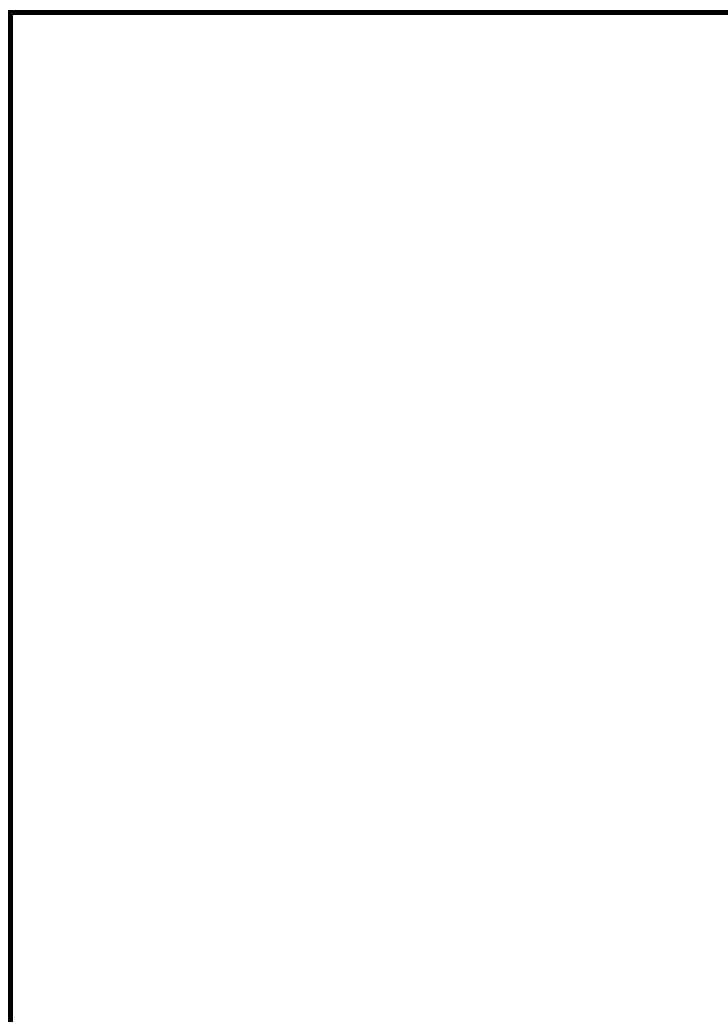


I	Background to the protests .....	3
II	Arrest and detention of peaceful protesters by police .....	5
	Legal provisions used to harass and detain .....	9
	Bombay Police Act .....	9
	Code of Criminal Procedure .....	10
	International Standards .....	11
III	Ill-treatment of protesters and villagers by police .....	11
	International Standards .....	14
IV	Police collusion .....	15
V	Recommendations .....	16



**Figure 1** Demonstration on 17 May 1997, by women villagers in front of the main gate of the Dabhol Power project site © Santosh Harhare, *Midday*, Mumbai.

# INDIA

## The “Enron project” in Maharashtra -- protests suppressed in the name of development

Amnesty International is concerned about the suppression by state authorities in Maharashtra of peaceful protests against the construction of a power plant by the Dabhol Power Company. The DPC is a joint venture between three US based multinational corporations. The project has met with opposition from local people and activists from elsewhere in India on the grounds of its social, economic and environmental impact, as well as political controversy around its inception.

Reports from the Ratnagiri district of Maharashtra detail a succession of incidents which have occurred in recent months in which protestors and activists have been subjected to harassment, arbitrary arrest, preventive detention under the ordinary criminal law, and ill-treatment. Amnesty International considers those who have been subjected to arrest and temporary periods of imprisonment as a result of undertaking peaceful protest to be prisoners of conscience, imprisoned solely for exercising their right to freedom of expression.

A fact-finding team of the All India Peoples Resistance Forum (AIPRF)<sup>1</sup>, headed by Justice S M Daud, a former judge of the Bombay High Court, examined police harassment of villagers protesting against the DPC, known as the "Enron project". Its findings have highlighted the human rights concerns surrounding the construction of the project. The team found that:

*"In the name of maintaining law and order they [police] have... prevented all forms of peaceful and democratic protest, used force and violence while dealing with all forms of non-violent protest, and resorted to a number of other subtle methods of harassment of the agitators".*

Women, who have been at the forefront of local agitation, appear to have been a particular target. A People's Union for Civil Liberties (PUCL)<sup>2</sup> fact-finding team that investigated the arrest of 26 women and 13 men on 3 June, 1997, concluded:

*"The police targeted mainly women, some of whom were minors and the arrests were made violently, in violation of the legal, constitutional and humanitarian principles"*

A battalion of the State Reserve Police, stationed on the site of the power plant, the local police and company security guards have all been implicated in the violations. Amnesty

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<sup>1</sup> The team visited the villages of Anjavel, Ranvi, Veldur and Pawarsakhari on 20-21 March 1997.

