

Situation of the Indigenous Peoples in India

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Annual Report 2021

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Cover Photograph: Katkari tribal families trapped in bonded labour in Pilanje Budruk Chinchpada village, Maharashtra.

Photo credit: Diwakar Sharma, Mid-Day.

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Abbreviations

AFSPA	Armed Forces (Special Powers) Act, 1958
API	Assistant Police Inspector
AR	Assam Rifles
ATR	Anamalai Tiger Reserve
CAF	Compensatory Afforestation Fund
CBA Act	Coal Bearing Areas Act, 1957
CBA Bill 2021	Coal Bearing Areas (Acquisition and Amendment) Bill 2021
CHC	Community Health Centre
Cr.P.C	Criminal Procedure Code
CoBRA	Commando Battalion for Resolute Action
COVID-19	Coronavirus disease
CPI (Maoist)	Communist Party of India-Maoist
CRPF	Central Reserve Police Force
DFO	Divisional Forest Officer
DM	District Magistrate
DRG	District Reserve Guard
DSP	Deputy Superintendent of Police
EC	Environment clearance
EIA	Environment Impact Assessment
FIR	First Information Report
FPIC	Free, prior and informed consent
FRA	Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
GD	General Diary
GOI	Government of India
HRD	Human Rights Defender
IDP	Internally Displaced Person
INR	Indian Rupee
IPC	Indian Penal Code
IPHRED	Indigenous Peoples Human Rights Defender
IRAC	Indigenous Rights Advocacy Centre
JADS	Jagrit Adivasi Dalit Sangathan
MFP	Minor Forest Produce
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MLC	Medico-Legal Certificate
NAP	National Action Plan
NCRB	National Crime Records Bureau
NCST	National Commission for Scheduled Tribes
NHRC	National Human Rights Commission
NIA	National Investigation Agency
NSCN	National Socialist Council of Nagaland
PESA	Panchayats (Extension to the Scheduled Areas) Act, 1996
POCSO	Protection of Children from Sexual Offences Act
PUCL	Peoples Union for Civil Liberties
PVTG	Particularly Vulnerable Tribal Group
Rs	Rupees
SC/ST	Scheduled Castes/Scheduled Tribes
SHO	Station House Officer
SHRC	State Human Rights Commission
SI	Sub Inspector
SIT	Special Investigation Team
S/o	Son of
SP	Superintendent of Police
UAPA	Unlawful Activities (Prevention) Act, 1967
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGP	United Nations Guiding Principles on Business and Human Rights
UT	Union Territory
VSS	Vana Suraksha Samiti

CONTENTS

1.	Executive Summary	1
2.	Violations by the Security Forces	3
a.	Custodial Deaths	3
b.	Alleged Extrajudicial Killings	7
c.	Custodial Torture not leading to Death	11
d.	Implication in False Cases and Harassment	13
3.	Violations by the Armed Opposition Groups	16
a.	Killings	16
b.	Abduction	17
4.	Violations by the Forest Officials	18
a.	Criminalization, Torture and Filing of False Cases	18
b.	Lodging of False and Fabricated Cases	20
c.	Forced Evictions	22
5.	Violence against Indigenous Women	27
6.	Violence against Indigenous Children	29
7.	Repression against Indigenous Human Rights Defenders	30
8.	Non-restoration of Alienated Tribal Land	33
9.	Condition of the Indigenous IDPs	34
10.	Business and Human Rights of the Indigenous Peoples	37

1. Executive Summary

As per the latest annual crime report of the National Crime Records Bureau (NCRB) under Ministry of Home Affairs, the number of crime/atrocities committed against the Scheduled Tribes was 6,528 cases in 2018, 7,570 cases in 2019 which increased to 8,272 cases in 2020

There are 104.3 million Scheduled Tribes, also called tribal or Adivasi¹, who are the indigenous people² of India, constituting 8.6% of the country's total population.³ 90% of them live in rural areas⁴ without access to basic facilities and the COVID-19 pandemic has made their situation worst. In the largest democracy which India is, the Scheduled Tribes have been provided specific protective provisions in the Constitution, such as the Fifth and Sixth Schedules that provided them a certain level of autonomy. There are also laws to criminalize caste-based atrocities and protect their rights to land, forest and community resources. Yet, they have faced criminalization and violence with impunity at the hands of the State and non-state actors.

The number of crimes/atrocities against the Scheduled Tribes has increased in the last a few years. As per the latest annual crime report of the National Crime Records Bureau (NCRB) under Ministry of Home Affairs, the number of crime/atrocities committed against the Scheduled Tribes was 6,528 cases in 2018, 7,570 cases in 2019 which increased to 8,272 cases in 2020.⁵ But it must be mentioned here that the NCRB data reveals just the registered cases of violence; the unregistered cases are bound to be much more than what data shows. India is infamous for impunity and in majority cases the accused who often belong to upper castes go scot-free. This is evident from the fact that the conviction rate for crimes/atrocities against Scheduled Tribes was merely 28.5% during 2020 despite provision for speedy trial in "Special Courts".⁶

During 2021, the New Delhi-based Indigenous Rights Advocacy Centre (IRAC) intervened in 103 cases of violation of the rights of the indigenous peoples with

the National Human Rights Commission (NHRC) of India which included 12 cases were in Madhya Pradesh, 11 cases each in Maharashtra and Telangana, 9 cases in Tamil Nadu, 7 cases each in Chhattisgarh and Mizoram (including two cases involving Assam Police), 6 cases each in Odisha, Kerala and Jharkhand and, 4 cases each in Gujarat, Karnataka and Assam, 3 cases in Manipur, 2 cases each in Andhra Pradesh, West Bengal, Rajasthan and J&K (Union Territory), two cases in Arunachal Pradesh and one case in Meghalaya, and two cases of all India nature.⁷

The indigenous peoples have faced criminalization by the State for demanding or defending their "jal jameen jungle" (water, land and forests) across India. Human rights work is often criminalised with several human rights defenders (HRDs) still in detention under the draconian Unlawful Activities (Prevention) Act, 1967 (UAPA) and other laws. The death of tribal rights activist Father Stan Swamy (84 years) in judicial custody on July 5⁸ and the continued detention of tribal woman activist Hidme Markam (28 years) as an alleged Maoist leader, are some examples of abuse of the UAPA. In July 2021, the Barwani district magistrate in Madhya Pradesh termed Valsingh Saste, a prominent activist of Jagrit Adivasi Dalit Sangathan, as an "infamous criminal" for his human rights works and sought an explanation as to why he should not be expelled from the district under the Madhya Pradesh Rajya Suraksha Adhiniyam-1990 (Madhya Pradesh State Security Act of 1990).⁹ Jindal Pratirodha Sangram Samiti (or, Jindal Resistance Movement Committee) leaders including Debendra Swain, Basanta Gochayat, Chuguna Jena faced continuous threats, harassment and false cases were filed against them for opposing the forcible land acquisition for the JSW

1 In Central India, the tribals are also known as 'Adivasi'. The term 'Adivasi' is derived from the Hindi words 'adi' which means of earliest times or from the beginning and 'vasi' meaning inhabitant.

