

# Indigenous Rights Monitor

A Quarterly Newsletter of  
Indigenous Rights Advocacy Centre

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## Message from the Executive Director

Dear friends and colleagues,

We are pleased to present you the first issue of IRAC's Quarterly Newsletter titled "Indigenous Rights Monitor". It is an outcome of our consistent efforts and commitment to document and analyse the current human rights situation of the indigenous peoples of India.

Our world has been turned upside down by the COVID19 pandemic since the beginning of 2020. The pandemic-induced lockdowns and other restrictions have severely affected the economy and the marginalized sections such as the indigenous peoples, Dalits and others have been hit the hardest. The pandemic has totally destroyed the livelihood of millions pushing them into deep poverty and further marginalization. Yet, unfortunately, during this trying times also, the indigenous peoples have faced forced evictions and alienation from their land, resources and deprivation of livelihood by the State across India.

During May-August, IRAC has intervened in 51 cases of serious human rights violations out of which 7 cases involved torture by security forces/police/forest officials, 6 cases of forced eviction, 5 cases of extrajudicial killing, 4 cases of arbitrary arrest, 3 cases of custodial death due to alleged torture in police custody, 3 cases of starvation/malnutrition, 3 cases of witchcraft related murders, 2 cases of denial of government ration, 2 cases of torture at the order of the panchayat (village council), 1 case of tortured to death by a non-tribal mob, 1 case of land grabbing by State, 1 case of harassment of human rights activist, and 13 cases related to various other violations. This Newsletter has attempted to bring out the harsh realities of the indigenous peoples' existence during the pandemic when they faced forced evictions, criminalization and extrajudicial killings with impunity. IPHRDs or who defend IP rights continued to face criminalization, as exemplified in the arrest and continued detention of Hidme Markam under draconian UAPA, death of Father Stan Swamy without bail under UAPA in July, and externment notice issued to Valsingh Saste.

IRAC has set up a dedicated **legal helpline number** for the victims. If case of legal help, please call **+91-9667279541** (10 AM-5 PM on Monday-Friday)

**RIGHTS VIOLATION UNDER THE LENSE OF IRAC**

## **MP: Forced eviction of 40 tribal families amid COVID19 pandemic**

On 10 July 2021, 40 Adivasi families belonging to Bhil and Barela tribes were attacked and forcibly evicted from their land by the forest department, police and a mob consisting of over 200 men at Negaon village under Jamuniya Panchayat in Khandwa district of Madhya Pradesh. The mob was allowed to loot food grains, chickens, goats, household items, mobile phones, cycles from the homes of the Adivasis. The thatched huts of the Adivasis were destroyed using JCB machines and their fields were allegedly dug up by JCBs and sprayed with toxic chemicals to prevent any further possibility of farming. Many Adivasi villagers, including women were beaten up. Three villagers identified as Ramlal, Mahesh and Sekariya were beaten and detained along with three activists of the Jagrit Adivasi Dalit Sangathan (JADS). As a result of this illegal eviction, 40 families comprising a total of 212 people, including at least 60 children were left without shelter amidst the rainy season and COVID-19 pandemic. The situation was so dire that the Adivasis were able to escape with just the clothes they were wearing.

**“The Adivasis were able to escape with just the clothes they were wearing.”**



**STATE REPRESSION:** Police and forest officials demolishing tribal huts using JCBs at Negaon village in Khandwa district. Photo credit: Jagrit Adivasi Dalit Sangathan (JADS), twitter handle @JADS\_mp

## CRIMINALIZATION OF RIGHTS ACTIVISTS



### Arrest and detention of Hidme Markam

On 9 March 2021, prominent indigenous rights activist Hidme Markam (28 years, female) was picked up from an event marking the International Women's Day at Sameli village under Aranpur police station in Dantewada district of Chhattisgarh. She is the convenor of Jail Bandi Rihai Committee (Committee for Release of Prisoners) and member of Chhattisgarh Mahila Adhikar Manch. She has been in jail for the last six months, without bail, under serious charges including murder under Indian Penal Code, Arms Act, Explosives Substances Act, and Unlawful Activities (Prevention) Act.

The charges against her seem to be cooked up. Her lawyer Gayatri Suman has denied involvement of Ms Markam with Naxal. The police claimed that she had been absconding and she carried a reward of Rs 1.10 lakh. But rights activists have pointed out that she has been publicly active and have met several leaders and officials including the Chief Minister, Governor, District Collector, Police Superintendent of Dantewada, Ministers and Members of Legislative Assembly on numerous occasions. It is widely believed that Ms Markam was targeted for her human rights works.



