

Case Study No. 12, written by Nesar Ahmead, 2007

## Khanayara Stone Quarries: A Case of Reversing the Community's Rights over Local Resources, Himachal Pradesh, India

### Overview

This case study focuses on the stoneworkers of the Khanayara Stone Quarries, in India's far northern state of Himachal Pradesh. In a series of focus groups and interviews, villagers described their experience with community-based mineral resource management, from 1952 and 1997, and how this experiment empowered otherwise indigent and marginalised communities, such as lower castes and the indigenous. Unfortunately this unique approach of using mining to lift the traditionally dispossessed out of poverty ground to a halt in 1997, when a State High Court ruled that the local mining activities were having a negative environmental impact, depriving thousands of their livelihood. In our interviews with villagers, they explained that the mine closures reflected major inconsistencies in state government policy, as industry and commercial enterprises gain easy access to otherwise protected lands, as long as there's a profit to be made.

### Introduction

Covering an area of 625 hectares, the Khanayara stone quarries are located at the southern edge of Dhauladhar range in the foothills of the Himalayas, in the Kangra District of the Indian state of Himachal Pradesh. From 1952 until 1997, when it was shutdown by the Shimla High Court, the High Court of Himachal Pradesh located in the state capital of Shimla, for environmental reasons, the Khanayara stone quarries were one of India's only mines practicing community-based mineral resource management. Before the mine's closure, they were controlled by the two Gram Panchayats<sup>1</sup>, or rural self-government bodies, of the Dari and Khanayara villages, who would distribute mining rights to the villagers, each local family being granted one contract every year.

<sup>1</sup> Gram Panchayats are government bodies operating at the village level, and have existed in India for centuries. Formally recognised in the 73<sup>rd</sup> Amendment of the Indian Constitution, local government is divided into the Gram Panchayat at village level, Panchayat Samiti at block level and Zila Parishad at district level. This Panchayat System is officially recognised as the third tier of government, after the State and Union, or national level governments.

### The People of Kangra

The population of Kangra district is over 1.3 million. The native people are the Kangri people and the native language is Kangri, which is very similar to Punjabi. Although the majority of the people are Hindu, many Buddhist Tibetans have also settled here recently. The traditional dress for men is the kurta, pajamas, and a woolen jacket used in winter. Women generally wear the salwar kameez.

### Summary of Issues

- Between 1952 and 1997, the local communities of Dari and Khanayara developed a unique approach to mineral resource management. Instead of commercial enterprises or the wealthy classes controlling the mining operations, the mines were run by the locals themselves - in other words, the lower castes and indigenous.
- In 1997, a high court ruling banned mining in the region, claiming that the local mining practices were environmentally destructive and unsafe, and transferred control of the land and the state mines to the state government.
- In an ironic twist, the state government has started approving other developments on this same land, even though the environmental impacts are far more serious than the small-scale local mining operations undertaken by the local community between 1952 and 1997.

### Continued from page 1 - Introduction

This paper investigates this unique attempt at community-based management of the area's mineral resources, and the success and failures experienced prior to the mine's shutdown, and the impact on the community following the closures. As part of this study, a team of investigators, including the paper's author, spent time in Khanayara village, and to a lesser extent in Dari village, holding interviews with villagers, workers, quarry operators, political leaders, contractors, social activists, the local youth, and former and present panchayat presidents, known as 'chiefs' or 'leaders' (Pradhans in Hindi).

Our team held individual interviews in Khanayara, which is located in the central north of Kangra district, about 7 km away from the district headquarter, Dharamsala. In addition to these informal interviews, we helped to initiate a focus group discussion forum for about twenty members of

Khanayara's local community, ranging from 20 to 45 years of age.

The paper is organised in five sections, plus the introduction - the first section gives background information and a brief history of Khanayara mines; the second section explains how the panchayats and its elected board functions, and looks at the mining practices they employed; the third section describes the litigations and legal cases the panchayats engaged in to ensure the local community's mining rights were protected; the fourth section deals with the impacts of mine closure on the local community; and the fifth and final section looks at the Khanayara mines in relation to the broader context of the region's development and environment, not to mention the community's rights to the local resources.

