

“The impact of militarization on the rights of Indigenous Peoples”

INDIA



The Indigenous Rights Advocacy Centre (IRAC) is a not-for-profit organization that advocates for the rights of indigenous peoples in India. IRAC seeks to combine practice, research, advocacy and collaboration as an effective method to promote and protect the individual and collective rights of indigenous peoples.

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Indigenous Peoples Rights International (IPRI) is a global indigenous non-for-profit organization established in 2019 and legally registered in the Philippines. IPRI works in the protection of Indigenous Peoples rights coordinating and implementing the Global Initiative to Address and Prevent Criminalization, Violence, and Impunity Against Indigenous Peoples and the Legal and Sanctuary Fund among other activities.

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The impact of militarization on the rights of Indigenous Peoples in India

Militarization of regions inhabited by the Adivasis/tribals/indigenous peoples,¹ especially in the Northeast India² and states affected by what the Indian government terms 'Left Wing Extremism' (LWE)³ has led to violation of human rights of the indigenous peoples in India. This submission is focused on three main areas where militarization is common, i.e. in the Northeast region and areas with suspected Maoist control, in conservation, and a specific context on the impact of militarization to women and girls.

1. Areas of militarization in India

A. Northeastern region

The Armed Forces (Special Powers) Act, 1958 (AFSPA) under which the armed forces have sweeping powers to search, arrest or even kill is currently enforced in four states of the Northeast namely Assam, Arunachal Pradesh, Nagaland and Manipur. Under section 3 of the AFSPA, "disturbed areas" have been declared in the entire state of Manipur excluding Imphal Municipal Area⁴, nine districts of Assam,⁵ nine districts of Nagaland, and three districts of Arunachal Pradesh.⁶ The killing of 14 innocent Naga tribal coal miners by the Indian army, in an alleged case of mistaken identity, during an operation in Mon district of Nagaland on December 4, 2021⁷, is a perfect example of the dangers of militarization and impunity given to the armed forces under the AFSPA. A First Information Report (FIR) filed by the Nagaland Police said that the Army's 21 Para Special Force "blankly opened fire" with the "intention to murder and injure civilians".⁸ The Indian Army ordered a Court of Inquiry while the Nagaland Government set up a Special Investigation Team (SIT) to investigate the killings.⁹ The SIT has submitted charge-sheet in the local court against 30 army personnel who took part in the botched operation,¹⁰ but the Central Government has not given sanction to prosecute them as required under Section 6 of AFSPA.¹¹ In July 2022, the Supreme Court stayed the criminal proceedings against the accused army personnel on the ground that prior sanction as required under AFSPA had not been obtained.¹²

Earlier on June 4, 2021, a Kuki tribal named Mangboilal Lhouvum (29 years), Son of Sehnam Lhouvum, was allegedly killed in cold blood by Major Alok Sathe, the post commander of the E Company of the 44th Assam Rifles in Kangpokpi district of Manipur.¹³ The Assam Rifles tried to portray him as a member of the militant outfit Kuki Revolutionary Army but the Kuki civil society organizations and family members strongly refuted the allegation.¹⁴

B . Militarization in areas affected by Maoist insurgency

According to the Ministry of Home Affairs, the geographical spread of Maoist insurgency has been restricted to 191 Police Stations (PSs) in 46 districts spread across 8 States in 2021 as compared to 330 PSs in 76 districts spread over 10 States in 2013. Chhattisgarh is worst affected by the Maoist insurgency, followed by Jharkhand, Odisha, Maharashtra and Bihar.¹⁵ All the Maoist-affected areas are inhabited by the indigenous peoples who have been sandwiched between the State and the armed opposition groups. While the Maoists regularly kill, kidnap and torture them on the suspicion of acting as "police informers", the indigenous peoples are subjected to gross human rights abuses at the hands of the security forces. The anti-Maoist operations are mainly conducted by joint security forces comprising of Commando Battalion for Resolute Action (CoBRA) which is a specialized force under the Central Reserve

Police Force (CRPF), India Reserve Battalions and the State Police, including specialised forces of the State Police such as Jharkhand Jaguar (in Jharkhand), District Reserve Guards (in Chhattisgarh) etc. The human rights violations by the security forces included killings in alleged fake encounters, torture/harassment and arbitrary arrest on false charges of being Maoist cadres or supporters. In Chhattisgarh, there are allegations that the security forces have conducted aerial bombings using drones in the jungles near to the villages inhabited by the indigenous peoples to target Maoists' hideouts.¹⁶ Tribal villagers in Pamed block of Bijapur district of Chhattisgarh have alleged that on the intervening night of April 14-15, 2022, the jungles near their villages were bombed; but the police refuted the allegation calling it a "Maoist propaganda".¹⁷