2 In this report, the terms Scheduled Tribe, tribal, Adivasi and indigenous peoples are used interchangeably

3 Ministry of Tribal Affairs, "Statistical Profile of Scheduled Tribes in India 2013", p.1

4 Ministry of Tribal Affairs, Press release dated December 17, 2018, [https://pib.gov.in/Pressreleaseshare.aspx?PRID=1556176#:~:text=Almost%2090%25%20of%20the%20tribal,ST\)%20population%20in%20](https://pib.gov.in/Pressreleaseshare.aspx?PRID=1556176#:~:text=Almost%2090%25%20of%20the%20tribal,ST)%20population%20in%20)

5 National Crime Records Bureau (NCRB), "Crime in India 2020", page 613, available at <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

6 National Crime Records Bureau (NCRB), "Crime in India 2020", page 654, available at <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

7 Database of Indigenous Rights Advocacy Centre (IRAC)

8 Stan Swamy, a Catholic priest and tribal rights activist was arrested in October 2020 for his alleged role in Bhima Koregaon violence of 2018. He was suffering from

Parkinson's disease and had requested bail on

9 Show Cause Notice issued to Valsingh Saste under Section 8(1) of Madhya Pradesh Rajya Suraksha Adhiniyam-1990 by District Magistrate, Barwani district, Madhya Pradesh,

vide No. 5148/Ridhar/2021 dated

10 Letter of Human Rights Defenders' Alert-India to the NHRC, December 9, 2021, [https://media.business-humanrights.org/media/documents/03-2021-12-09-HRDA-UA-EAST-](https://media.business-humanrights.org/media/documents/03-2021-12-09-HRDA-UA-EAST-OD-Debendra_Swain_and_others.pdf)

OD-Debendra_Swain_and_others.pdf

Utkal Steel Ltd project in Jagatsinghpur district, Odisha.¹⁰

False cases have been filed to harass or terrorize the indigenous peoples living in villages, forests or remote areas. Thousands of them are languishing in jails on alleged false charges such as being Maoists or theft cases. Many of them are in detention, either due to poverty or ignorance or lack of legal support. On November 2, eight tribal villagers¹¹ were arrested as alleged Maoists in Chhattisgarh's Sukma district while they were returning home from a protest against establishment of CRPF camp at Silger village.¹² In Jharkhand, two innocent tribals namely Birsa Majhi S/o Rameshwar Majhi¹³ and Sanjay Majhi (50 years) S/o Late Babua Majhi¹⁴, both residents of Lalgah village in Bokaro district, were falsely implicated as Maoists and harassed by the Police. During 2021, the Chhattisgarh government withdrew 594 criminal cases against 726 indigenous peoples (including over 100 Maoist-related cases)¹⁵ following recommendations by Justice Patnaik Committee.¹⁶ On November 23, Madhya Pradesh Chief Minister Shivraj Singh Chouhan announced to withdraw "false and minor cases" filed against tribals.¹⁷ Further, on 26 March, Jharkhand Chief Minister Hemant Soren gave formal approval to withdraw all cases¹⁸ pertaining to the Pathalgadi movement of 2017-18¹⁹ but by the end of the year not a single FIR out of total 30 FIRs case has been withdrawn.²⁰

The killer COVID-19 pandemic did not stop the State to carry out ruthless evictions of already impoverished indigenous peoples. The IRAC has documented nine cases of forced eviction of indigenous peoples as illegal encroachers of forest land during 2021. During such evictions, the forest

and the police officials often burnt down or demolished the huts, physically assaulted and destroyed the properties of the victims who were then left to fend for themselves.

11 These eight tribals have been identified as Kawasi Raju alias Santu, Kalmu Mada (25), Komram Kanna (38), Madkam Hidma (29), Tursam Mudraj (45), Madkam Enka (25), Madkam Soma (32) and Madkam Mutta (40).

12 Ritesh Mishra, "Activists raise questions on arrest of 8 alleged Maoists by Sukma police", The Hindustan Times, November 6, 2021, <https://www.hindustantimes.com/cities/others/activists-raise-questions-on-arrest-of-8-alleged-maoists-by-sukma-police-101636214428783.html>

13 Animesh Bisoe, "Jharkhand Janadikar Mahasabha accuses police of tribal harassment", The Telegraph, January 7, 2022, <https://www.telegraphindia.com/jharkhand/jharkhand-janadikar-mahasabha-accuses-police-of-tribal-harassment/cid/1846495>

14 Animesh Bisoe, "Jharkhand Janadikar Mahasabha fights for tribal in Maoist case", The Telegraph, January 21, 2022, <https://www.telegraphindia.com/jharkhand/jharkhand-janadikar-mahasabha-fights-for-tribal-in-maoist-case/cid/1848465>

15 TNN, "Chhattisgarh: 594 criminal cases against tribals withdrawn in Maoist-affected areas", The Times of India, June 4, 2021, <https://timesofindia.indiatimes.com/city/raipur/chhattisgarh-594-criminal-cases-against-tribals-withdrawn-in-maoist-affected-areas/articleshowprint/83237711.cms>

16 After coming to power in Chhattisgarh in December 2018, the Congress government headed by chief minister Bhupesh Baghel constituted a seven-member committee under the chairmanship of Justice A K Patnaik, former Supreme Court, to review the criminal cases lodged against "innocent tribals" in the insurgency-hit districts. The committee has recommended the withdrawal of 627 cases.