## Brief History of the Khanayara and Dari

Under the First Revised Settlements of 1868, the British colonial government transferred partial ownership of the land where the Khanayara slate mines were located to the village khewatdars, or landowners, of Khanayara (also known as Ghanayara in early revenue records) and Dari villages. Although the khewatdars paid the colonial government a land tax, they controlled the land, and began leasing the land to a British investor, Mr. Robert Barkley Shaw, who started up the Kangra Valley Slate Company, commencing mining operations in 1867. Shaw's company not only compensated the khewatdars for use of the land, but also the local villagers<sup>1</sup>.

In 1930, however, the Kangra Valley Slate Company attempted to stop payments to villagers, but the Khanayara Panchayat cried foul, taking their case to the Lahore High Court, who ruled that the company had to continue compensating the villagers.

In 1947 India gained independence from the British, and full ownership of common lands, or shamlat lands, was transferred into local hands. With the introduction of the Punjab Village Common Lands (Regulation) Act 1953, the Dari and Khanayara village panchayats became the new owners of the slate mines, and they started distributing mining contracts to local village families. Families could now set-up small mines, and start quarrying for slate, and this ground-breaking experiment with community-based



Map showing the location of the state of Himachal Pradesh in the far north of India. Dharamsala is the state's capital.

<sup>1</sup> Once mine ownership was transferred to the panchayats, they distributed part of the mine's profits directly to the villagers.

## Continued from page 2 - Brief History of the Khanayara and Dari

mine management ran smoothly until 1971, when the panchayats of Khanayara and Dari started arguing over ownership rights.

The argument was only resolved when the Kangra District Collector<sup>2</sup> intervened, and the two panchayats agreed to share the benefits equally. Putting aside their differences, they formed a joint board, called the Khanayara-Dari Slate Quarry Board, which included representatives from both the panchayats, and was headed by the village chiefs or pradhan, who chaired the board on six monthly rotations. The Board leased the quarries to village families, taking a percentage of the mining profits, and after deducting expenses like staff wages and administrative costs, the rest of their share of the profits would be divided between the two panchayats.

This system enjoyed considerable success, and unlike most of the panchayats across India, which are strapped for cash, the Khanayara and Dari panchayats boasted much

healthier coffers, earning an income of up to Rs. 5 lakhs<sup>3</sup> (AUD13,550) per annum. Even more encouraging, mining activity kept most of the local community employed - in interviews with villagers we discovered that these community-run mining ventures engaged about 500 contractors truckers and others. All this activity also attracted workers from other parts of the state of Himachal Pradesh as well as the neighbouring state of Jammu and Kashmir.

The most positive spin-off of this kind of community-based management approach was that the two panchayats could now initiate a series of development projects, funding them with their cut of the profits from local mining ventures. Some of the community developments launched by the Khanayara panchayat included constructing a nice panchayat bhawan or building with a restroom for mine-workers, setting up a 12-bed hospital, expanding and refurbishing the local high school, adding six buildings to the local primary school, not to mention repairing and constructing roads and streets in and around the villages.

<sup>2</sup> District Collectors are officers of the Indian Administrative Service and are the district's most powerful government officials. They are responsible for handling law and order, revenue collection, taxation, the control of planning permission and managing natural and man-made emergencies.

<sup>3</sup> One lakh is an Indian unit equivalent to 100,000.

## The History of Kangra

Kangra became a district of British India in 1846, when it was ceded to British India at the conclusion of the First Anglo-Sikh War. The British district included the present-day districts of Kangra, Hamirpur, Kullu, and Lahul and Spiti. Kangra District was then part of the British Province of Punjab. The administrative headquarters of the district were initially at Kangra, but were soon moved to Dharmsala.

This area was significantly damaged by an earthquake on April 4, 1905.

Upon Indian Independence in 1947, Punjab province was partitioned between India and Pakistan, and the western portion, including Kangra, became the Indian state of Punjab. Lahul and Spiti became a separate district in 1960, and Kullu in 1962. In 1966, Kangra and Una districts were added to Himachal Pradesh, which became a union territory of India, and an Indian state in 1971. Hamirpur District was separated from Kangra in 1972.



A map of Himachal Pradesh, showing the location of Kangra District in the state's north-west.

## Khanayara-Dari Slate Board's Operation and Mining Practices

For a long time, the novel approach to mining that the Khanayara-Dari Slate Quarry Board adopted provided an inspirational model for other panchayats across India of how effective community-based resource management and local level conflict resolution could be. Consisting of eight members representing both panchayats, the board was constituted under Section 33 of the Himachal Pradesh Panchayati Raj Act 1968 which states that two or more panchayats can form a joint committee to manage their affairs or properties. Headed by the Pradhans of the panchayats, the board employed a small staff to manage and regulate their affairs (see Table 1).