<sup>2</sup> The team visited Chiplun and Veldur villages on 7 June 1997.

International is concerned at the collusion of the police with those supporting the construction of the project, which has increased the vulnerability of the protestors to human rights violations.

In a report released on 4 July 1997 by the Committee for the Protection of Democratic Rights (CPDR)<sup>3</sup> noted the increase in violations by the police reported by the villagers despite "the continued emphasis on constitutional and non-violent means of protest".

The Government of Maharashtra's response to the protests is in contravention of Article 19(1) of India's Constitution, which guarantees freedom of speech, assembly and movement, and also of the international standards to which India is a party.

Activists challenging the project on grounds of its impact on economic and social rights, have been singled out in an effort to thwart organised opposition to the project. Amnesty International has received similar reports in recent years from the sites of other protests against industrial and development projects in India -- such as the development of the Narmada river, where protestors have been arbitrarily detained, raped and ill-treated over a number of years. This pattern highlights the degree to which the central and state authorities in India are prepared to deploy state force and utilise provisions of the law in the interests of development projects, curtailing the rights of freedom of association, expression and assembly.

India's moves to liberalise its economy and develop new industries and infrastructure have in many areas marginalised and displaced communities and contributed to further violations of their human rights. In the interest of foreign investment and to expedite particular projects, India's authorities have resorted to repressive measures. Attacks on economic and social rights activists underline the interdependence and indivisibility of all human rights -- the material interests of dispossessed and disadvantaged groups cannot be defended and advanced without the enjoyment of complementary civil and political freedoms to do so.

Amnesty International is calling on the Government of India and the Government of Maharashtra to ensure the right of human rights defenders throughout India to peacefully protest without fear of ill-treatment, arbitrary arrest, preventive detention or other forms of harassment. In particular, the organization is calling for a review of legislation which limits the rights to freedom of expression and peaceful assembly, for a full investigation into the reported violations and to ensure that the perpetrators are brought to justice

Amnesty International is also calling on the three US-based multinational corporations participating in the joint venture agreement to publicly state their policy on human rights; to ensure the training of their managers and staff reflects the rights set out in the Universal Declaration of Human Rights; to publicly urge a full and impartial investigation into all reported

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<sup>3</sup> A three member fact-finding team visited Guhagar on 21-23 June, 1997.

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human rights violations, and urge that the perpetrators be brought to justice. In addition, the three corporations are urged to establish strict guidelines for all security personnel subcontracted by, seconded to or employed by the DPC, to ensure their training reflects international human rights standards, and to ensure they are fully accountable.

## **I Background to the protests**

In June 1992, the Government of Maharashtra signed a memorandum of understanding with Enron to build a natural gas based power station in the Guhagar sub-division of the Ratnagiri coastal district of Maharashtra. The Dabhol Power Company -- a joint venture between three US based multinational corporations, Enron (with an 80% share), General Electrical Corporation (10%) and Bechtel Enterprises Incorporated (10%) --was the first wholly private power project to be agreed in India.

In December 1993, a power purchase agreement was agreed between the DPC and the Maharashtra State Electricity Board for the purchase of the electricity generated by the project. Land for the site was acquired by the Maharashtra Industrial Development Corporation using power under the Maharashtra Industrial Development Act, 1962, which, under section 32, effectively limits the need to take into account the views of the local population and allows for the use of force to take possession of land if a person refuses to give it up.

The project was agreed as a consequence of the changes in Indian governmental policy relating to foreign investment, begun in 1991. Opposition to the policy of economic liberalization and to the resulting prospect of globalization of the Indian economy has underpinned many of the critiques that have been raised.

Specific criticisms of the project have focussed on a number of concerns: the high cost of the power which is to be purchased by the state government; allegations of corruption surrounding the setting up of the project; concerns about the procedure used for the granting of official clearance for the project, including the lack of consultation of affected people and the inadequate environmental impact assessment; land acquisition leading to displacement of local people; the allocation and distribution of compensation for those displaced; environmental destruction. A number of public interest legal challenges to the project have been mounted both in the Maharashtra High Court and the Supreme Court of India, concerning various aspects of the project and its approval.

It was in this context that the Bharatiya Janata Party (BJP), in its campaign for the state assembly elections in February 1995, made a commitment to cancel the project. On election, they undertook to review the project, however no formal moves appear to have been made to close it down. By November 1995, the BJP state government announced that it would re-

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negotiate the project with the DPC. Meanwhile, construction has continued, albeit at a slow pace, partly due to local opposition.

Several non-governmental organizations have been formed to oppose the Enron project in Maharashtra, including the *Guhagar Taluka Enron Vaa Salagna Prakalp Virodhi Sangharsh Samiti* (Guhagar District Peoples' Forum for Opposing Enron and Other Related Projects, hereafter *Sangharsh Samiti*) and the *Enron Virodhi Sangharsh Samiti* (Organisation to Oppose Enron). These are made up of affected villagers, social and environmental activists and lawyers.