17 Anurag Dwary, "Heritage Liquor" Mahua Legalised In BJP's Madhya Pradesh Tribal Outreach, NDTV, November 23, 202, <https://www.ndtv.com/india-news/heritage-liquor-mahua-legalised-in-bjps-madhya-pradesh-tribal-outreach-2620984>

18 Abhishek Angad, "Jharkhand CM clears home dept's resolution on withdrawal of Pathalgadi cases", The Indian Express, March 27, 2021, <https://indianexpress.com/article/india/jharkhand-cm-clears-home-depts-resolution-on-withdrawal-of-pathalgadi-cases-7247406/>

19 During the Pathalgadi movement of 2017-18, giant stone plaques came up outside tribal villages, declaring the Gram Sabha (village council) as the sovereign authority under the Panchayat (Extension to the Scheduled areas) Act or PESA. In 2016, the then BJP government of Jharkhand had passed two ordinances that allowed the commercial use of tribal land and made it easier for tribal lands to be acquired by the state. This led to protests, with tribal villages erecting carved stone slabs, 'Pathalgadis', demarcating their lands and refusing to recognise the authority of the state. Many tribal villagers alleged they were subjected to state repression. About 30 cases pertaining to Pathalgadi were registered, and the sedition charge was invoked in 19 of these cases.

20 "Visible change from past but current government silent on core issues: JJM", The Times of India, December 29, 2021, <https://timesofindia.indiatimes.com/city/ranchi/visible-change-from-past-but-current-government-silent-on-core-issues-jjm/articleshowprint/88552519.cms>

2. Violations by the Security Forces

The security forces, including the police, army and paramilitary forces, were responsible for human rights violations of the indigenous peoples during 2021. IRAC has documented many cases of custodial deaths, alleged extrajudicial killings, custodial torture, and false implication of indigenous peoples as Maoists.

a. Custodial Deaths

One of the first guidelines issued by the National Human Rights Commission (NHRC) of India after its establishment were guidelines on reporting of custodial deaths and custodial rapes in both police and judicial custody. On December 14, 1993, the NHRC directed the District Magistrates (DMs) and the Superintendents of Police (SPs) of every district to report all custodial deaths/rapes within 24 hours of occurrence. As reports started to be received, the NHRC observed that in many cases “the post-mortem reports appear to be doctored due to influence/pressure to protect the interest of the police/jail officials.” Hence on August 10, 1995, the NHRC directed “all postmortem examinations done in respect of deaths in police custody and in jails should be video-filmed and cassettes be sent to the Commission along with the post-mortem report.” In another circular dated March 27, 1997, the NHRC issued a “Model Post-Mortem Report Form” to make post-mortem report more meaningful and inclusive.²¹

In 2005, section 176 of the Criminal Procedure Code (Cr.P.C) was amended by Amendment Act of 25 of 2005 and it came into force with effect from June 23, 2006, whereby, sub-section 1(A) has been inserted. It says as follows:-

“[1A] Where, -

(a) any person dies or disappears, or

(b) rape is alleged to have been committed on any woman, while such person or woman is in the custody of the police or in any other custody authorized by the Magistrate or the Court, under this Code in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed.”

In case No. 41663/24/26/08-09-JCD, the Full Commission of the NHRC while considering an interpretation of Section 176(1)(A) of Cr.P.C. on April 5, 20210 stated, “In our opinion, the correct position of law is that an enquiry by Judicial Magistrate or Metropolitan Magistrate is mandatory only in those cases of custodial deaths where there is reasonable suspicion for foul play or well-founded allegation of commission of an offence. All other cases of custodial deaths where the death is natural or caused by disease may be inquired into by an Executive Magistrate.”

Table 1: Custodial deaths of Scheduled Tribes in police custody during 2021

SI No.	Name of victim	Age, sex	Police station where the victim died	Date of custodial death	Cause of death	
					Police version	Relatives' claim
1	Bhajan Lal Meena	55, Male	Barwada police station, Sawai Madhopur district, Rajasthan	May 29, 2021	Victim fell down and became unconscious in the police station	Victim died due to torture
2	Pala Manjhi	45, Male	Bhandaria Police station, Garhwa district, Jharkhand	May 30, 2021	Victim suffered from epileptic attack	Victim died due to torture
3	Sunil Pawar & Ravi Jadav	Both 19, Male	Chikhli police station, Navsari district, Gujarat	July 21, 2021	Victims committed suicide	Victims were tortured to death
4	Bisan Bhil	35, Male	Bistan Police Station, Khargone District, Madhya Pradesh	September 8, 2021	Doctor claimed that Bisan died due to septicaemia	Victim was tortured to death
5	Bhim Kale	35, Male	Vijapur Naka police station, Solapur district, Maharashtra	October 3, 2021		Victim was tortured to death
6	Bhaves Meghlabhai Dhrangi	18, Male	Hadad police station, Banaskantha district, Gujarat	November 24, 2021	Victim committed suicide	Victim was tortured to death

But this led to ambiguity and often the state governments ordered inquiry by the Executive Magistrate to shield the police/jail officials. Therefore, on September 4, 2020, the NHRC withdrew its order dated April 5, 2010 and issued fresh direction that “in every case falling within the section 176 (1A) shall require a Judicial Magistrate or Metropolitan Magistrate to mandatorily hold inquiry”.²²

Yet, custodial deaths in police custody continued to be reported in huge numbers. As per information placed in the Parliament, a total of 151 custodial deaths in police stations were registered during the year 2021 up to November 15.²³ How many of them are tribals is not known since the NHRC or the National Crime Records Bureau (NCRB) do not maintain disaggregated data. However, during the year 2021, the Indigenous Rights Advocacy Centre (IRAC) has documented six cases of custodial death of tribals in police custody.