The board took on a number of responsibilities, which included granting mining contracts to local villagers from Khanayara and Dari, supervising mining operations, maintaining a record of slate production rates, and collecting royalties from the various mining ventures.

Assisted by two Quarry Managers, the Pradhan, or Board Manager, made sure that operators engaged in safe mining practices, which was no mean feat with as many as 650 lessees and quarry operators mining for slate at any one time, over an area of 625 hectares. Using only traditional methods, workers mined more than 400 pits manually, using crow bars, chisels, and digging tools (Sharma, 1998).

Typically, about ten to fifteen labourers worked each pit, and a study by the Central Mining Research Institute (CMRI), based in Dhanbad, on behalf of the Himachal Pradesh

State Government's Department of Industry, found that these mineworkers usually employed out-dated and highly wasteful mining practices. As Sharma (1998) explains, these antiquated mining practices generated from 50 to 70% of waste, particularly during extraction, and also the process where skilled workers rive, split and dress the slate, with the trimmings being discarded.

During our interviews, villagers explained that, although uncommon, blasting did occur in the quarries, and according to a CMRI study this blasting was usually carried out by untrained labourers using locally purchased explosives which might have been gunpowder or other locally made explosives procured from Dharamsala town (CMRI, 1995). Blasting was only used when the host rocks were too difficult to remove, with explosives packed into blast holes drilled into the rock (Soni, 2003). With limited safety precautions and highly volatile home-made explosives, accidents often occurred among the untrained mineworkers who packed the rocks and detonated the explosives.

Anxious about the safety of mineworkers and the environmental damage resulting from careless mining practices, villagers and village leaders approached the board, explaining their concerns.

Despite these complaints, contractors, themselves village members, and board officials maintained that their mining practices satisfied state mining rules and regulations. A study commissioned by the CMRI study, however, stated otherwise, explaining that the "...provisions of the Mines and Minerals (Regulations and Development) Act, 1957 and the Mines Act had been contravened." The study also suggested that the board lacked adequate resources and the know-how to conduct such mining activities in a safe and environmentally sensitive way.

The quarries under the management of the Khanayara-Dari Slate Quarry Board Mining employed from 4,000 to 6,000 labourers, who earned an average daily wage of 50-60 rupees (AUD 1.35-1.60). If the services that supported the mine activities are figured into the equation, such as workers transporting the slate by mules and trucks, the labour force increased by three or four times. Although the board micro-managed many aspects of the local mining industry, one area

***"For a long time, the novel approach to mining that the Khanayara-Dari Slate Quarry Board adopted provided an inspirational model for other panchayats across India of how effective community-based resource management and local level conflict resolution could be."***

**Table 1 List of Employees on the Pay-Roll of the Khanayara-Dari Slate Quarry Board**

Position	No. Employees
Board Manager	1
Quarry Manager	2
Clerks	13
Night guard	1
Peon (attendant)	1
Checker	1

## Continued from page 4 - Khanayara-Dari Slate Board's Operation and Mining Practices

they weren't involved in was setting workers' wages - these were based on negotiations between workers and contractors.

The one feature that really distinguished Khanayara mines from other mining operations across India, however, was that most of the mine contractors were the very same people toiling away in the quarries. During the focus groups it was estimated that out of about 350 contractors from Khanayara village, 325 were actually mineworkers themselves, excavating slate side-by-side with their own employees.

**Table 2 Panchayats' Income from Slate Mining**

Year	Total value in Rupees	Total value in AUD
1988-89	900,960	24,530
1989-90	790,731	21,530
1990-91	863,515	23,520

Source: CMRI, 1995

monopolised mining leases, exploiting other families. In fact, the Khanayara mines operated on a reverse logic to most of India's mines - rather than coming from the upper class or caste groups, the majority of contractors actually came from socially disadvantaged and traditionally oppressed groups like Dalits or untouchables<sup>4</sup>, the indigenous and other lower castes.