### Rights activist receives externment notice!

On 22 July 2021, the District Administration of Barwani in Madhya Pradesh issued a show cause notice to Valsingh Saste (48 years, male), an indigenous human rights activist and member of Jagrit Adivasi Dalit Sanghatan (JADS) as to why he should not be externed for one year from the district. The said notice was issued under the Madhya Pradesh Rajya Suraksha Adhiniyam-1990 (Madhya Pradesh State Security Act of 1990). While listing out 16 cases registered against Valsingh, the district collector alleged that Valsingh was a "infamous criminal" who is involved in cases of murder, attempt to murder, fights, and illegally possessing arms, and resorting to organising rallies, chakka jam, provoking common people against the district administration in the garb of being a worker of JADS and disrupted peace in the region.

But the JADS has pointed out that Valsingh was acquitted by the court in nine out of 16 cases mentioned in the notice. In the remaining cases, he was booked for peacefully protesting against corruption, for tribal rights and for his involvement in Adivasi campaigns for their rights and legal entitlement.

Externment orders are passed under state-specific laws which provide for a person's inter as well as intra state removal for a certain specified period.



RIGHTS VIOLATION UNDER THE LENSE OF IRAC

## Manipur: Alleged extrajudicial killing of Mangboilal Lhouvum by Assam Rifles



A screengrab of a video of protests by the locals. Photo credit: eastmojo.com

On the night of 4 June 2021, around 9 pm, Mangboilal Lhouvum, 29, was allegedly whisked away and killed by the 44-Assam Rifles (AR) at Chalwa village in T Waichong Sub Division in Kangpokpi district of Manipur. The AR, a Central paramilitary force, is under the operational control of the Indian Army. The locals alleged that Major Alok Sathe, the post commander of the E Company of the 44-AR at Banglabung outpost, shot and killed Mangboilal. The deceased worked as a helper to a truck driver and earned approximately Rs 300 per day. He was the only earning member of the family. The deceased belonged to the Kuki tribe. He is survived by wife, Neikhochong Lhouvum, and four children aged 7 years, 6 years, 3 years and 1 year.

### Complaint against Assam Rifles major

Following a complaint filed by deceased's father Sehlam Lhouvum, a First Information Report (FIR) was registered at Kangpokpi police station on 5 June against Major Alok Sathe, jawan Amar and two others under sections 302 (murder) and 34 (common intent) of Indian Penal Code and under the Arms Act. According to the complaint, Major Sathe and his three juniors were all in civil dress, although armed, during the search operation at Chalwa. It is alleged that Mangboilal was first made to drink alcohol and subsequently taken to the roadside and shot in a fake encounter. Speaking to the media in Kangpokpi, the deceased's wife Neikhochong Lhouvum said, "We went for work and returned in the afternoon and after having food, he went out to visit their neighbour's house... after a gunshot was heard, I was informed that my husband was lying injured on the road. I rushed to the spot only to find him grievously wounded and in a critical condition". Mangboilal died while being taken to the Kangpokpi district hospital. His last words were "Major Alok shot me".

## Impunity of Central security forces under ASFPA

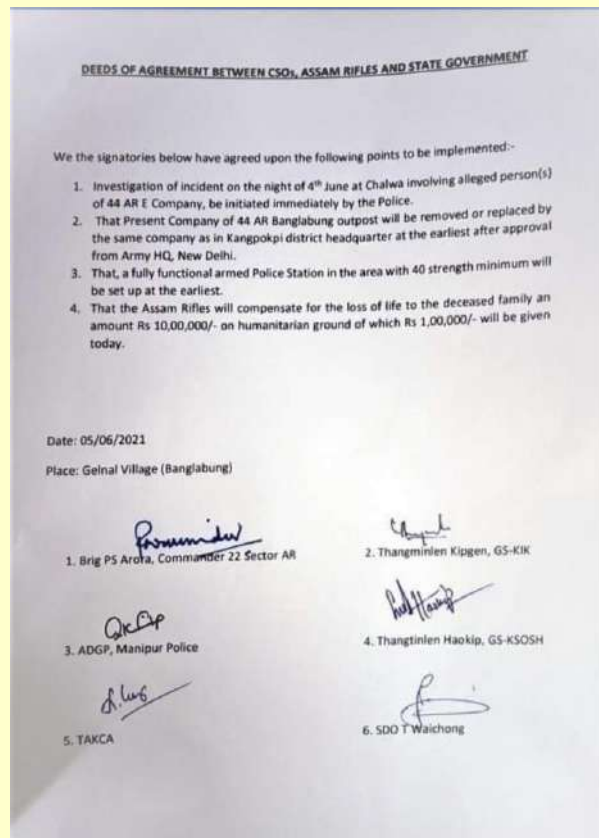
On 6 June, the Press Information Bureau (Defence Wing), Imphal, issued a statement claiming that the Assam Rifles team had launched an operation based on specific intelligence to “nab secretary of KRA [Kuki Revolutionary Army] along with 3-4 cadres in Kangpokpi district, Manipur”. While the Assam Rifles team was making inquiries, KRA cadres and their accomplices “manhandled” one of the personnel and attempted to fire on the troops and the security forces retaliated with minimum force. In other words, the Assam Rifles branded the deceased as a KRA cadre. This was strongly denied by the KRA as well by the civil society organizations and family members of the deceased.