Case 1 : Custodial death of Bhajan Lal Meena in Rajasthan

On May 29, 2021, a tribal identified as Bhajan Lal Meena (55 years) died in police custody at the Barwada police station in Sawai Madhopur district of Rajasthan. He was arrested after he had a quarrel with his cousin's family the previous day. Hours after Meena was brought to the police station, the police claimed that he fell down and became unconscious. He was taken to the nearby primary health centre from where he was referred to the district hospital. From the district hospital he was shifted to SMS Medical College Hospital, Jaipur, where he succumbed to the injuries.²⁴

Following the custodial death of Meena, the Station House Officer (SHO) and two other policemen of the Barwada police station were suspended on May 29 and the entire staff was transferred the next day to ensure a “fair investigation in the case”, according to Sawai Madhopur Superintendent of Police, Mr Sudhir Chaudhary. The police claimed that the detainee died due to injuries suffered by him prior to arrest. But questions remained as to why Meena was not given medical treatment if his pre-detention injuries were so serious. The deceased's family members alleged that he was subjected to torture in custody leading to death in hospital.²⁵

Case 2: Custodial death of Pala Manjhi in Jharkhand

On May 30, 2021, Pala Manjhi (45 years), a Santhal tribal, died in the custody at Bhandaria Police station in Garhwa district, Jharkhand. According to the family members, the police picked up Pala, a resident of Nauka village under Bhandaria block in Garhwa district, in the morning of May 30 without any reasons and the same day his dead body was handed over to the family. According to Ramnandan Manjhi, Pala Manjhi's brother, Pala did not have any criminal history. That day, he returned from the forest with firewood around 7 am and was resting at his house. Around 8 am, a chowkidar (guard) named Joginder came with other police personnel on a motorbike and took away Pala Manjhi to Bhandaria Police station, three kilometres away, for inquiry. When Ramnandan inquired the chowkidar in which case they were taking his brother, Joginder replied “Whatever it is, we will talk about it at the police station”.²⁶

After one and half hours, Ramnandan received a call from the police to reach the police station immediately. But before reaching there, the police had already taken Pala to hospital in a van. After a while, the chowkidar, Joginder, came on his motorbike and took Ramnandan to Samudayik Swastha Kendra (a community health centre or CHC) where he found his brother lying unconscious. At the CHC, the doctor said that he had given Pala an injection for epileptic attack (mirgi in Hindi) and he would be sleeping for six hours. The doctor also said that Pala would be fine and told his family members to take him home. Then, the police brought Pala home in unconscious state.²⁷

The family members stated that Pala Manjhi did not have any mirgi or any other health issues. He was perfectly fine at the time of arrest and had just returned from forest with firewood prior to arrest. Koshila Devi (20), daughter-in-law of Pala, claimed that she saw dark patches on Pala's stomach and buttock. Hence, the relatives alleged that he was beaten to death in police custody. After a few hours when Pala Manjhi did not wake up the relatives called the Bhandaria Police demanding answers. Thereafter Police arrived and took the body for

21 NHRC Guidelines on Custodial Deaths and Rapes are available at <https://nhrc.nic.in/sites/default/files/sec-1.pdf>

22 Interpretation of Section 176(1)(A) Cr.P.C of the NHRC vide order dated September 4, 2020 is available at https://nhrc.nic.in/sites/default/files/revised_order_intertretation_176_2020.pdf

23 Reply of Minister of State in the Ministry of Home Affairs, Mr Nityananda Rai, in the Lok Sabha, Unstarred Question No. 397, answered on November 30, 2021, available at <http://164.100.24.220/loksabhaquestions/annex/177/AU397.pdf>

24,25 “Entire staff of Rajasthan thana removed after ‘custodial death’”, The Times of India, May 31, 2021, <https://timesofindia.indiatimes.com/city/jaipur/jaipur-three-cops-suspended-30-sent-to-police-lines-after-man-dies-in-barwada-police-station/articleshow/83102845.cms>

26,27,28 Nazish Hussain, “Many unanswered questions in the custodial death of a tribal in Garhwa district”, eNewsroom, June 5, 2021, <https://enewsroom.in/custodial-death-garhwa-jharkhand-police-tribal/>

postmortem to Sadar Hospital, Garhwa. Postmortem was done on the second day, 31 May around 2 pm. Pala Manjhi's last rites were performed on 31 May at 8 pm by his relatives. The family also alleged that a Sub Inspector of Bhandaria Police Station forcibly made them sign a blank paper.²⁸

With regard to the custodial death of Pala Majhi, an FIR was lodged by Crime No. 59/21 on June 8, 2021 under section 302 IPC against Sub Inspector (SI) Vipin Kumar Verma and Chowkidar Yogendra Kumar Paswan. The Superintendent of Police, Garhwa vide dated October 4, 2021 submitted the Magiserial Enquiry Report to the NHRC stating that no negligence on the part of the police officials has been found and therefore no departmental inquiry has been initiated against any police official.²⁹ The magistrate inquiry was conducted by Sub Divisional Officer Rajesh Kumar Linda and not by a judicial magistrate.

Case 3: Custodial death of Sunil Pawar and Ravi Jadav in Gujarat

On July 21, 2021, two tribal youths identified as Sunil Pawar and Ravi Jadav (both 19 years) died at the Chikhli police station in Navsari district of Gujarat. They were residents of Dodipada village under Vaghai taluka of Dang district.

The deceased were picked up by the police in the evening of 20 July 2021 from their respective homes and brought to the Chikhli police station on suspicion of their involvement in a motorcycle theft case. The police claimed that the youths committed suicide by hanging themselves using an electric cable from the ceiling fan in the computer room of the Chikhli Police Station at night. But the family members of the deceased refused to accept the suicide theory and alleged that they were tortured to death. Talking to the media, Sunil Pawar's elder brother Mahesh Pawar alleged that they suspected that Sunil was mentally and physically tortured in police custody. He further stated that Sunil had no criminal cases against him, and the police were trying to frame him in a vehicle theft case.³⁰

Following the custodial death, a complaint was filed by Mitesh Jadhav, brother of Ravi Jadhav, alleging that the police personnel of Chikhli police station did not make a general diary (GD) entry at the police station register about their arrest, nor informed families as to why they were arrested. The FIR alleged that the two suspects did not commit suicide but were killed inside the police station. Based on this FIR, five police personnel were suspended and booked for murder, causing hurt, kidnapping, wrongful confinement, extortion, criminal conspiracy etc under the Indian Penal Code and various sections of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. These five policemen were identified as Inspector Ajitsinh Vala, Sub Inspector M B Kokni, head Constable Shantisinh Zala, and constables Ramji Yadav and Ravindra Rathod.³¹

The police investigation in the case has been handed over to R.D. Faldu, Deputy Superintendent of Police (SC/ST cell).³² A judicial inquiry has also been ordered by the Principal District Judge of Navsari, A. R. Desai to be carried out by the Principal Senior Civil judge of Chikhli, S. R. Singh.³³ In September 2021, the District administration handed over cheques of Rs 3,00,000 each to Neeruben Pawar, mother of deceased Sunil Pawar, and Mahesh Jadav, elder brother of deceased Ravi Jadav, as compensation for the custodial deaths.³⁴

Based on the intimation received from the Superintendent of Police, Navsari district as the NHRC guidelines on custodial deaths, the NHRC registered a case (No. 923/6/17/2021-PCD) and on August 9, 2021 issued notices to the District Magistrate, Navsari and the Superintendent of Police, Navsari, calling for reports within six weeks. But the authorities failed to comply with the NHRC's order by the end of the year 2021.

