



Addressing the economic, social and cultural root causes of violence

OMCT ACTION FILE (BGD 211207.ESCR)

BANGLADESH: RISK OF VIOLENT SUPPRESSION OF PUBLIC OPPOSITION TO THE PHULBARI COAL MINE PROJECT, DINAJPUR DISTRICT, BANGLADESH

Your action is called for to suspend the Phulbari Project until community concerns are met

OMCT is concerned that police and security forces may again employ violence to deal with public opposition to the Phulbari open-pit mining project

The International Secretariat of the World Organisation Against Torture (OMCT), on the basis of reliable information received, expresses its concern that communities affected by the proposed Phulbari open-pit coal mine in the Dinajpur District of **Bangladesh**, have been neither adequately consulted nor fully informed regarding this significant project. Estimates put the number of people affected by the mine at anything between 50,000 and 500,000, including a number of indigenous communities. Many of these affected will be forced to leave their homes and land.

A public demonstration against the mine in August 2006 saw at least five persons killed and fifty others injured by the police and personnel of the Bangladesh Rifles. OMCT expresses its serious concern that further violence, ill-treatment and even deaths may ensue if local communities again seek to give public expression to their opposition.

To prevent further human right violations, and having regard to the strong local opposition to the project, OMCT calls upon the **Government of the People's Republic of Bangladesh** to instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities, to make the findings of this investigation available in a public report and to abide by the recommendations of this report. It also calls for the Government to lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

OMCT calls upon **Global Coal Management Resources Plc (GCM)** - the company in charge of the Phulbari project - to suspend its activities in this area until this investigation has been conducted and to abide by the recommendations resulting from this investigation. It also calls upon GCM to fully respect the land rights, resources and livelihoods of all local communities affected by any subsequent mining activity and provide fair and adequate compensation wherever appropriate.

Finally, OMCT calls upon **UBS, RAB Capital and Barclays**, all of which have significant financial interest in GCM, to use their influence to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.

The Phulbari coal mine project

The Phulbari coal deposit, in the Dinajpur District of Bangladesh, was discovered during the second half of the 1990s by the Australian mining company BHP. In 1998, the Government of Bangladesh awarded the licensing agreement for mining the deposit to the Asia Energy Corporation (Bangladesh) Pty Ltd,¹ a wholly-owned subsidiary of British-registered Global Coal Management Resources Plc. (GCM). The Phulbari mine is expected to lead to a 1 per cent increase in the gross domestic product of Bangladesh over the next 30 years, bringing more than US\$ 21 billion to the Bangladeshi economy.² The Asian Development Bank is scheduled to approve a US\$100 million private sector loan and a US\$200 million political risk guarantee in favour of the Phulbari project on the basis of environmental and social impact studies included in a Definitive Feasibility Study carried out since April 2004.³

The Phulbari project is an open-pit mine.⁴ In order to access the coal seams, it is reported that between 140 and 300 metres of earth will need to be removed, affecting an area of 59 km². In terms of the human impact of the project, there are differing views. According to estimates from GCM, the mining company involved, the project will affect approximately 50,000 people (a total of some 12,000 households), including some 2,200 indigenous people. Of this total, some 43,000 will be displaced from their homes and land by the mine. This number will be higher if the full-scale expansion plans for the mine are carried out. On the other hand, according to the National Committee to Protect Oil, Gas, Mineral Resources, Electricity and Ports, the number of people potentially affected could be as many as 470,000, including indigenous peoples belonging to Santhal, Munda and Mahali tribes, who occupy some 100 villages in Phulbari and surrounding sub-districts.⁵