During one focus group, a social activist from the village explained how the few contractors from upper caste families felt uncomfortable and indignant with this somewhat egalitarian approach to mineral resource management - an

<sup>4</sup> In the Indian caste system, a Dalit, sometimes called an untouchable, or an outcast, is a person who according to traditional Hindu belief does not have any "varnas". *Varna* refers to the Hindu belief that most humans were supposedly created from different parts of the body of the divinity Purusha. The part from which a varna was supposedly created defines a person's social status with regard to issues such as whom they may marry and which professions they may hold.

approach running contrary to deep-seated Indian beliefs, where the lower castes are destined to remain at the bottom of India's social and economic pecking order.



Mountain ranges in Himachal Pradesh

Instead, these vulnerable groups now had the opportunity to lift themselves, ever so slightly, out of the depths of poverty, experiencing limited prosperity and a new-found sense of dignity and independence.

Under the Khanayara-Dari Slate Quarry Board, local mining operations gained healthy annual profits, of which the panchayats received a percentage. Table 1 shows the yearly income the panchayats accrued from mining operations during the financial years of 1988-89, 1989-90 and 1990-91.

Over three years, from 1988 to 1991, Dari and Khanayara panchayats each earned between Rs. 4 to 4.5 lakhs (AUD10,880-12,240). These considerable funds were, for the most part, channelled directly into community-based development projects, and as the focus group participants enthusiastically explained, these were greeted with almost unanimous support by the local community.

## Continuous Litigations: Resilience of the Panchayats

Even though the Khanayara-Dari Slate Quarry Board had been managing mine operations since 1952, and receiving a substantial income, it wasn't all smooth sailing. Over 45 years, the two panchayats have been continuously embroiled in legal battles with the state government and other agencies, as well as against each other on one or two awkward occasions.

In the years before the mines' shutdown in 1997, the state government tried, at least on two occasions, to wrest control of the mines from the panchayats. The first attempt was as early as 1965, when the state government issued a notification under the Indian Forest Act 1927, which called for the suspension of the panchayats' 30 year title rights. The panchayat challenged this notification in the court of

## Continued from page 5 - Continuous Litigations: Resilience of the Panchayats

the Additional Judge of Kangra District, and the verdict came back in August, 1971 in favour of the panchayats.

In 1974, the state government introduced a new act called The Himachal Pradesh Village Common Lands (Vesting and Utilisation) Act 1974, enabling the state government to annex all the common lands, which were previously controlled by the panchayats<sup>5</sup>. Once more the panchayats challenged this action, taking their case to the Shimla High Court, and in April 1978, the panchayats won their appeal again, maintaining control and mining rights over 625 hectares of resource rich local land.

During the mid-1980s, a small group of villagers joined the All India Kisan Sabha, the peasant front of the Communist Party of India, and started mining slate from pits that the panchayats' board had previously shutdown for safety and environmental reasons. Concerned that these illegal mining operations might cause serious ecological damage or pose a threat to the local community's safety, the panchayats once again became entangled in more litigation, taking the All India Kisan Sabha's members to court. The court agreed with the panchayats that the mining activities were illegal and dangerous and the dissident villagers were forced to stop digging the quarries.

The Khanayara-Dari Slate Quarry Board's relatively successful experiment with community-based resource management ground to a screeching halt, however, in 1997 when a lawyer representing the Shimla High Court, Ms. Trisha Sharma, filed a lawsuit against the panchayats

claiming that their mining activities contravened environmental and safety regulations, causing pollution in the Beas and Ravi rivers. These rivers feed into the nearby Pong Reservoir, a wildlife sanctuary and water supply for surrounding villages. Also, the lawsuit claimed that the mining activities were actually illegal, according to state laws, as the panchayats didn't actually own the common lands, and included unauthorised construction<sup>6</sup>.



Children workers mine the riverbed in 15 to 20 feet deep quarries near the Ghagar River, in the Shivalik Hills of Himachal Pradesh.

Finally, after over forty years of litigation and struggling to survive, this proved to be the fatal blow - the panchayats lost their rights over the common lands, and the Shimla High Court ordered that all mining activities cease. The mining operations had to conform to the various state and federal mining and environmental laws, so the court ruled that under the Himachal Pradesh Minerals (Vesting of Rights) Act 1983, the state government could take over the common lands, seizing control of the slate quarries.