29 NHRC proceedings dated December 29, 2021 in Case No. 754/34/7/2021-AD

30 Express News Service, "Gujarat: 4 policemen booked for 'custodial death' of 2 tribal youths in Navsari", The Indian Express, 29 July 2021, <https://indianexpress.com/article/india/gujarat-4-policemen-booked-for-custodial-death-of-2-tribal-youths-in-navsari-7427389/>

31, 32 Ravi Jadhav, "Surat : Five Cops Booked For Murder, Atrocity", The Times of India, July 29, 2021, http://timesofindia.indiatimes.com/articleshow/84836924.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

33 "SI Suspended, Judicial Inquiry Ordered Over Deaths of 2 Youths in Navsari", The Indian Express, July 24, 2021, <https://indianexpress.com/article/cities/ahmedabad/si-suspended-judicial-inquiry-ordered-over-deaths-of-2-youths-in-navsari-7419456/>

34 "Compensation handed over to kin of 2 tribal youths who died in custody", The Indian Express, September 19, 2021, <https://indianexpress.com/article/cities/surat/compensation-handed-over-to-kin-of-2-tribal-youths-who-died-in-custody-7518331/>

Case 4: Death of Bisan Bhil due to alleged torture by police

On August 31, 2021, Bisan (35 years), Son of Habu, a Bhil tribal, and three others from Kherkundi village under Bistan Police Station in Khargone District (Madhya Pradesh) were picked up by police on suspicion of robbing people on the highway on August 24. They were allegedly kept illegally in custody and tortured. Only after Bisan's family filed a case in the court on September 3, his formal arrest was registered and they were produced before the court on September 4 and medical examination was conducted. Despite being inflicted serious injuries, the doctor issued a false MLC (medico-legal certificate) terming the injury as "minor".³⁵ After the court remanded Bisan and three others to police custody, they were allegedly once again beaten up with a patta used to grind wheat. Family members alleged that the police tortured the four accused in front of them and further denied food to Bisan at the Bistan police station.³⁶

The police allegedly tried to shift Bisan to the jail after his condition became critical. The jail doctor, Dr JP Baderia, reportedly examined him at 7.05 pm on September 6 as pre-prison medical checkup and was cleared for admission in the jail. But Bisan was brought dead to the district hospital at around 12.30 am the same night. On September 8, the hospital's civil surgeon, Dr Divyesh Verma stated that Bisan died due to septicaemia caused by an "at-least-seven-day-old wound" that led to multi-organ failure. Why Dr Baderia did not detect symptoms of 'septicaemia' during his preprison medical checkup went unexplained.³⁷ Bisan is survived by his wife Ramtu Bai and four children.³⁸

After hearing the news of the death, the villagers staged a violent protest in front of the Bistan police station. Following the protest, the state government announced Rs 200,000 compensation to the deceased's family and suspended four policemen of Bistan police station. A judicial magisterial inquiry was also ordered as was required as per the directive of the NHRC.³⁹ As the matter snowballed into a major

political issue with the opposition Congress party raising the issue, Madhya Pradesh Chief Minister Shivraj Singh Chouhan on September 12 announced the transfer of the Superintendent of Police Mr Shailendra Singh Chouhan "due to (his) lack of supervision in the case."⁴⁰

Case 5: Custodial death of Bhim Kale in police custody in Maharashtra

On October 3, 2021, a 35-year-old tribal man, Bhim Kale, who belonged to Phase Pardhi tribe, died in police custody due to alleged torture at Vijapur Naka police station in Solapur district, Maharashtra. He was a farm labourer. Bhim Kale is survived by his wife Swati and seven children.⁴¹

The police picked up Bhim Kale on September 18, 2021 and illegally detained him for almost a week at Vijapur Naka police station after falsely accusing him of being involved in a house burglary case. He was produced before the court only on September 23. Police allegedly tortured him during illegal custody at the Vijapur Naka police station to extract confessions. It is alleged that Bhim's both legs were broken as he was beaten up badly in the police custody. When his wife, Swati, met him at Vijapur Naka police station, Bhim was allegedly bleeding from his leg and writhing in pain. He later died in hospital.⁴²

State president of Dadaji Adivasi Phase Pardhi Samaj Sangathana, Matin Bhosale, told Mid-day newspaper, "Phase Pardhi community has been living with the tag of thieves or burglars since colonial times. The police produce fake or concocted evidence to nail Phase Pardhi tribals."⁴³

Following intervention by the IRAC, the NHRC on November 11 directed the District Magistrate/Collector, Sholapur and the Commissioner of Police, Sholapur, to submit an action taken report within six weeks.⁴⁴

35,36 Joint petition submitted by Adivasi organizations to the Chief Minister, Madhya Pradesh and others on September 14, 2021. Also refer to "Protests in Khargone over Alleged Custodial Death of Tribal Man", NewsClick, September 17, 2021, <https://www.newsclick.in/MP-Protests-Khargone-Alleged-Custodial-Death-Tribal-Man>

37 "Tribal custody death in Madhya Pradesh: Doctor blames septicaemia, jail chief suspended," The Times of India, September 9, 2021, <https://timesofindia.indiatimes.com/city/bhopal/tribal-custody-death-in-madhya-pradesh-doctor-blames-septicaemia-jail-chief-suspended/articleshow/86054616.cms>

38 "Madhya Pradesh: Undertrial tribal man dies in judicial custody, villagers attack police station," The New Indian Express, September 7, 2021, <https://www.newindianexpress.com/nation/2021/sep/07/madhya-pradesh-undertrial-tribal-man-dies-in-judicial-custody-villagers-attack-police-station-2355643.html>

39 "Madhya Pradesh: Undertrial tribal man dies in judicial custody, villagers attack police station," The New Indian Express, September 7, 2021, <https://www.newindianexpress.com/nation/2021/sep/07/madhya-pradesh-undertrial-tribal-man-dies-in-judicial-custody-villagers-attack-police-station-2355643.html>

40 PTI, "Senior Cop Removed After Tribal Man's Custodial Death In Madhya Pradesh", NDTV, September 12, 2021, <https://www.ndtv.com/india-news/senior-khargone-cop-removed-after-tribal-mans-custodial-death-in-madhya-pradesh-2538235>