Hundreds of activists from throughout India have expressed support for the anti-Enron protests launched within the state. Many have travelled to the affected villages and been arrested during protests -- amongst these have been activists of the National Alliance of People's Movements (NAPM), the *Narmada Bachao Andolan* (Movement to Save the Narmada), the *Samajwadi Jan Parishad* (Socialist People's Conference), the *Bargi Bandh Vistapit Sangathana* (Bargi Dam Displaced Peoples Organisation), the *Sarvodaya Vikas Manch* (Organisation for the Complete Development of All People) and the *Konkan Sangharsh Samiti* (Save the Konkan Organisation).

The *satyagrahis* (those involved in non-violent protest, literally "those who insist on truth") have engaged in non-violent civil disobedience, including *morchas* (marches), *dharnas* (sit-ins), a *rasta roko* (road block), hunger strikes, a *kaam roko* (stop work) and a boycott of the *Zilla Parishad* (District Council) election in March 1997. Allegations of harassment of villagers and protesters by police have been made for several years. Amnesty International has received reports of a incidents over previous years when peaceful protestors have been arbitrarily detained.

According to information received by Amnesty International, DPC has sought to provide security for its property and employees in two ways. Reports indicate that prior to the protest of 30 January 1997, the company sub-contracted private security guards from local security companies, but that following this, security guards have been directly employed by the DPC. In addition, DPC reportedly requested the state government to provide police protection in the aftermath of protests which took place on 30 January 1997.

Following this request, the DPC allegedly entered into a contractual security arrangement with the Government of Maharashtra, and a battalion of 100 State Reserve Police (SRP), which was deployed on the site. Reports indicate that although the SRP personnel continued to be paid by the state government, the DPC paid the state authorities for the additional batallion at a cost of Rs.125 (\$US 3.50) per day for each police constable. Reports also indicate that two sub-inspectors in charge of the battalion stationed at the DPC site

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remained within the chain of command of the state police and worked in tandem with the sub-inspector of Guhagar *taluka* (district sub-division) police station.

Members of this SRP battalion have been implicated in a number of incidents where human rights have been violated in 1997. However, it has not always been possible to determine the identity of the perpetrators -- the local police and SRP are reported to wear identical uniforms, only distinguished by the metal shoulder tag which states "MP" (for Maharashtra Police) or "SRP".

The involvement of the SRP in the harassment of protestors indicates the need for the three US multinationals participating in the joint venture to take steps to ensure that all the management and staff of the DPC, in particular any security staff subcontracted to, seconded to or employed by the company, are trained in human rights and are fully accountable for their actions.

Amnesty International recognises the right of the authorities in India to maintain law and order and protect property. The organization does not condone the actions of protestors which involve the use of violence or damage to property. However, steps must be taken to ensure the right of human rights defenders to peacefully protest without fear of harassment or violence or the curtailment of that right through arbitrary arrest and detention.

## **II Arrest and detention of peaceful protesters by police**

Over the past few months, notably since December 1996, several hundred protesters have been arrested and temporarily detained by local police. Many of those detained have been women and reports indicate that juveniles were amongst those arrested. A few of these incidents are detailed below.

On 3 June 1997, 26 women and 13 men from Veldur, a fishing village, were arrested by police. They were remanded to police custody by a magistrate for seven days for the purposes of investigation. Several of those arrested stated before the magistrate that they had been ill-treated by police and were sent to a local hospital for treatment. Although medical certificates were requested by the court, these had not been made available by 16 June. However, the PUCL investigative team who interviewed several of the detained women a few days later documented several injuries including bruising, abrasions and lacerations on arms and legs. The SRP was reportedly involved in this incident, together with the local police.

These arrests took place early in the morning when police from Guhagar police station forcibly entered the homes of several women and dragged them into police vans, beating several of them with sticks (see below).

The PUCL team that visited the area found that there were three juvenile girls among those detained. Sugandha Vasudev Bhalekar, aged 16, was described as aged 19 on the remand application completed by the police before being placed before the magistrate; similarly Vanita

Patekar, aged 15, was described as 20 year of age, and Rekha Padyal, also aged 15 years, was described as a 19 year-old. The raid was conducted early in the morning when most of the men of the village had left to catch fish.

The day before, on 2 June, some villagers -- most of whom were women -- had attempted to prevent construction workers of the DPC from using a jetty which connects the village to the site of the project. In this instance, reports suggest that the protests had led to a violent confrontation, described in the local press as "a minor skirmish".

