandulan, via Kodakel.
- ❖ Mr.Francis Guria, vai Gondra
- ❖ Mr.Mashidas Guria, via Koynara
- ❖ Mr.Martin Kandulna, via Kodakel
- ❖ Mr.Jaipal Sunn, via Behratoli, Tapkara
- ❖ Mr. Arvind Guria, Via Dimbukel

Apart from the above named about 20-25 persons were also wounded and who were treated in local clinics and homes and released. My treatment is still going on in the hospital, and I am giving my written complaints from the hospital itself because no policeman came to take my complaint from me in the hospital Therefore it is prayed to you to take legal action against the criminal person so that poor Adivasi can receive justice

Yours, Faithfully

Samuel Topno
Village Gondra
Thana Rania
Dist.Ranchi