41, 42 Diwakar Sharma, "Maharashtra: Man from Phase Pardhi tribe dies in police custody in Solapur, torture alleged," Mid-Day, October 9, 2021, <https://www.mid-day.com/mumbai/mumbai-news/article/maharashtra-tiger-kills-23-year-old-man-in-pandharkawda-23195815>

43 Diwakar Sharma, "Maharashtra: Man from Phase Pardhi tribe dies in police custody in Solapur, torture alleged," Mid-Day, October 9, 2021, <https://www.mid-day.com/mumbai/mumbai-news/article/maharashtra-tiger-kills-23-year-old-man-in-pandharkawda-23195815>

44 Order dated November 11, 2021 of the NHRC in Case No.- 2423/13/28/2021-ad

Case 6: Custodial death of Bhavesh Meghlabhai Dhrangi in Gujarat

On November 24, 2021, an 18-year-old tribal youth identified as Bhavesh Meghlabhai Dhrangi died due to alleged torture in police custody at Hadad police station in Danta taluka in Banaskantha district of Gujarat. He was a resident of Bosa village in Abu Road taluka of Sirohi district of Rajasthan.⁴⁵

On the night of November 23 2021, Hadad police patrol team detained two youths namely Bhavesh Meghlabhai Dhrangi (18) and Vipul Palubhai Dabhi stating that they were found moving in the area under suspicious circumstances and also refused to stop when the police chased them. They were

brought to the Hadad police station for questioning. The policemen booked them under Sections 102, 41-1(D) of IPC and kept them in the police lock-up. Bhavesh Dhrangi was found dead in the next morning. The police claimed that he hanged himself inside the lockup. But the villagers and family members alleged that he died due to custodial torture.⁴⁶

The IRAC took up this case with the NHRC. On December 17, the NHRC issued notice to the District Magistrate, Banaskantha, and the Superintendent of Police, Banaskantha, asking them to submit the reports within a period of 8 weeks.⁴⁷

b. Alleged Extrajudicial Killings

Just like any other year, cases of alleged extrajudicial killings of tribals have been reported during 2021. In the recent past, the security forces had claimed to have gunned down 'Maoists' in encounters, many of which later turned out to be 'fake encounters'. A judicial commission headed by Justice (retired) V.K. Agarwal which investigated the 2013 Edesmetta encounter in its report submitted to the Chhattisgarh government on September 8, 2021 has found that none of eight tribals including four children gunned down by the security forces was a Maoist. In fact, the tribal victims were unarmed and died in gunfire of 44 rounds 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, 2013.⁴⁸ Similarly, in another encounter killing case, Justice VK 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. While the security forces then had claimed to have gunned down Maoists in an encounter, the judicial commission found the deceased innocent. The Sarkeguda encounter report was tabled in the state assembly on

December, 3, 2019 by Chief Minister Bhupesh Baghel but till date no action has been taken against the accused security forces for the fake encounter killing.⁴⁹

Some of the alleged extrajudicial killings of tribals, as reported by the media during 2021 are given below:

Case 1: Killing of three tribal protestors in Chhattisgarh

On May 12, 2021, a camp of the Central Reserved Police Force (CRPF) was set up at Silger, a small Adivasi village in Sukma district, which is 5th Schedule area, in Chhattisgarh without informing the villagers let alone seeking their consent through a Gram Sabha.⁵⁰ The tribal villagers feared more harassment from the CRPF personnel due to establishment of this camp and tribals from Silger and neighbouring villages started protesting since May 14. The tribals have alleged that the CRPF camp was set up on "the land owned by some villagers", although the officials called them encroachers.⁵¹

45, 46 "18-yr-old detainee ends life in Danta police custody," The Times of India, November 25, 2021, <https://timesofindia.indiatimes.com/city/rajkot/18-yr-old-detainee-ends-life-in-danta-police-custody/articleshow/87897069.cms>

47 Order dated December 17, 2021 of the NHRC in Case No. 1600/6/4/2021-AD

48 Gargi Verma, "Chhattisgarh: Eight years on, probe finds those killed were unarmed, not Maoists," The Indian Express, September 10, 2021, <https://indianexpress.com/article/india/chhattisgarh-eight-years-on-probe-finds-those-killed-were-unarmed-not-maoists-7499835/>

49 Ritesh Mishra, "Chhattisgarh govt yet to take action on submissions by Sarkeguda judicial panel," The Hindustan Times, September 10, 2021, <https://www.hindustantimes.com/india-news/chhattisgarh-govt-yet-to-take-action-on-submissions-by-sarkeguda-judicial-panel-101631276819379.html>

50, 52, 55 "Bela Bhatia and Jean Drèze on the death of three Adivasi protestors from the Gond tribe in police firing," The Caravan, May 27, 2021, <https://caravanmagazine.in/noticeboard/protests-in-bastar-against-crpf-camp-bela-bhatia-jean-dreze>

51 "Tribals' protest against security camp in Chhattisgarh enters 17th day, efforts by police go in vain," The New Indian Express, May 30, 2021, <https://www.newindianexpress.com/nation/2021/may/30/tribals-protest-against-security-camp-in-chhattisgarh-enters-17th-day-efforts-by-police-go-in-vain-2309487.html>

On May 17, 2021, three protestors from the Gond tribe identified as Kawasi Vaga, Ursam Bhima and Uika Pandu, a minor, were killed in police firing in Silger.⁵² The police were quick to dub those three killed in firing as “Maoists”.⁵³ But a fact-finding investigation by the Bastar Adhikar Shala (BAS) has confirmed that the three deceased were innocent Adivasi protesters.⁵⁴ Human rights activists who visited Silger stated that the main reason for people’s opposition to the camp was “that they are afraid of harassment (eg, searches, beatings, sexual assault, fabricated cases, fake encounters and such).” The rights activists say this fear is real, because on May 22, 2021, the CRPF personnel allegedly shot dead an unarmed civilian, Midiam Masa, at Tolevarti village where a new CRPF camp was set up. The deceased and two others were gathering mangoes and when they saw the CRPF personnel they started running away out of fear. Two escaped, but Masa was allegedly shot dead.⁵⁵

Case 2: Killing of Mangboilal Lhouvum by Assam Rifles in Manipur

On the night of June 4, 2021, Mangboilal Lhouvum (29 years), son of Sehlam Lhouvum, was allegedly whisked away and killed by the 44 Battalion Assam Rifles at Chalwa village in Kangpokpi district of Manipur. The locals alleged that Major Alok Sathe, the post commander of the E Company of the 44 Assam Rifles at Banglabung outpost, shot and killed Mangboilal.⁵⁶ The deceased belonged to the Kuki tribe and resident of Chalwa village in T Waichong Sub Division in Kangpokpi district of Manipur. He worked as a helper to a truck driver and earned approximately Rs 300 per day. He is survived by wife, Neikhochong Lhouvum, and four children aged 7 years, six years, three years and one year.