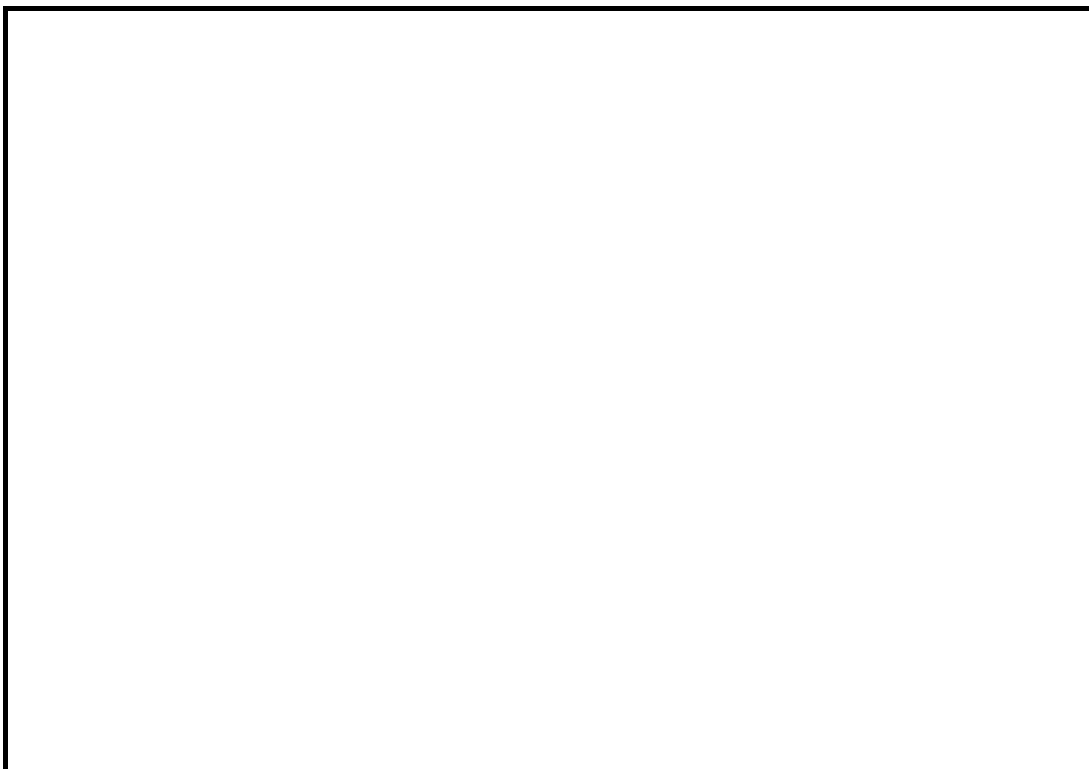
The police made no effort to ensure that those detained were actually those involved in the demonstrations on 2 June. In the case registered against the 39 people arbitrarily detained, charges of attempt to murder and rioting with deadly weapons have been filed by the police.

In addition, 25 of the women detained were also charged under section 37(1) and (3) and section 135 of the Bombay Police Act for having participated in a *dharna*

before the main gate of the DPC on 17 May. At least three of the women are residents of Mumbai who were visitors to Veldur on 3 June, and were not present in the area on 17 May. According to reports, the First Information Report which formed the basis for the charges relating to the 17 May protest, and filed before the Magistrate in Chiplun on 3 June, implicates

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at least 1000 persons for violating prohibitory orders by congregating before the company site gates. No effort appears to have been made to ascertain whether the 25 women had participated in the *dharna* on 17 May.



**Figure 3** Demonstration on 17 May 1997 by women villagers before the main gate of the Enron project site, Anjanvel village. © Santosh Harhare, *Midday*, Mumbai.

On 15 May, during a peaceful sit-in protest at the gates to the site by local project-affected people, 178 villagers were arrested, together with activist Medha Patkar. Those arrested were charged under section 37(1) and (3) and section 135 of the Bombay Police Act and remanded to custody until 19 May. They were then transferred to Yerawada Jail (around 400 km from the protest site). On 20 May they were again produced before the Judicial Magistrate -- as they refused Personal Bonds or bail, they were sentenced to five days' imprisonment in Yerawada Jail and a further three days' imprisonment for non-payment of a fine of Rs. 50 (\$1.40) per person. The days already spent in custody were deducted from their sentence.

The following day, on 16 May veteran *Janata Dal* (People's Party) leader and former Amnesty International prisoner of conscience, Mrinal Gore, and 30 others from Maharashtra and



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Tamil Nadu were arrested for blocking a road for three hours during a peaceful act of civil disobedience in Guhagar town. Those arrested included 22 women -- two minor girls from Bombay who had accompanied their grandmothers to the *dharna*, also accompanied them to the lock up and the court, as there was no-one to take charge of their care. They were remanded to judicial custody until 31 May, having been charged again under the Bombay Police Act and section 341 of the IPC -- the women and minor girls were kept in Kalyan jail until their release on bail on 20 May.