In terms of the impact upon community structures, it is reported that the project will involve the closure of 50 educational institutions, including six colleges and 18 *madrassas*,⁶ as well as 171 mosques, 13 temples and other religious establishments.⁷ The mine will also have a significant environmental impact due to the considerable waste material produced in the extraction process. This in turn will have serious implications for the livelihood and, potentially, the health of local communities: the area around Phulbari is one of the most productive agricultural zones in Bangladesh, and the project will not only destroy productive farmland, but also cause the diversion of the Choto Jamuna River from its natural course. According to Professor Anu Muhammad in the Faculty of Economics at Jahangirnagar University, Bangladesh, studies in other countries have shown that rivers as far as 160km away from an open-pit mine can remain polluted for three decades as a result of the waste generated. He concludes that "in a country like Bangladesh, with hundreds of small rivers linked like a huge net, polluted water can travel long beyond the mining area."⁸ Despite these concerns, on 11 September 2005, the Bangladeshi Department of Environment approved the Environmental Impact Assessment Report prepared by the Asia Energy Corporation and granted environmental clearance for the mining operation.⁹

¹ Asian Indigenous and Tribal Peoples Network, http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4

²BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

³ See Asian Development Bank – Projects, <http://www.adb.org/Documents/PIDs/39933014.asp>

⁴ Open-pit mines are also known as opencast mines. Both terms refer to the extraction of rocks or minerals by excavating earth to create pits rather than sinking shafts and digging tunnels.

⁵ The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

⁶ the Arabic term for “schools”.

⁷The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

⁸ BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

⁹ Asian Indigenous and Tribal Peoples Network, http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4

In order to gain the consent for the project from local communities, Asia Energy reportedly distributed colour televisions, cash, cloths and blankets to affected populations.¹⁰ Furthermore, Asia Energy also reportedly refused to be bound by the 1894 Land Acquisition Act which regulates land acquisition and/or expropriation by the Government, and demanded the adoption of special laws in order to avoid the obligation to obtain the free, prior and informed consent of the affected communities.¹¹

On 31 August 2006, five days after large and violent demonstrations against the Phulbari project, the Junior Minister for Food and Relief declared that the Government had revoked all existing agreements with Asia Energy and that a moratorium had been imposed on all open-pit mining in Bangladesh. On the same day, Asia Energy declared that it had received no official communication to that effect, and that the position of the Government remained to be clarified.¹² In practice, coal mining remains an important element in Bangladesh's development strategy: on 17 November 2007, the Coal Policy Review Committee adopted a proposal encouraging partnerships between the Government and foreign firms engaged in mining in order to promote investment in and development of the coal sector. The Committee also suggested strengthening the existing Bureau of Mineral Development so that it could deal more efficiently with foreign companies in leasing transactions and indicated its intention to establish coal-based power plants in rural areas.¹³

Local resistance to the project and violence against protesters

“What will happen to us if we are forced to move from here? What will happen to our livelihoods? I don't want us to live like this. Our mosques and holy places and the places we were born will be destroyed. What will happen to the graveyards of our ancestors?”

75-year-old man, resident of Phulbari sub-district¹⁴

Resistance to the proposed Phulbari project is widespread in the areas. On 26 August 2006, an estimated 50 to 100,000 demonstrators, mainly farmers and indigenous people, protested against the project.¹⁵ At least five demonstrators were killed and about fifty others reportedly injured and taken to hospital after the police and the Bangladesh Rifles (BDR) opened fire on demonstrators.¹⁶ The exact death toll as a result of the shooting remains unclear, and may be as many as ten - it was reported that the BDR dumped some of the dead bodies.¹⁷ Furthermore, the Bangladeshi *Daily Star* newspaper reported that, according to eye-witnesses, BDR personnel threatened Magistrate Abdul Aziz with a gun in order to make him sign the authorization to

¹⁰The Daily Star: *Cancellation of Phulbari Coal Project demanded*, <http://www.thedailystar.net/2006/08/24/d608241004111.htm>

¹¹ Asian Indigenous and Tribal Peoples Network, http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref6

¹² Asian Indigenous and Tribal Peoples Network, http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4

¹³*Government Prime Role Recommended in Coal Mining*: <http://phulbariresistance.blogspot.com/2007/11/govts-prime-role-recommended-in-coal.html>

¹⁴ BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

¹⁵Bangladesh News - Phulbari Coalmine Killing, 28 August 2006,

<http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

¹⁶The people were identified as: Tariqul Islam (24 years-old), Ahsan Habib (35), Osman (24), Raju (8) and Chunnu. Asian Indigenous and Tribal Peoples Network, http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4

¹⁷Bangladesh News: *Phulbari Coalmine Killing*, 28 August 2006

<http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

open fire on the protesters.¹⁸ Neither the Government nor the Asia Energy Corporation have taken any responsibility for these events.