Alleged fake encounter killings continued to take place. On June 12, 2021, a tribal named Bramhadev Singh (24 years) was shot dead as an alleged Maoist by the combined security forces in Kuku-Piri forest under Garu police station in Latehar district of Jharkhand.¹ A fact-finding report by Jharkhand Janadhikar Mahasabha claimed that it was a fake encounter and the security forces which participated in the alleged encounter were 203rd Battalion CoBRA, 214th Bn. CRPF and Jharkhand Jaguar.² Another tribal, Santosh Markam (35 years) was allegedly tortured and shot dead by the State Police in front of fellow villagers and levelled as a "dreaded Naxalite" at Neelavaya village in Dantewada district of Chhattisgarh on June 27, 2021.¹⁸

Further, on July 15, 2021, the security forces claimed to have gunned down three Maoists in an encounter at Bhairamgarh in Dantewada district, Chhattisgarh.¹⁹ But the locals claimed that the deceased were civilians who had gone to buy cattle. They were having a meal at a house when the District Reserve Guards (DRG), a specialised force under the State Police allegedly dragged them and shot them dead.²⁰

On the intervening night of January 23-24, 2022, Manu Ram Nureti (23 years), a tribal villager, was killed in an alleged fake encounter with the DRG near Bharanda village in Narayanpur district of Chhattisgarh. The police claimed that following an encounter "the body of a Maoist and a muzzle loading gun were recovered from the spot". But the family members of the deceased refuted this and claimed that he had gone with some friends to hunt birds with slingshots.²¹ On January 31, 2022, Bastar's Inspector-General of Police Mr Sunderaj P admitted that indeed Manu Ram Nureti was not a Maoist.²² Yet, no action was taken against the accused DRG personnel. On the contrary, on March 12, 2022, the deceased's wife wrote to the Chief Minister of Chhattisgarh alleging that her complaint was not registered and family members were pressured by the local police to change their statement and to support the police version.²³

"Fake encounters" of tribal civilians have been established by judicial commissions but no action has been taken against the guilty security forces. A judicial commission headed by Justice (retired) V.K. Agarwal, which investigated a 2013 encounter killing, submitted its report to the Chhattisgarh government on September 8, 2021. The Justice V.K. Agarwal Commission has found that none of eight tribals including four children gunned down by the

¹ Vallari Sanzgiri, "100 days on, Piri villagers still await justice for Brahmadev Singh", Sabrang, October 7, 2021, <https://www.sabrangindia.in/article/100-days-piri-villagers-still-await-justice-brahmadev-singh>

² The fact-finding report is available at https://drive.google.com/drive/folders/1JX3tTrtLtmRC-KsqSHToAgRt_1Z6fmg9

security forces was a Maoist. In fact, the tribal victims were unarmed and shot dead by the Commando Battalion for Resolute Action (CoBRA) unit of the Central Reserve Police Force (CRPF) at Edesmetta village in Bijapur district of Chhattisgarh on the night of May 17-18, 2013.²⁴ Similarly, in another encounter killing case, the Justice V.K. Agarwal Commission also found that the CRPF personnel had killed 17 innocent tribals, including seven children at Sarkeguda village in Bijapur district of Chhattisgarh on June 29, 2012. The Justice V.K. Agarwal Commission's report on Sarkeguda encounter was tabled in the Chhattisgarh State Assembly on December, 3, 2019 but till date no action has been taken against the guilty security forces.²⁵

Several indigenous peoples have been charged/arrested under the draconian Unlawful Activities (Prevention) Act, 1967 (UAPA) and other laws. Between August 2021 and January 2022, the Jharkhand Janadhikar Mahasabha (JJM), a coalition of human rights organizations, conducted a survey and found 31 "innocent" Adivasis in Gomia and Namadih blocks of Bokaro district of Jharkhand who have been "falsely" accused of being Maoists and charged under UAPA and other laws. Most of them were illiterate and poor.²⁶

Many tribal villagers have been allegedly picked up and tortured in police custody on the allegation of being supporters of the Maoists. On the midnight of February 23, 2022, one Anil Kumar Singh (42 years), S/o Late Chaman Singh was picked up from his house on the charges of helping the Maoists, and allegedly tortured by Garu police station's officer in-charge Ranjit Kumar Yadav and other policemen in Latehar district of Jharkhand. The victim was allegedly beaten with sticks and petrol was poured into his anus until he fell unconscious.²⁷ The next morning, the police let the victim go saying that he was picked up by mistake.²⁸ Despite instructions from Chief Minister Mr Hemant Soren to take action against the guilty police officer,²⁹ the local police even refused to register the FIR of the victim.³⁰ On 22 August 2022, a local court directed registration of FIR against the accused police officer.³¹