Earlier, on 5 June, the escalating tensions had been brought under control with the signing of an agreement among the Indian Army, the Manipur Police, the state government and local civil-society organisations. The agreement stated that the police would immediately launch an investigation into the incident, and that the present the 44 Assam Rifles Banglabung outpost would be removed and replaced with a fully functional armed police station at the earliest. It also assured that the Assam Rifles would pay a compensation of Rs 10 lakh (1 million) to Mangboilal’s family.

But, according to a local civil society leader of the Kuki people who spoke to IRAC, “The Agreement signed was not fulfilled; now the Assam Rifles seem to have turned a blind eye to the ‘gentleman’s agreement’ which is unbecoming of officers of their stature.” The deceased’s family has received only Rs 2 lakh as compensation and the Assam Rifles allegedly refused to pay the remaining amount because the deceased’s father had filed a police complaint against Major Sathe. It is alleged that Pradeep Kumar, the commanding officer of the 44 Assam Rifles company, wanted the withdrawal of the FIR in exchange for the rest of the money.

Though the Kangpokpi police station has registered a murder case against Major Sathe and three others, and Manipur Chief Minister N Biren Singh has also assured to give a befitting punishment to the wrongdoers, in reality the Manipur Government or the State Police has no jurisdiction over the central armed forces under section 6 of the Armed Forces (Special Powers) Act, 1958 which states, “No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.” The accused Assam Rifles personnel have been produced in the court but not arrested as they enjoy impunity under AFSPA.

Mangboilal Lhouvum is the latest victim of extra-judicial killing by the security forces in Manipur. In fact, the families of 1,528 victims of extra-judicial killings by State and Central forces have been fighting court battles for justice under the aegis of the Extra-judicial Execution Victims Families Association (EEVFAM).



A screenshot of the agreement signed among Civil society organisations, Assam Rifles and the state government. Photo credit: The Wire

## ADVOCACY

### IRAC writes to JICA to respect rights of IPs in India

On 3 June 2021, IRAC wrote to the President of the Japan International Cooperation Agency (JICA), via email through the India office, urging the JICA to prepare “Indigenous Peoples Plan” after the free, prior, and informed consultation with the affected Indigenous Peoples’ communities reflecting their social and economic benefits that are culturally appropriate and to secure their future livelihood, and the Indigenous Peoples Plan must include the elements laid out in the World Bank Safeguard Policy, OP4.10, Annex B i.e. “Indigenous Peoples Plan” while funding development projects in India. The IRAC took strong cognizance of a media report which stated that tribals were forcibly evicted and their houses demolished by using JCBs (bulldozers) by the Ahmedabad Municipal Corporation (AMC), Gujarat, to make way for the phase 2 of Ahmedabad metro rail project funded by the JICA.