<sup>5</sup> In 2001, this act was amended again to give the common lands back to their original owners. Source: The Tribune (Chandigarh), August 24, 2001: "Bill on 'shamlat' land passed" available at <http://www.tribuneindia.com/2001/20010824/himachal.htm#5>

<sup>6</sup> A brief description of the cases and the judgments given in the case is available in a report titled 'Environmental Legislations' available at <http://www.hpensis.nic.in/envlegis.aspx>

## Present Status

These days, the mines are controlled by the Government of Himachal Pradesh's Department of Industries, but there are no active mines, apart from a few illegally operated pits. The Federal Ministry of Forest and Environment has, however, given the state government permission to resume mining operations on a selected 25 hectare tract of land, subject to the 'no objection certificate' by the State Pollution Control Board, and the consent of the abandoned and dispossessed panchayats, who, according to the revenue records, are still listed as the mining land's real owners. The state government's Department of Industries intend to distribute mining leases to a group of nominated individuals and companies.

Most villagers are unhappy with this new development, and they feel wealthy companies and upper class and caste individuals will regain control of the region's mining interests. Once again the lower caste and class groups and the indigenous feel like they're being shut out from sharing in the benefits of the region's economy, and that India's dominating classes are reasserting themselves, quashing the villagers' hopes of escaping the self-perpetuating cycle of poverty.

To date, about seventeen companies have been set-up by the wealthiest higher caste families, in an attempt to secure mining leases from the state government. But the

<sup>7</sup> See The Tribune, Chandigarh, January 6, 2004: "Nod to mining in Ghaniyara slate quarries" available at <http://www.tribuneindia.com/2004/20040126/himachal.htm#4>

## Continued from page 6 - Present Status

issue has become highly politicised and the Bharatiya Janata Party (BJP), India's major centre-right party and the ruling party from 1998 to 2004, and the current ruling party, the United Progressive Alliance (UPA) - a centre-left coalition dominated by the Indian National Congress - have been at loggerheads over the issue of who controls the mining rights in this part of Himachal Pradesh.

When the Khanayara-Dari Slate Quarry Board managed slate mines were shutdown by the Shimla Court Ruling in 1997, the BJP party were the nation's ruling party, and they were much more supportive of the state government, granting them permission to resume mining activities on a 25 hectares strip of land, despite dissatisfaction from the local community. Since 2004, however, the more progressive, liberal UPA party has taken over power, and this change in government might see mineral resource management policies that are more favourable towards the marginalised groups, like the lower castes and classes, and the indigenous.

Complicating things even more, since closure of the mines the region's population has increased dramatically, and the previous two panchayats of Khanayara and Dari, have each split into three panchayats, making six in total. According to the revenue records, however, the local common lands, covering 625 hectares, still remains under the names of the Dari and Khanayara panchayats - in other words, local titles haven't been amended to include the four newly designated panchayats.

In two panchayats, where the Pradhans or quarry bosses have stronger ties to the BJP, they have granted a 'no objection certificate' to the state government's Department of Industry for mining the disputed 25 hectare tract of land. In a direct challenge to the BJP supporters, the Khanayara panchayat, who traditionally back the UPA, passed a resolution against any such mining and rejected the 'no objection certificate' given by the two other panchayats.

It's of little surprise that most of the local community from the remaining four panchayats are unhappy about the Department of Industry's plans to resume mining operations. They feel this is just the first step towards a massive land grab that will see the wealthy classes and business interests wrestle control of land ownership and mining rights from the hands of the impoverished local community - ending the dream of revitalising the region's experiment with community-based mineral-resource management.

The local community can do little to stop this reversal of fortune, and they see themselves slipping back down the social ladder back to Indian society's lowest social and economic rung - they are no longer in control of their own destinies, as contractors and managers, but are once again taking on the role of voiceless labourers. While the BJP and the UPA squabble in the Indian Parliament, or Sansad, about who really owns the land and controls mining rights, scoring political points and pandering to their electorate, villagers face the real threat of losing all their rights and being plunged back in the depths of poverty and hopelessness.

*“Once again the lower caste and class groups and the indigenous feel like they're being shut out from sharing in the benefits of the region's economy, and that India's dominating classes are reasserting themselves, quashing the villagers' hopes of escaping the self-perpetuating cycle of poverty.”*



Map of Kangra District, in the north-west of Himachal Pradesh

### Workers in the Mines

The following skilled and unskilled workers were employed in the slate mining operations:

- Contractor (Karigar as well, in most of the cases)
- Zamindar (supervisor)
- Slate excavators (Karigars)
- Slada / meth (cutting specialists, who dresses the big of pieces slate into small pieces of slate)
- Labourers (involved in carrying slate)

### Using Slate Waste for Other Applications

The extraction of slate generates huge amounts of waste. As much as 50% of the material is wasted during the extraction, cutting and dressing operations. Based on laboratory work it is analysed that the slate waste can be used in the preparation of concrete blocks for application in building construction. These blocks are cheaper and more economically viable for use in hills where conventional bricks are in short supply.