In several cases, the courts have found that tribals were arrested/jailed in false and frivolous cases. In October 2021, a district court in Dakshina Kannada district in Karnataka acquitted a tribal youth, Vittala Malekudiya (23 years) and his father Lingappa Malekudiya who were charged under UAPA as Maoists nine years ago in March 2012.³² In July 2022, a National Investigation Agency (NIA) court in Chhattisgarh acquitted 121 tribals five years after they were arrested for alleged links to a Maoist attack in which 25 security personnel were killed in 2017. They were held under the UAPA but the NIA court held that there was no evidence that the tribals had any association with the Maoists.³³ Despite the acquittal, 13 out of 121 tribals continued to be in jail in other cases.³⁴

Indigenous human rights defenders (IPHRDs) face great risks to personal safety and liberty in the conflict areas. On March 9, 2021, when hundreds of Adivasi women from across different villages had gathered at Sameli village in the conflict-torn Dantewada district of Chhattisgarh to mark International Women's Day, a large group of paramilitary force personnel came and arrested Ms Hidme Markam, a well-known IPHRD. She was branded as a "dreaded Naxalite" and jailed under serious charges under the Indian Penal Code and the draconian Unlawful Activities (Prevention) Act (UAPA). But the police failed to prove the charges. Markam has now been acquitted in four cases and granted bail in the fifth case and released from the Jagdalpur Central Prison on January 5, 2023.³⁵

With regards to the link between militarization and violation of the land rights of the indigenous peoples, the State has been constructing roads into the territories of the indigenous peoples and

along the roads, numerous security camps have been established to fight the Maoist insurgency. But such land acquisitions have been done without the consent of the local Gram Sabhas (village councils) which is mandatory in areas under 5th Schedule to the Constitution of India where the Panchayat Extension to Scheduled Areas (PESA) Act 1996 is applicable. Tribals in Chhattisgarh have held protests against setting up of new security camps without obtaining their free, prior and informed consent (FPIC) or consultation with them. Reports stated that 42 security camps have been set up including six camps in 2019, 17 camps in 2020, 13 camps in 2021 and 6 camps in 2022 in Chhattisgarh.³⁶ While the State has defended the necessity to set up more security camps to protect the people from the armed opposition groups and to bring development, the tribals have accused the State of forcible encroachment of their traditional land and harassment by the security forces wherever such security camps have been set up. In December 2020, at least 50 representatives of panchayat bodies, including 38 sarpanchs (village heads), resigned in protest against setting up of two Border Security Force (BSF) camps on the land considered sacred by the tribals at Katgaon and Kamdera villages in Kanker district, a 5th Schedule Area, in Chhattisgarh.³⁷ The tribals also protested against the construction of a new police camp at Dondribeda in Narayanpur district on December 16, 2022.³⁸

Earlier, on May 17, 2021, three tribal protestors including a minor boy were killed in police firing at Silger village in Sukma district of Chhattisgarh where the tribals were protesting against setting up of a CRPF camp.³⁹ The police were quick to dub them as “Maoists”,⁴⁰ although a fact-finding report found them to be civilians.⁴¹ No official investigation has been conducted into the killings.

2. Militarization in conservation

India’s conservation policy is anti-indigenous peoples, as it seeks people-free protected areas without having regard for the rights of the indigenous and other local communities living in these protected areas. The Indian Forest Act, 1927 and the Wild Life (Protection) Act, of 1972 [WLP Act, 1972] have effectively criminalized the existence of the indigenous peoples in and around the forest. Anyone collecting firewood or honey or tendu leaves or fishing in the forests can be dubbed as a poacher or smuggler and shot at/killed, tortured or arrested; and tribal women have been subjected to sexual harassment. On March 27, 2021, 16 women and eight men belonging to the Lambada tribe were allegedly beaten up and some women were stripped naked by the forest guards when they went inside the Amrabad Tiger Reserve in Nagarkurnool district of Telangana to collect ‘Mahua’ flowers which is a major livelihood source for the tribals who have the right to collect minor forest produce, including Mahua flowers, under Section 3(1) of the FRA, 2006.⁴² Instead of taking action against the accused forest guards, action was taken against the tribals who went to collect mahua flowers under the WLP Act, 1972.⁴³ On December 1, 2021, Basava (37 years), belonging to the Jenu Kuruba tribe, was shot and injured by the forest guards in the Hunsur wildlife range of Nagarhole Tiger Reserve in Karnataka.⁴⁴ Basava went near the forests to answer the call of nature when he was shot at.⁴⁵ The police refused to lodge the complaint filed by his wife Pushpa⁴⁶ but Basava has been falsely implicated in a sandalwood smuggling case.⁴⁷ Similarly, on September 20, 2022, a tribal youth named Sarun Saji (24 years) was arrested in a fabricated case (of selling deer meat) allegedly foisted by the forest officials of Kizhukanam forest section in the Idukki Wildlife Sanctuary, Idukki district of Kerala. The victim was allegedly tortured in custody in order to extract confession after he was arrested on the charges of smuggling of deer meat.⁴⁸ A preliminary investigation by the forest department found that the wild meat was kept in the tribal youth’s