On 6 May, 50 volunteers from the *Bargi Bandh Vistapit Sangathana* from Madhya Pradesh were arrested at the gates of the project site for violation of the prohibitory orders. They were charged under section 37(1) and (3) and section 135 of the Bombay Police Act. As those arrested declined to give a Personal Bond, and refused bail, they were sentenced to 5 days imprisonment with an additional 10 days' imprisonment for non-payment of fines.

On 4 May, 11 people belonging to the *Sarvodaya Vikas Manch*, Malegaon, Maharashtra, were arrested at the site gate for violation of the prohibitory orders. They were charged under section 37(1) and (3) and section 135 of the Bombay Police Act. As the arrested declined to give a Personal Bond, and refused bail, they served sentences of 5 days imprisonment and an additional 10 days' imprisonment for non-payment of fines.

On 30 April, 50 members of the *Narmada Bachao Andolan* from Gujarat were arrested at the site for violation of the prohibitory orders. They were charged under section 37(1) and (3) and section 135 of the Bombay Police Act. Once again, the arrested declined to give a Personal Bond, and refused bail, they served sentences of 3 days imprisonment and an additional 10 days's imprisonment for non-payment of fines.

On 28 April, 150 men of the *Samajwadi Jan Parishad* from the north Indian states of Uttar Pradesh, Bihar, Orissa and West Bengal marched to the Enron project site for a *dharna*. They were arrested for violation of the prohibitory orders and charged under section 37(1) and (3) and section 135 of the Bombay Police Act. Again, as the arrested declined to give a Personal Bond, and refused bail, they served sentences of 5 days imprisonment and another 4 days' imprisonment for non-payment of fines.

On 28 February, more than 500 villagers from Guhagar, Veldur, Ranvi, Anjavel, Kathalwadi and Pawarsakhari went on a hunger strike at Guhagar police station, to protest against police atrocities. Approximately 225 villagers and activists were arrested for violating prohibitory orders. Those detained included Medha Patkar, leader of the NAPM. Reports suggest that some of those arrested were beaten in custody. All those arrested were released on the same day on Personal Bonds, on the understanding that they would later furnish Bail/Surety Bonds (see below).

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That morning, Justice Kolse-Patil, a retired judge of the Bombay High Court who is active in the protests, was arrested together with Mangesh Pawar, President of the *Sangharsh Samiti*, and General Secretary, Sadanand Pawar. The arrests were made under section 151 of the CrPC, to prevent the three from taking part in the planned hunger strike. Justice Kolse-Patil was later charged under section 37(1) and 37(3) of the Bombay Police Act (see below) and section 341 (punishment for wrongful constraint) of the Indian Penal Code (IPC). He was released later that day on a Personal Bond.

Mangesh Pawar and Sadanand Pawar were remanded to judicial custody for ten days. On their release they were ordered not to enter Chiplun and Guhagar *talukas* till 31 March (as permitted under section 37 of the Bombay Police Act - see below), on charges that they were inflaming public passions by spreading false information against the government and asking people to boycott the district council elections. Mangesh Pawar was subsequently served with a show-cause notice on 18 April 1997 prohibiting him from entering Ratnagiri and Raigad districts of Maharashtra for a period of two years. A challenge to this notice is currently being heard by the sub-divisional magistrate in Chiplun.

The arrests of Mangesh Pawar and Sadanand Pawar took place in advance of a one-day hunger strike outside the Guhagar police station, to be carried out by around 500 villagers from the villages of Guhagar, Veldur, Ranvi, Anjanvel, Kathalwadi and Pawarsakhari in protest at human rights violations.

Arrests, by the local police and the SRP seconded to the DPC site, have continued in the past few weeks and activists are concerned that those arrested are being sentenced to steadily increasing periods of detention. The frequent arrests demonstrate the Government of Maharashtra's attempt to suppress dissent, and to prevent a programme of non-violent civil disobedience, which the villagers and activists have pursued on account of their beliefs.

## **Legal provisions used to harass and detain**

### **Bombay Police Act**

Since 6 January 1997 section 37(1) and (3) of the Bombay Police Act has been imposed in Guhagar district. Orders for the imposition of this section have been extended every 15 days since then. The section grants the police -- through the Commissioner, and the District Magistrate -- powers to prohibit "certain acts for prevention of disorder". Section 37(1) specifies powers to prohibit the:

- Ⓒ carrying of articles capable of being used to cause physical violence (including sticks or *lathis* and stones)
- Ⓒ the "public utterance of cries, singing of songs, playing of music"
- Ⓒ the "delivery of harangues, the use of gestures... and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing which may in

the opinion of such authority offend against decency or morality or undermine the security of or tend to overthrow the State"

In addition, section 37, clause (3) grants powers to prohibit "any assembly or procession whenever and for so long as it considers such prohibition to be necessary for the preservation of the public order".

These provisions continue to be used despite the orders of the Bombay High Court, which has held that the right to demonstrate peacefully is protected under Article 19 of the Constitution of India<sup>4</sup>.