### Divided Panchayats

In 2001, Dari and Khanayara panchayats were divided into in total 6 gram panchayats as following:

**Khanyara panchayat:** 1. Khanayara Khas, 2. Sokni Da Kot, 3. Sidhpur

**Dari panchayat:** 1. Upper Dari, 2. Lower Dari, 3. Barol

## Impacts of Mine Closures

The sudden closure of the region's slate mines had a devastating impact on the lives of the Khanayara villagers, and many in the local community found themselves jobless with no prospect of finding other employment. Some reports estimate that up to 20,000 locals lost their jobs, and mine closures didn't only affect the mineworkers, but also all the workers supporting the miners, such as mule owners, truckers, shopkeepers and other local businessmen. Despite the massive layoffs, neither the state government nor other agencies had the foresight or the sensitivity to set-up contingency strategies, offering alternative employment plans, support or welfare packages<sup>8</sup>.

During the focus group discussions, villagers talked passionately about how hard their lives have been since the mine closures. Girls can no longer find husbands, as their families can't afford to pay the dowries to the bridegroom's family, starvation is widespread, as families have no money to pay for food and other essentials, and migration is common, with villagers moving away in search of employment.

Migration is especially common among the generation which has matured since the mine shutdown - without mining jobs they're now forced to look elsewhere for work, often moving to nearby Dharamsala and other towns in Himachal Pradesh, or to other states across India.

On a more positive note, the lack of mining jobs means parents have to look elsewhere for opportunities, and are now encouraging their children to go to school in the hope that they can find higher paid jobs in the urban centres, offering brighter future prospects.



Over the last three years Himachal Pradesh has suffered continuous drought conditions, low snowfalls and low rainfall during the monsoon season, resulting in record financial losses in this predominantly agricultural state. Scientists suggest that this is a direct result of global warming (Makhaik, 2007).

<sup>8</sup> See The Tribune, Chandigarh, September 26, 2004, "HP policy renders 20,000 jobless", available at <http://www.tribuneindia.com/2004/20040926/himachal.htm>



## Livelihood vs. Environment - Environmental Politics

The Khanayara case raises some critical issues, pitting the ideas of development and environment against those of land ownership and use, and protecting the local's livelihoods. Even though the local community's traditional and customary rights over the local resources supports their livelihoods, helping them break out of the poverty cycle, the environmental destruction due to poor mining practices is cause for concern.

Like the rest of the world, over the last two decades environmental issues have become more and more important to the average Indian. The ecological devastation resulting from India's several large developmental activities - big dams, industrial development, large-scale mining - has impacted the poor and landless people most as these projects destroy forests, contaminate water sources, wipe out common grazing lands and displace people from their villages.

Ironically, environmentally conscious government policies often affect the poor just as badly as the massive development projects - in the name of conservation and environmental protection, the most vulnerable groups, like the lower castes and indigenous, lose their customary and traditional rights to local resources again costing them their livelihoods.

In a cynical move, the authorities and vested interests often use the environment as a double-edged sword to keep the poor and marginalised communities impoverished and compliant - activities promoting both environmental protection and environmental destruction can be used in this way.

One activist, based in the town of Palampur of Himachal Pradesh, describes it as an environmental paradox in which the people of this hilly state are entrapped. He recounts

how the government designated some parts of the local forest as protected, blocking the local community's access to it, and denying many their forest-derived incomes and jobs. As soon as an offer came from a vested interest or government department, however, to develop the land - promising profits and attractive incentives - the land would become de-notified again so the development project, such as a hydro project or a cement factory, could go ahead unhindered. With these development projects, the local community were now likely to be affected by water and air pollution and dispossession of land.

The case of the Great Himalayan National Park, hemmed in by the Himalayans in the Kullu region of Himachal Pradesh, is one striking example of this strategy of prevarication - the park was designated as protected land, denying locals access, to save the endangered Western Tragopans, or horned pheasant, but soon afterwards a part of the land called the Jeeva Nallah catchments became de-notified so the hydro development, Parvathi Hydro Project, could proceed (Saberwal et al., 2002).