autorickshaw by the forest officials and on that basis he was arrested in a fabricated case. In this connection, seven forest officials have been suspended⁴⁹ but the false case against Sarun has not been dropped and he continues to face false prosecution.⁵⁰ Earlier, on February 15, 2022, Borsing Tiso, a Karbi tribal, was shot dead by the forest guards inside the Sonaikuchi Reserve Forest in Morigaon district of Assam when he along with other villagers went to the nearby reserved forest area to cut wood.⁵¹ On the night of August 9, 2022, the forest officials opened fire killing a tribal man identified as Chain Singh (33 years), belonging to Bhil tribe, and injuring three others near Khatyapura village under Lateri police station in Vidisha district of Madhya Pradesh.⁵² The deceased along with seven other villagers were returning home after collecting dry wood for cooking when the forest guards intercepted them and opened fire.⁵³ Later the forest department claimed that they were timber smugglers and the forest guards fired in self-defence.⁵⁴ On August 25, 2022, a tribal man identified as Ankush Gorelal Mavaskar (25 years), belonging to the Korku tribe, was allegedly burnt with a hot iron rod by the forest guards after he was caught fishing in the Melaghat Tiger Reserve in Amravati district of Maharashtra.⁵⁵ On December 17, 2022, a Bodo tribal woodcutter identified as Nirmal Basumatary (50 years) was shot at and critically injured by the forest guards who mistook him for a timber smuggler at Batabari forest range of the Manas National Park in Baksa district of Assam.⁵⁶

3. Gender-based violence against indigenous women and girls

Indigenous women and girls have been subjected to gender-based violence including sexual abuses at the hands of the security forces. On February 18, 2021, two indigenous women aged 20 years and 35 years (names withheld) were allegedly picked up by the police from their village Gudse in Dantewada district of Chhattisgarh and the next day they were photographed along with four others as “surrendered Maoists”. On February 23, 2021, one of them (name withheld) allegedly died in police custody under suspicious circumstances.⁵⁷ Similarly, on May 30, 2021, another woman aged 24 years (name withheld) was allegedly abducted from her house and killed in police custody in Dantewada district, Chhattisgarh. The police claimed that she was killed in an encounter with the Maoists on May 31, 2021 and arms and ammunition were recovered from her but her mother alleged that her daughter’s body had injuries on her breasts, thighs and her hand.⁵⁸

Further, on October 4, 2022, a tribal widow (50 years) was allegedly gang-raped by two India Reserve Battalion (IRBn) personnel under Serengdag police station area in Lohardaga district of Jharkhand. After raping her, the accused attacked her private part with a sharp-edged weapon leaving her critically injured.⁵⁹

On November 11, 2022, the security forces allegedly tortured many innocent tribal villagers, including women, during a search operation at Chiriyabeda hamlet in West Singhbhum district of Jharkhand. The Jharkhand Janadhikar Mahasabha (JMM) which conducted a fact-finding investigation alleged that the security personnel entered into the house of one elderly tribal widow (name withheld), allegedly molested her 16-year-old daughter (name withheld) and beat up the elderly widow when she tried to protect her minor daughter. The JMM also alleged that another 16-year-old boy was brought down from a tree and beaten. When his mother came to rescue him, the security personnel allegedly held her hands and kicked her and hit her with a rifle butt and dragged her to her house. The JMM claimed that its fact-finding team also found that the security forces “destroyed many people’s paddy, clothes, utensils etc. kept in their houses and the paddy in the khaliyan (threshing area).”⁶⁰

¹. In this report, the terms ‘Adivasi’, ‘tribal’, ‘indigenous peoples’ have been used interchangeably

². Presently, the Armed Forces (Special Powers) Act, 1958 under which the armed forces have been given special powers and absolute impunity is effective in four states of Northeast India which are predominantly inhabited by the indigenous peoples, namely the whole of Nagaland, Assam, Manipur (excluding Imphal Municipal area) and parts of Arunachal Pradesh. The Act was withdrawn from Meghalaya in 2018.

³. Please see Annual Report 2021-22 of the Ministry of Home Affairs, Government of India, pp.9-10,

https://www.mha.gov.in/sites/default/files/AnnualReport202122_24112022%5B1%5D.pdf

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⁵. <https://www.mha.gov.in/sites/default/files/2022-11/Assam.pdf>

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https://www.mha.gov.in/sites/default/files/AnnualReport202122_24112022%5B1%5D.pdf

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