Under the Emergency Rule declared by Bangladesh's military government in January 2007, fundamental civil rights have been suspended and public protest banned.¹⁹ These Emergency Rules effectively remove the possibility of the populations affected by the Phulbari mine engaging in peaceful protest, and OMCT expresses its strong concern that, should such protest nevertheless take place, they will be met with further and possibly more extreme violence on the part of the police and security forces.

Despite the violent suppression of public protest, resistance to the project remains high. On 15 December 2007, representatives of the sub-districts of Phulbari and neighbouring Birampur, Nababganj and Parbatipur wrote to the president and executive Directors of the Asian Development Bank expressing their concern that the project will "increase the poverty of the local population as well as cause environmental disaster".²⁰ In this letter they claim that the social impact analysis carried out misrepresented the nature of public consultations around the project and that consultations emphasised the potential benefits of the project while failing to provide information on the negative impact. Furthermore, the community representatives express concern that only minimal information was provided in Bengali regarding the environmental impact of the project and that, to their knowledge, the environmental impact assessment has been neither translated nor summarised in the local language. They also underline that other media must be employed to communicate with a population of which approximately 60 per cent is illiterate. Additionally, they express serious concerns that land compensation and resettlement plans are insufficient to meet the losses likely to be incurred by local populations as a result of the mine, and that Asia Energy/GMC's claim that 50,000 persons will be directly affected (and hence entitled to compensation) is a significant underestimation.

Economic Social and Cultural Rights

Bangladesh acceded to the International Covenant on Economic, Social and Cultural Rights on 5 October 1998, and consequently the Government of Bangladesh has the duty to ensure the protection, promotion and enjoyment of these rights for all its citizens. The Phulbari mine project jeopardises the human rights of thousands of people due to the mass evictions and destruction of agricultural land it will require and to the pollution that will result from the extraction activities. In particular, OMCT is concerned that the mine will seriously compromise the rights to health and to an adequate standard of living (including access to housing, land, adequate food and clean water) of those affected.²¹

OMCT also wishes to underline the comments of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, who has expressed his concerns that the resources of indigenous communities are being appropriated and utilised, without prior consent, by powerful economic consortia, and that this "is currently one of the most controversial issues involving indigenous people, the State, and private enterprises,

¹⁸The Daily Star: *Magistrate forced to give firing order*,
<http://www.thedailystar.net/2006/08/30/d6083001107.htm>

¹⁹<http://jurist.law.pitt.edu/paperchase/2007/01/bangladesh-media-restrictions-under.php>

²⁰ see "Phulbari communities write to ADB President and Executive Directors",
<http://banglapraxis.wordpress.com/2007/12/19/phulbari-communities-write-to-adb-president-and-executive-directors/>

²¹ *The Basic Principles and Guidelines on Development-based Evictions and Displacement* prepared by the Special Rapporteur on adequate housing clearly define forced evictions as a violation of human rights, *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5 February 2007

and often also the international financial institutions.”²² In addition, the recent UN Declaration on Indigenous Peoples' Rights states that, “indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”²³

The role of financial investors

According to the information received, UBS, RAB Capital and Barclays financial institutions all have an interest in GCM, the sole owner of the Asia Energy Corporation and the Phulbari Coal Project. In particular, UBS is the second largest listed shareholder, owning 11.39% of GCM.²⁴

OMCT regrets the lack of transparency demonstrated by UBS in responding to civil society queries regarding its involvement in the Phulbari project. In response to questions on its position, the Bank denied that it had any strategic interest in the company and, noting that “it does not comment on potential or specific client relations or transactions or its investments in any particular company” indicated that its purchase of GCM shares “may or may not” have been carried out on behalf of a third party or parties.²⁵ OMCT calls upon UBS, as a leading financial institution operating in the global market, to lead by example in establishing a more transparent system of accountability, assessing the human rights and environmental impact of potential investments and assuming responsibility for investments in activities that breach international law and violate human rights.