Villagers have also been arrested under section 135 of the Bombay Police Act which provides for imprisonment for up to one year and a fine for those disobeying orders made under section 37 of the Act.

Amnesty International believes that the imposition of these sections of the Bombay Police Act has been used to suppress peaceful protests in the Guhagar *taluka* of Ratnagiri district, Maharashtra and has led to the temporary imprisonment of hundreds of people whom the organization would consider prisoners of conscience, arrested solely for the peaceful expression of their beliefs.

### **Code of Criminal Procedure**

Several of those arrested in connection with these protests have been arrested under section 151 of the Code of Criminal Procedure (CrPC). This section allows police officers to arrest individuals whom they suspect may commit a cognizable offence, without a warrant, and further allows those arrested to be detained for longer than 24 hours by orders of a magistrate.

This provision continues to be used notwithstanding the directives of the Bombay High Court, which has held that section 151 should not be used in the guise of maintenance of law and order or to oppress social action groups.<sup>5</sup>

In another development, since the second week of February 1997, nearly 200 villagers have reportedly been issued with undated and unnumbered warning notices under Section 149 of the CrPC (*Police to prevent cognizable offences*) accusing them of spreading false information against the government and the company, and warning them that they would be held responsible for any untoward incidents that result in damage to life and property or worsen the

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<sup>4</sup> *Blaze Advertisement Pvt Ltd vs. Blaze Advertisement and Allied Companies Employees Union and others* 1985 LIC 1015.

<sup>5</sup> *S V Lokhande vs M P Mirgali*, reported in 1985 BomLR (88) 114.

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law and order situation. The notices were apparently issued as a result of a series of village-level meetings held in Guhagar *taluka* to mobilise villagers against the project.

### **International Standards**

Article 19 of the International Covenant on Civil and Political Rights (ICCPR) delineates the right to freedom of expression, while article 21 of the covenant specifies the right of peaceful assembly. Amnesty International believes that both these rights have been curtailed in an effort to suppress the activity of protestors.

The use of preventive detention, sanctioned in India by Article 22 of the Constitution and by a declaration made at the time of India's ratification of the ICCPR, has had the effect of allowing for human rights violations, and has meant that article 9 of the covenant -- the right not to be arbitrarily detained -- is not applied in India.

Moreover, the targeting of women is in contravention of articles 2(1) and 3 of the ICCPR and the Convention on the Elimination of All Forms of Discrimination Against Women (the Women's Convention), to which India is a party. The arbitrary detention and ill-treatment of juveniles is in contravention of article 24 of the ICCPR and the Convention on the Rights of the Child (CRC), to which India is also a party.

### **III Ill-treatment of protesters and villagers by police**

The police, including the Special Reserve Police on the site of the company, have routinely used excessive force to suppress the protests and whilst arresting villagers and protestors, and those arrested have been held in conditions amounting to cruel, inhuman and degrading treatment. Some of these incidents are detailed here.

During the arrests that took place on 3 June 1997, after the arrival of 135 police and SRP personnel in the village, a 23 year-old woman in the late stages of pregnancy, Dhanashree Janardhaan Padyal, was beaten. Others who sustained injuries did not seek medical help because of the fear of police reprisals. Another woman, Sugandha Vasudev Bhalekar -- a 24 year old housewife who was three months pregnant at the time of her arrest on 3 June -- testified to the Judicial Magistrate, on 9 June:

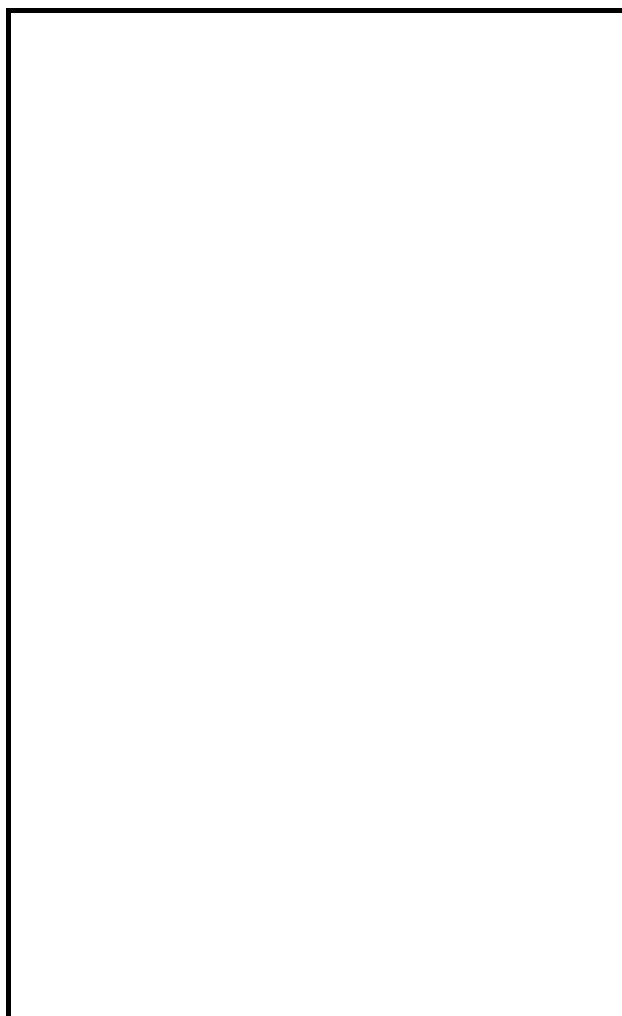
*"at around 5 in the morning when I was in the bathroom, several male police with batons in their hands forcibly entered the house and started beating members of (my) family who were asleep. .... Being terrified, I told them from inside the*