Following a complaint from the deceased’s father Sehlam Lhouvum, a First Information Report (FIR) was registered at the Kangpokpi police station on

June 5 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. The complaint also stated that Mangboilal was first made to drink alcohol and subsequently taken to the roadside and shot at in a fake encounter.⁵⁷ 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”. The villagers took Mangboilal to the local primary health centre, from where he was referred to the Kangpokpi district hospital. But he died on the way. His last words were “Major Alok shot me”.⁵⁸

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.”⁵⁹ The accused Assam Rifles personnel have been produced in the court but not arrested as they enjoy impunity under AFSPA.⁶⁰

53 Gargi Verma, “Chhattisgarh: Tribals protest killing of 3 in firing; were Maoists, say cops,” The Indian Express, May 20, 2021, <https://indianexpress.com/article/india/chhattisgarh-tribals-protest-killing-of-3-in-firing-were-maoists-say-cops-7322244/>

54 “Fact-Finding Report Confirms Three Deaths of Adivasi Protesters in Silger Firing,” Newsclick, May 27, 2021, <https://www.newsclick.in/Fact-Finding-Report-Confirms-Three-Deaths-Adivasi-Protesters-Silger-Firing>

56 Kimi Colney, “Assam Rifles major accused of killing civilian in Manipur; reopens debate on AFSPA,” The Caravan, July 10, 2020, <https://caravanmagazine.in/crime/assam-rifles-major-accused-of-killing-civilian-manipur-reopens-debate-afspa>

57 Umanand Jaiswal, “Manipur killing: Assam Rifles releases statement; cites attack from KRA cadres,” The Telegraph, June 8, 2021, <https://www.telegraphindia.com/north-east/manipur-killing-assam-rifles-releases-statement-cites-attack-from-kra-cadres/cid/1818141>

58 Kangpokpi Correspondent, “Manipur: Villager allegedly shot dead by Army Major in Kangpokpi; CM Biren assures speedy action,” Imphal Free Press, June 6, 2021, <https://ifp.co.in/7728/assam-rifles-major-allegedly-murders-father-of-four-children-tensions-high-in-manipurs-twilang-area>

59 The text of the Armed Forces (Special Powers) Act, 1958 is available at https://www.mha.gov.in/sites/default/files/armed_forces_special_powers_act1958.pdf

60 Telephonic interview with Thangminlen Kipgen, General Secretary of the Kuki Inpi, Kangpokpi, the apex body of the Kuki people, July 18, 2021

Case 3: Killing of Bramhadev Singh in Jharkhand

On June 12, 2021, a tribal named Bramhadev Singh (24 years) was shot dead as an alleged Maoist by the security forces in Kuku-Piri forest under Garu police station in Latehar district of Jharkhand.⁶¹ The security forces claimed that Bramhadev Singh died in an “exchange of fire” between the security forces and the Maoists. But a fact-finding report by Jharkhand Janadhikar Mahasabha⁶² says that it was a fake encounter. The security forces which participated in the alleged encounter were 203 Cobra, 214 Battalion of CRPF and Jharkhand Jaguar. The fact-finding report stated that on 12 June 2021 six tribal villagers including Bramhadev Singh went to the forest on a traditional hunting ritual, as every year, for the Sarhul festival. They all carried a Bhartua gun, which has been in their families from generations. This single fire gun is used to hunt small animals and birds like rabbits, pigs and chickens and to protect crops from animals. On that very day, they came face to face with the security forces in the forests.

Despite pleading that they were innocent (not Maoists) the security personnel continued to fire upon them and Bramhadev was hit. The fact-finding report stated, “The villagers had not fired at the police. As they saw the security forces, they raised their hands and shouted that they were common people. But there was continuous firing by the police in which Dinenath got shot in the hand and Bramhadev in the body. After this, Bramhadev was taken to the forest’s edge and shot again to ensure his death.” Instead of investigating the alleged fake encounter killing, the police lodged FIR (Garu P.S. Case No. 24/2021 dated 13/06/21) against six Adivasis, including Bramhadev, under various sections including the Arms Act “to intimidate the villagers so that the villagers do not question the killing and firing by the police,” the fact-finding report stated. In the police station, all the five victims were allegedly made to sign (or put their thumb impression) on many pages (some blank and some written) without informing them about the content of these pages.⁶³

The impunity is such that the police refused to register FIR filed by the deceased’s widow Jiramandi

Devi. Jiramandi Devi failed to get an FIR registered even after she filed a case in October 2021 in the Latehar district judicial magistrate court. On November 20, 2021 she filed a writ petition in the Jharkhand High Court demanding registration of FIR and investigation by an independent Special Investigation Team (SIT) into the alleged extra-judicial killing of her husband.⁶⁴

Case 4: Killing of Santosh Markam

On June 27, 2021, Chhattisgarh Police claimed to have killed a ‘Maoist’ named Santosh Markam (35 years) who was involved in 25 criminal cases and carried a reward of ₹500,000 on his head, in an encounter in Pordem forest of Dantewada district at around 12.30 pm. The encounter took place between the District Reserve Group (a police unit made up largely of surrendered Naxalites and local Adivasis) and the Maoists. The police stated that following the encounter the body of a Maoist and a pistol were recovered.⁶⁵

But the eyewitnesses said that Santosh was an Adivasi farmer, not a Naxalite. He was not killed in an encounter, but tortured and shot dead in cold blood, in front of fellow villagers in Neelavaya. That morning, Santosh, 35, and his wife Sukki, 31, had left home early to plough their two-acre farmland in Neelavaya. They finished at around 10.30 am, and Sukki went home to make food while Santosh stayed back to take a bath at the borewell in the farm. Sukki had barely started preparing food when a few women came running to inform her that the police had got hold of Santosh and were beating him up mercilessly. By the time Sukki reached the spot, her husband was dead. Eyewitnesses saw the District Reserve Guard personnel beating Santosh. Then, he was allegedly asked to run and shot dead.⁶⁶