Even though the Shimla High Court shutdown mining operations around Khanayara on the grounds that they caused ecological damage and threatened workers' safety, environmentally destructive mining activities are common across India, and limestone mining undertaken by the cement industry is no exception. Typically limestone mining operations occur in ecologically sensitive areas, and a study by the New Delhi-based Centre for Science and Environment (CSE) found that "... the regulations on the location of mines are so poorly implemented that many mines are located close to wildlife centuries and reserve forests... and there is a rush to set up cement plants and mines in Himachal Pradesh (CSE, 2005)."

***“One activist, based in the town of Palampur of Himachal Pradesh, describes it as an environmental paradox in which the people of this hilly state are entrapped. He recounts how the government designated some parts of the local forest as protected, blocking the local community's access to it, and denying many their forest-derived incomes and jobs.”***

### Community Rights over the Stone Mining Quarries in Riala Panchayat, Kullu District

Community-owned slate mines still exist in Sainj village of Raila Panchayat in the Kullu district of central Himachal Pradesh. According to the Revenue Settlement of 1864 and the Royal Revenue Settlement of 1895 the villagers have permission to mine slate for their own use. In 1998, however, the state government notified the slate mines, attempting to lease them out to private enterprises. With the help of the gram panchayat, the villagers took legal action against that state government, and were successful in retaining the rights to mine the slate for their own use.

## Continued from page 9 - Livelihood vs. Environment - Environmental Politics

At least three cement companies - Gujrat Ambuja, Jaypee Himachal and Jaiprakash Associates - operate active limestone mining operations in Solan district, in the south-west of Himachal Pradesh. According to local activists, the limestone mines of the Gujrat Ambuja Cement factory are located in land that was previously designated as environmentally sensitive areas, but was de-notified as soon as they wanted to establish mines. It's easy to understand the people's resentment and discontent - they are routinely blocked from using land that they have traditional and customary rights to, and are denied access to wildlife sanctuaries and reserved forests in the name of conservation and environmental protection.

But when it comes to granting permission to industry for commercial exploitation of resources, government authorities are almost always willing to bend the rules or disregard them entirely.

In this modern era of liberalisation and globalisation, the drive for profits trumps all other factors as the Indian government encourages development and investment, often at the expense of the rights of vulnerable groups and environmental integrity.

Ironically, the vested interests who support the pro-environment lobby are often the very same groups that back the pro-development lobby, particularly a specific type of development, led by industry and private sectors, called Special Economic Zones (SEZs). In an odd twist, the same lawyer who succeeded in shutting down the mines of Khanayara and Dari village over environmental concerns in the Shimla High Court, also lodged a Public Interest Litigation<sup>9</sup> in the same High Court strongly suggesting that the government initiate a series of SEZs in the state. Although Public Interest Litigation is supposed to protect the local community's interests, this legislation worked in the opposite way, promoting the formation of SEZs which are a kind of sanctuary for industrialists and commercial enterprises - in these highly protected zones they can operate with almost total impunity, freely exploiting the local labour force and resources.

Across both Himachal Pradesh, and the rest

of India, the existence of small-scale traditional and customary mining operations, like slate and sand mining, is under threat. The government is shutting down these mines, the lifeblood of so many lower caste and indigenous Indians, citing environmental mismanagement and ecological destruction to justify their actions, but the government's policy show cracks and inconsistencies, as they enthusiastically welcome hydro projects, limestone mining for cement factories and other such developments on the very same land.

Khanayara village itself has been affected by the inconsistent approach the government takes to regional development and environmental protection. State legislation shutdown the slate mines on environmental grounds, but in a policy flip-flop, the state government has now approved the implementation of the Maujhi Hydropower Project, to be launched by a private company called Dhar-amshala Hydro Power Limited.

During focus group discussions, villagers talked passionately about how mining rights were taken away for environmental reasons even though their mining operations were small-scale. They agreed that the mining practices they employed were outdated, and polluted the surrounding environment, but they angrily explained that the massive government-backed development projects caused ecological destruction on a much larger scale. To build reservoirs and tunnels, developers engage in intensive digging and mining activities, using explosives and heavy earthmoving machines, causing severe air, water and noise pollution. Village people allege that it would take about 100 years for their small-scale mining activities to have the same environmental impact that massive development projects achieve in only a few months.