*bathroom that I was taking a bath and that I would come out after wearing my clothes. I asked them to call for women police in the meantime and to ask them to wait near the door. But without paying any attention to my requests, the policemen forcibly opened the door and dragged me out of the house into the police van parked on the road. (While dragging me) the police kept beating me on my back with batons. The humiliation meted out to the other members of my family was similar to the way I was humiliated. ... my one and a half year old daughter held on to me but the police kicked her away."*

Reports indicate that she was targeted for attack by the police because husband, Baba Bhalekar, was a known leader of the protests.

According to a report in a local newspaper, *Midday*, of 9 June, "the menfolk were away fishing, leaving the women to be slapped and dragged around". Both the local police and the SRP were reportedly involved in this incident.

Of the 26 women arrested, 25 were held in one room of 150 square feet with a washing area and toilet at one end and steel mesh at the other, overlooked by a constable. According to the PUCL team who visited the police lock-up on 7 June: "There was no light or fan .... The entire room stank". Amnesty International believes that the conditions in the Chiplun police station lock-up amount to cruel, inhuman and degrading treatment.



**Figure 4** During the arrests on 3 June, 1997 in Veldur, Gangaji Jambhalukar, 55, was beaten but not arrested. © Prashant Nakwe, *Midday*, Mumbai.

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During the protests which took place on 15 May, the police, including the SRP used excessive force against the protestors:

*"The police and SRP personnel stationed at the project site lathi-charged and dragged women protestors by their hair into waiting police vans. Many women protestors also reported that they were roughed up and manhandled by the police and their dresses and sarees were torn in the process"*<sup>6</sup>

On 21 February, villagers from Pawarsakhari village protested by *rasta roko* against two state cabinet ministers who were reportedly attempting to by-pass by using an alternative route. A battalion of the SRP arrived and charged at villagers with *lathis*. Several people were beaten by members of the battalion and 96 people were detained.

On February 17, 1997, a member of the SRP reportedly assaulted Sanjay Pawar, a road maintenance supervisor after he requested a Major of the SRP not to drive past his worksite at high speed. The supervisor, a handicapped youth, reportedly received an injury to his skull. Sanjay Pawar was later arrested on 20 February, and charged under sections 341 (punishment for wrongful restraint), 353 (assault or criminal force to deter public servant from discharge of his duty) and 504 (intentional insult with intent to provoke breach of the peace) of the IPC on a charge of attempting to assault an SRP official, which Amnesty International considers to be false.

On 30 January, 1997, over three thousand people gathered to protest in a *dharna* and a *morcha* at the three gates of the site of the Enron project. As protestors gathered, police reportedly began pushing protestors and without warning began charging them with *lathis*. Several people including 17 women were beaten and several women were forcibly pushed into a police van. Reports suggest that approximately 450 people were arrested and taken to the town of Chiplun, and a total of 679 people were charged under sections 37 (1) and (3) and section 135 of the Bombay Police Act. Those arrested were reportedly kept for several hours without food and water, and were finally released in batches on 30 and 31 January.

The previous day, a delegation of seven members of the *Sangharsh Samiti* and two villagers who visited Guhagar *taluka* police station, were arrested under section 151 of the CrPC. They had gone to ask the police to take appropriate action "to prevent certain vested interests from creating violence on the following day of the satyagraha".<sup>7</sup> The delegation went to the police following a tour of the local police station, in which the Deputy Superintendent of

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<sup>6</sup> From the CDPR report.

<sup>7</sup> See AIPRF report.

Police allegedly toured the affected villages, threatening that the police would resort to firing if considered necessary, on the day of the planned *dharna*.

### **International Standards**

Amongst the important principles and prerequisites for the humane performance of law enforcement function, the preamble to the UN Code of Conduct for Law Enforcement Officials<sup>8</sup> states “every law enforcement agency should be representative of and responsive and accountable to the community as a whole”.

Article 1 of the Code states that “Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts”. The code emphasizes the exceptional nature of the use of force, stating in Article 3 that force may be used “...only when strictly necessary and to the extent required for the performance of their duty”. Amnesty International is concerned that the practices of security officials in suppressing protest do not reflect the standards set out in the code.