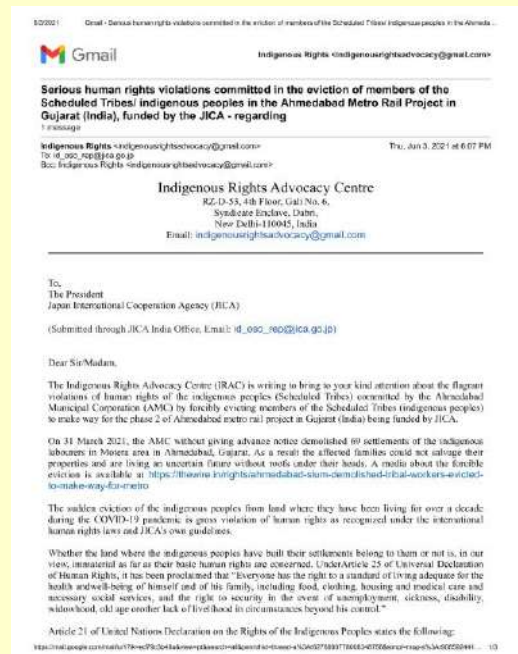
As a result the poor evicted tribal families were left homeless, and without basic facilities and needs at the time of COVID19 pandemic. They had been living there for over a decade. IRAC argued that their forced eviction during the pandemic is gross violation of human rights as recognized under the international human rights laws and JICA’s own guidelines.

In its petition, the IRAC also argued that, ‘Whether the land where the indigenous peoples have built their settlements belong to them or not is, in our view, immaterial as far as their basic human rights are concerned. Under Article 25 of Universal Declaration of Human Rights, it has been proclaimed that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”’

Further, Article 21 of United Nations Declaration on the Rights of the Indigenous Peoples states the following:

“Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.”



A screenshot of IRAC’s petition to JICA



Further, Article 10 of UNDRIP states, “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

The IRAC also drew the attention to Section 8 of JICA’s own “Guidelines for Environmental and Social Considerations” which is reproduced below:

**“8. Indigenous Peoples**

1. Any adverse impacts that a project may have on indigenous peoples are to be avoided when feasible by exploring all viable alternatives. When, after such an examination, avoidance is proved unfeasible, effective measures must be taken to minimize impacts and to compensate indigenous peoples for their losses.

2. When projects may have adverse impacts on indigenous peoples, all of their rights in relation to land and resources must be respected in accordance with the spirit of relevant international declarations and treaties, including the United Nations Declaration on the Rights of Indigenous Peoples. Efforts must be made to obtain the consent of indigenous peoples in a process of free, prior, and informed consultation.

3. Measures for the affected indigenous peoples must be prepared as an indigenous peoples plan(which may constitute a part of other documents for environmental and social consideration) and must be made public in compliance with the relevant laws and ordinances of the host country. In preparing the indigenous peoples plan, consultations must be made with the affected indigenous peoples based on sufficient information made available to them in advance. When consultations are held, it is desirable that explanations be given in a form, manner, and language that are understandable to the people concerned. It is desirable that the indigenous peoples plan include the elements laid out in the World Bank Safeguard Policy, OP4.10, Annex B.”



Bulldozer demolishing the settlement in Motera area in Ahmedabad. Photo credit: The Wire

## IRAC's interventions with NHRC

Between May and August 2021, the Indigenous Rights Advocacy Centre (IRAC) has filed a total of 51 complaints of violation of the human rights of the Scheduled Tribes/indigenous peoples with the National Human Rights Commission (NHRC) of India. These included 7 cases of torture by security forces/police/forest officials, 6 cases of forced eviction, 5 cases of extrajudicial killing, 4 cases of arbitrary arrest, 3 cases of custodial death due to alleged torture in police custody, 3 cases of starvation/malnutrition, 3 cases of witchcraft related murders, 2 cases of denial of government ration, 2 cases of torture at the order of the panchayat (village council), 1 case of tortured to death by a non-tribal mob, 1 case of land grabbing by State, 1 case of harassment of human rights activist, and 13 cases related to various other violations.

Geographically, these cases are spread across the country. 7 cases took place in Telangana; 5 cases in Madhya Pradesh; 5 cases in Mizoram (including 2 cases related to violations committed by Assam Police within Mizoram border); 4 cases each in Chhattisgarh, Maharashtra, and Odisha; 3 cases each in Assam, and Gujarat; 2 cases each in Kerala, Jharkhand, Tamil Nadu, Manipur, and Rajasthan; 1 case each in J&K, West Bengal, Arunachal Pradesh, Karnataka and Meghalaya.