When local activists and villagers were interviewed during this case study, they argued that the government really has very little interest in protecting the environment, and that they only protect the land to deny the local community access, so they can avoid legal wrangling when commercial enterprises approach government for development approval.

***“During focus group discussions, villagers talked passionately about how their mining rights were taken away for environmental reasons even though their mining operations were small-scale. They agreed that the mining practices they employed were outdated, and polluted the surrounding environment, but they angrily explained that the massive government-backed development projects caused ecological destruction on a much larger scale.”***

<sup>9</sup> Public Interest Litigation, in Indian law, means litigation for the protection of public interest. It is litigation introduced in a court of law, not by the aggrieved party but by the court itself or by any other private party.

### Continued from page 10 - Livelihood vs. Environment - Environmental Politics

A local social worker recounted that during the court proceedings, the prosecutors didn't even bother to look at the mine sites to see the alleged ecological damage themselves, basing their entire case on hearsay. "They were local issues..." he explained, "...and could have been sorted out locally". Once again, the Khanayara case is yet another example of the state government's underhanded strategy to restrict the disempowered local communities from using their own resources on their traditional lands.

Although the Indian government amended the Indian Constitution to give more rights to the panchayats in 1992<sup>10</sup>, rights which had existed since 1952, these were almost immediately revoked by the state government. The decentralised planning approach - briefly introduced under the 1992 amendment before it was rescinded by the state government - set its sights on empowering the panchayats, and might have been the way to address the conflict of interest between ensuring environmental protection while safeguarding the people's livelihoods.

But in the end, the state government favoured a centralised system, where decisions on land titles, designating protected lands and de-notifying the land were all carried out by the state courts, who, more often than not, simply rubber-stamp the state government's proposals.

<sup>10</sup> The Constitution (73rd Amendment) Act, 1992 has added a new part IX consisting of 16 Articles and the Eleventh Schedule to the Constitution. The 73th Amendment envisages the Gram Sabha as the foundation of the Panchayat Raj System to perform functions and powers entrusted to it by the State Legislatures. "Gram Sabha" means a body consisting of persons registered in the electoral rolls within the area of the panchayat at the village

## Bibliography

CMRI, 1995. "Interim Report on Advise regarding Scientific Mining in Ghanayara Slate Mines of Kangra Valley", Himachal Pradesh"

CSE, 2005. "Cement industry 'green' only when it suits its pocket, says CSE rating study", December 26, 2005. Available at [http://www.cseindia.org/programme/industry/press\\_20051216.htm](http://www.cseindia.org/programme/industry/press_20051216.htm)

Makhaik R., 2007. "Global warming, Himachal could spell disaster for India". Available at <http://himachal.us/category/environment/page/2>

Saberwal V., and A. Chhatre, 2002. "The Parvati and the Tragopan: Conflicting Claims in the Great Himalayan National Park" available at <http://www.indiatogether.org/environment/articles/ghnp/>

Sharma A., 1998. "Community Based Management of Khanyara Slate Quarries in India: A Case in Environmental Conflict Resolution, Participatory Regulation and Peoples' Involvement in Greening the Hot Spots" available at <http://srdis.ciesin.org/cases/india-040.html>

Soni A.K., 2003. "Utilization of Slate Mine Waste: A Study", Central Mining Research Institute (CMRI)

### Artisanal and Small-Scale Mining (ASM) in Asia-Pacific Portal <http://www.asmasiapacific.org>

#### ASM Asia-Pacific Case Study Series

This series of case studies documents concrete examples of equitable, effective, and sustainable local-level partnerships including small-scale miners or their communities as a guide to develop better policy and practice in the Asia-Pacific region.

The project has been led by Kuntala Lahiri-Dutt. The case studies have been edited by Joel Katz and designed by Rachel P Lorenzen.

#### Artisanal and Small-Scale Mining (ASM) in Asia-Pacific Portal

The ASM Asia Pacific Portal is the public interface of a loose network of individuals and institutions working on poverty eradication, development and livelihoods in Artisanal and Small-scale Mining (ASM) in the Asia-Pacific region.

The portal's mandate is to disseminate knowledge about ASM in the Asia-Pacific, to document best practice in community development and environmental management, and to promote fellowship and cooperation among stakeholders interested in poverty eradication and sustainable development.