More detailed guidelines are set out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials<sup>9</sup> which state that force may only be used in exceptional circumstances, only when strictly necessary if non-violent means remain ineffective, and for the purpose of prevention of crime and effecting or assisting lawful arrest. Principle 5 states that whenever the lawful use of force and firearms is unavoidable, officers shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life

Amnesty International is concerned that the use of force in the context of the Enron protests has not been in proportion to the seriousness of the crime, and that excessive force has been used, in a routine manner. The organization is not aware of injury to any law enforcement official, nor of any medical treatment received by such an official, in contrast to the pattern of injuries received by the protestors.

Article 7 of the ICCPR, to which India is a signatory, prohibits the use of torture or cruel, inhuman or degrading treatment or punishment. This prohibition is further reinforced by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India has made a commitment to ratify.

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<sup>8</sup> Adopted by the UN General Assembly in 1979.

<sup>9</sup> Adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders on 7 September 1990.

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The targeting of women and children, contravenes the special protections afforded to them in the ICCPR, the Women's Convention and the CRC.

#### **IV Police collusion**

The vulnerable position of villagers protesting against the Enron project has been reinforced by the collusion of local police with those promoting the construction of the project. Members of the SRP, seconded to the DPC, have been implicated in human rights violations (see above) and on a number of occasions the police have refused to register complaints made by villagers against construction workers and other supporters of the project.

In Kathalwadi on 1 April, four supporters of the project reportedly attacked some of the anti-Enron group with swords, acid and soda bottles. The next day the police officer on duty at the local police station refused to accept the complaint of those attacked on the grounds that a complaint had already been filed by supporters of the project. As a result of this earlier complaint, 21 men and women from Kathalwadi were arrested by police on charges including "attempt to murder". They were remanded to judicial custody for almost three weeks -- 19 were released on 19 April and the remaining two on 22 April.

On 21 March, 1997, Suresh Dewale and Pandurang Durgawali went to the Guhagar police station to lodge a complaint against DPC security guards, who had attacked some buffalo. The officer on duty reportedly refused to accept the complaint unless the complainant changed the description of those accused from the 'company security guards' to 'unknown persons'.

On the evening of 27 February, four *goondas* (ruffians) came to the house of Adinath Kaljunker, a leader of the *Sangharsh Samiti* from Aarey, and threatened to murder him if he continued to oppose the Enron project, as they had taken on-site contracts and would suffer losses. When he telephoned the Guhagar police station, the officer refused to send anyone to investigate. The next morning when he personally went to the police station to file the complaint the officer made a note that the matter had been investigated and was not found to warrant further action -- the officer refused to record a complaint.



## **V Recommendations**

### **Amnesty International urges the Government of India:**

- C to take steps to protect the right of people to peacefully protest as set out in the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights;
- C to remove the declaration made at the time of ratifying the International Covenant on Civil and Political Rights with respect to preventive detention, and amend article 22 of the Constitution of India;
- C to uphold its commitment to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, in particular to ensure the protection of women and children from human rights violations;
- C to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- C to allow international human rights monitors, including Amnesty International, free access to all parts of India

### **Amnesty International urges the Government of India and the Government of Maharashtra:**

- C to review sections 37 and 135 of the Bombay Police Act and sections 149 and 151 of the Code of Criminal Procedure which grant powers to prevent legitimate activities protected by articles 19 and 21 of the International Covenant on Civil and Political Rights, and allow for preventive detention;
- C to take steps to ensure that police officers are protected from political or other influence and to prevent their collusion with those who wield political, economic and social power, including when security personnel is seconded to private companies;
- C to establish an effective police complaints mechanism to ensure the impartial consideration of complaints against the police, and to ensure that complainants are protected from reprisals;
- C to ensure that the standards in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement

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Officials are included in the training programmes for the police in the National Police Academy, the State Training Colleges and State Training Schools.

**Amnesty International urges the Government of Maharashtra:**

- C to ensure the right of people to peacefully protest;
- C to order prompt and impartial investigations into all allegations of ill-treatment of protesters, and to ensure the perpetrators are brought to justice;
- C to order a prompt and impartial investigation into allegations that police in the Ratnagiri region have systematically failed to register complaints by villagers.

**Amnesty International is calling on the three US-based multinational corporations participating in the Dabhol Power Company:**

- C to adopt and enforce a policy on human rights, and, should such a policy exist, to state it publicly;
- C to ensure the training of all managers and staff reflects the rights set out in the Universal Declaration of Human Rights;
- C to maintain regular contact with human rights organizations in India, as well as international organisations, so that views can be shared and concerns can be freely discussed;
- C to publicly urge a full and impartial investigation into all reported human rights violations, and urge that the perpetrators be brought to justice;
- C to establish strict guidelines for all security personnel subcontracted by, seconded to or employed by the DPC, to ensure their training reflects international human rights standards, and to ensure they are fully accountable.