Requested actions

*Please write to the **Government of Bangladesh** asking it to:*

Instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities. Make the findings of this investigation available in a public report (including appropriate language versions) and abide by the recommendations of this report. Request assistance from the UN Office of the High Commissioner for Human Rights to help ensure that the investigation is in conformity with international standards.

Impose a moratorium on any other open-pit mining in Bangladesh, as initially announced on 31 August 2006, until the full impact on human rights and the environment of this activity has been assessed.

Fully respect international human rights standards in any subsequent mining activity at Phulbari or elsewhere. This includes engaging in meaningful prior consultation with affected populations, ensuring that they are fully informed of the project proposals and their own rights in this regard, and providing fair and adequate compensation for loss of land, housing or livelihood where displacement is unavoidable. Ensure in all such cases an adequate and appropriate resettlement programme.

Ensure that the proposed coal policy review strictly adheres to international human rights standards and to international principles relating to forced evictions and indigenous peoples.

Lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

²² A/HRC/4/32, 27 February 2007

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/110/99/PDF/G0711099.pdf?OpenElement>

²³ UN Declaration on the Rights of Indigenous Peoples - Article 10,

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>

²⁴ as of 15 November, 2007

²⁵ see <http://www.banktrack.org/index.php?show=news&id=138>

*Please write to **Global Coal Management Resources Plc** asking it to:*

Suspend activities in Phulbari until a thorough, independent and fully-consultative investigation into the proposed project's human and environmental impact has been conducted and abide by the recommendations resulting from this investigation.

Fully respect the land rights, resources and livelihood of all local communities affected by any subsequent mining activity, and provide fair and adequate compensation wherever appropriate.

Take all necessary measures to minimise the environmental impact of mining activities and avoid the pollution of watercourses.

Comply fully with national laws and international human rights standards in all aspects of its activities, in particular as regards the adverse effects of these activities on indigenous and local communities. Only carry out operations subsequent to a full human rights impact assessment, and having fulfilled, *inter alia*, the legal requirement to engage in meaningful prior consultation with persons affected.

*Please write to **UBS, RAB Capital and Barclays** asking them to:*

Call for a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project with the meaningful input of local communities.

Use their financial influence in Global Coal Management Resources Plc. to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.

Carefully evaluate the impact of their current investments on the enjoyment of human rights around the world, and include a clear human rights impact assessment in future investment decisions.

Promote greater transparency in their financial transactions.

*Please write to the **Asian Development Bank** asking it to:*

Recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted and insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support. Continue to monitor the human rights situation in Phulbari and surrounding sub-districts should the project be approved.

OMCT also asks the UN Special Rapporteur on the human rights and fundamental freedoms of indigenous people, the UN Special Representative on the issue of human rights and transnational corporations and other business enterprises, and the UN Special Rapporteur on adequate housing to monitor closely developments as regards the Phulbari coal mine project.

List of addresses

Government of Bangladesh and other Bangladeshi institutions

Cabinet of the Government of the Peoples' Republic of Bangladesh,
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Please also write to the Bangladeshi Embassy in your country.

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Information on action taken and follow-up

OMCT would appreciate receiving information on any action taken in relation to the matters dealt with in this Action File so that it might be shared with OMCT's network and others interested in this issue. Please quote the code of this appeal on the cover page in contacting us.

Geneva, 21 December, 2007

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