Nature of violations	Total number of Cases
Torture by SF/Police/Forest Officials	7
Forced Eviction	6
Extrajudicial killing	5
Arbitrary arrest	4
Custodial death due to alleged torture (Police)	3
Starvation/malnutrition	3
Witchcraft related murder	3
Denial of ration	2
Torture by Panchayat	2
Tortured to death by mob	1
Land grabbing by State	1
Harassment of HRD	1
Miscellaneous	13
<b>TOTAL</b>	<b>51</b>

State	Total No. of Cases
Telangana	7
Madhya Pradesh	5
Mizoram	5
Chhattisgarh	4
Maharashtra	4
Odisha	4
Gujarat	3
Assam	3
Kerala	2
Jharkhand	2
Tamil Nadu	2
Manipur	2
Rajasthan	2
J&K	1
West Bengal	1
Arunachal Pradesh	1
Karnataka	1
Meghalaya	1
All over India	1
<b>TOTAL</b>	<b>51</b>

**AIPP calls for participants in “The Regional Training Course on Indigenous Peoples’ Self-government and Democracy”. Deadline: 30 September 2021. For details, visit <https://aippnet.org/call-participants-regional-training-course-indigenous-peoples-self-government-democracy/>**



## IRAC celebrates the Indigenous Peoples' Day

On 9 August 2021, IRAC joined the international community to celebrate the International Day of the World's Indigenous Peoples in India. Supporters and volunteers from across India participated in a poster campaign on the occasion. The idea was to click picture of self by holding a poster with a quote/slogan on the indigenous peoples. Several people from the length and breadth of the country including men, women, young and old and even children participated in the campaign, showing their support for IP rights and celebrating indigenous culture, language, and knowledge. Some pictures of participants are given below.



### IRAC participates at the Asia Regional Dialogue for IUCN IP Summit

IRAC has participated at the Asia Regional Dialogue for IUCN IP Summit on 28 July 2021. IRAC was invited to make a presentation on the impact of Tiger Reserves on the rights of the indigenous tribals in India. In its presentation, IRAC has highlighted the impacts of the tiger reserves to the rights, welfare and well-being of the indigenous peoples including women; challenges in relation to laws and policies; and presented India specific recommendations.

## NHRC's actions to protect tribals

### NHRC issues advisory to protect PVTGs during COVID-19

On 3 June 2021, the National Human Rights Commission (NHRC) issued an Advisory to ensure protection of human rights of 75 Particularly Vulnerable Tribal Groups (PVTGs), keeping in view the media reports about the spread of Covid-19 infection among several of them. Among about 104 million Scheduled Tribes (STs) in the country, there are 75 such groups, who are further marginalized and identified as PVTGs by the Government of India. This is based on the existence of pre-agriculture level of technology, relative physical isolation, stagnant population, extremely low literacy, and a subsistence level of economy.

Issuing the Advisory, the Commission has observed that many of the PVTGs have already been struggling against extinction and, if COVID-19 infects them, they will not be able to survive, which will be a great loss for the humanity and diversity of the human race. The Advisory is available at: <https://nhrc.nic.in/sites/default/files/NHR%20Human%20Rights%20Advisory%20for%20PVTGs%20amid%20Covid-19.pdf>

### IRAC LEGAL HELPLINE (Monday-Friday):

+91-9667279541 (10 AM-5 PM)

### No tribal should be evicted without the settlement of land rights: NHRC

On 29 July 2021, Mr. Justice A. K. Mishra, Chairperson, NHRC, said that no tribal should be evicted without the settlement of his/her claim related to land rights. He said that there is already a Supreme Court judgment in this regard. Justice Mishra further assured that the Commission will look into what best it can do with regards to the policy on the adjudication of the claim of tribal people on their lands and distribution thereof.

He was chairing a webinar organized by the Commission with the Human Rights Defenders & Civil Societies on human rights issues during COVID-19 and the future responses.

In this webinar, some of the important suggestions, among others, were as follows:

- Developmental projects should be examined from the point of view of livelihood of displaced people as well as its social and environmental impact;
- Rehabilitation of displaced people due to development projects should be fully drawn out before the implementation of the project which should not merely include financial support;
- Food insecurity during the pandemic gave rise to illegal trade in production and use of drugs and hence, the focus while rehabilitating should be on safe housing, employment, health care and social security;
- The tendency to treat urban poor as encroachers just as Adivasis in forest should be discouraged to uphold their dignity & rights.

This newsletter is published by *Indigenous Rights Advocacy Centre* to create awareness on human rights issues. IRAC may be reached by post at: A-212, 1st Floor, Street # 23, Chattarpur Enclave, Phase 2, New Delhi- 110074, India; or by email: [indigenousrightsadvocacy@gmail.com](mailto:indigenousrightsadvocacy@gmail.com)

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