Case 5: Killing of Jipirush Narzary in alleged fake encounter in Assam

On July 13, 2021, a tribal man identified as Jipirush Narzary (23 years), son of D. Narzary, was allegedly killed in a fake encounter by the Assam Police in

61 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>

62 Jharkhand Janadhikar Mahasabha investigated the matter by conducting a fact finding that included representatives of various organizations, journalists, lawyers and social workers. The group formed by the Mahasabha included the following social and media organizations – Adivasi Adhikar Manch, Adivasi Women’s Network, Human Rights Law Network, The Gram Sabha. The fact-finding report is available at https://drive.google.com/drive/folders/1JX3tTtLtmRC-KsqSHToAgRt_1Z6fmg9

63 The fact-finding report is available at https://drive.google.com/drive/folders/1JX3tTtLtmRC-KsqSHToAgRt_1Z6fmg9

64 Animesh Bisoe, “Encounter killing: HC asks state to file counter affidavit”, The Telegraph, January 14, 2022, <https://www.telegraphindia.com/india/encounter-killing-hc-asks-state-to-file-counter-affidavit/cid/1847443>

65 Ritesh Mishra, “Chhattisgarh Maoist involved in 25 cases and carrying award on his head killed”, The Hindustan Times, June 27, 2021, <https://www.hindustantimes.com/india-news/chhattisgarh-maoist-involved-in-25-cases-and-carrying-award-on-his-head-killed-101624792206367.html>

66 Prateek Goyal, “How Chhattisgarh police hunted an Adivasi farmer”, Newslaundry, July 1, 2021, <https://www.newslaundry.com/2021/07/01/how-chhattisgarh-police-hunted-an-adivasi-farmer>

Udalguri district of Assam. He was a resident of Goraibari under Udalguri district. The deceased was picked up by a police team from the Menon Masahary petrol pump located between Udalguri and Rowta on July 10, 2021.⁶⁷

In a statement issued on July 17, 2021, Bodoland Janajati Suraksha Mancha (BJSM) working president Daorao Dekreb Narzary alleged that Jipirush was tortured and his leg and hands were broken. Thereafter, he was allegedly taken to another location and killed in an alleged fake encounter on July 13 to cover up the torture.⁶⁸

Case 6: Killing of Bheema Kunjam in Chhattisgarh

On July 25, 2021, Bheema Kunjam was killed by the security forces in an alleged fake encounter at Paddigua village under Chitagufa police station in Sukma district of Chhattisgarh. According to the police, District Reserve Guard (DRG) and Central Reserve Police Force (CRPF) were involved in the anti-Maoist operation in which Kunjam was killed. The security forces alleged that he was a Maoist platoon commander who died in an exchange of fire. But the villagers claimed that Kunjam was picked up from his house on the night of July 24 before being

killed the next morning. On the other hand, Sukma Superintendent of Police Mr Sunil Sharma maintained that Kunjam even had a reward of ₹1 lakh on his head and six cases were registered against him.⁶⁹

Hundreds of tribal villagers protested demanding a fair investigation into the alleged fake encounter killing of Bheema Kunjam.

News18 reported, “Deva, a relative of the alleged militia said Bhime was sleeping on the night of July 25 when police personnel reached Padiguda village and picked up Bhima. His wife, Kunjami Bhime has questioned officials on reason behind the arrest but the authorities gave no response. The next day, Kunjami and her family reached the police station and was told that her husband was dead.”⁷⁰

Cases 7: Killing of 13 Naga tribal civilians in alleged ‘mistaken identity’ by Army in Nagaland

On December 4, 2021, the Indian Army personnel opened fire at a pickup van carrying coal miners killing six persons in an ambush at Oting village in Mon district of Nagaland. The Indian Government and the Army called it a case of “mistaken identity”.⁷¹ The victims belonged to the Konyak tribe of the



Protest against AFSPA following the killing of 13 Naga tribals by army in Mon district, Nagaland.
Photo credit: Naga Students Union, Shillong.

67 “Bodoland Janajati Suraksha Mancha on Atrocities by Assam Police”, The Sentinel, July 18, 2021, <https://www.sentinelassam.com/north-east-india-news/assam-news/bodoland-janajati-suraksha-mancha-on-atrocities-by-assam-police-547128>

68 “Bodoland Janajati Suraksha Mancha on Atrocities by Assam Police”, The Sentinel, July 18, 2021, <https://www.sentinelassam.com/north-east-india-news/assam-news/bodoland-janajati-suraksha-mancha-on-atrocities-by-assam-police-547128>

69 Ritesh Mishra, “C’garh villagers sit in protest over man’s death; forces say he was a Maoist”, The Hindustan Times, August 4, 2021, <https://www.hindustantimes.com/cities/others/cgarh-villagers-sit-in-protest-over-man-s-death-forces-say-he-was-a-maoist-101628080423125.html>

70 Raunak Shivhare, “Hundreds of Villagers Protest Against ‘Fake’ Encounter Killing in Ch’garh, Police Deny”, News18, August 4, 2021, <https://www.news18.com/news/india/hundreds-of-villagers-gather-in-protest-against-fake-encounter-killing-in-sukma-police-deny-4046474.html>

71, 72 “Regret killing of civilians in Nagaland, case of ‘mistaken identity’, says Amit Shah”, The Times of India, December 6, 2021, <https://timesofindia.indiatimes.com/india/regret-killing-of-civilians-in-nagaland-case-of-mistaken-identity-says-amit-shah/articleshowprint/88124565.cms>

Naga peoples. According to a statement made in the Parliament by Union Home Minister Amit Shah on December 6, based on inputs received by the Indian Army about movement of the insurgents near Tiru village in Tizit area of Mon district, a team of 21 para-commandos of Indian Army laid an ambush in the evening of December 4. During the ambush, a vehicle approached the location and it was signalled to stop. However, the vehicle tried to flee, which aroused suspicion that it was carrying insurgents. This led the Army to fire upon the vehicle, resulting in killing of 6 out of 8 persons travelling in it. Later, the local villagers surrounded the Army team, burnt two of their vehicles and attacked the army personnel, leading to the death of one army personnel and

injuring several others. To disperse the crowd, the security forces opened fire which resulted in killing of seven more civilians.⁷² However, tribal groups of Nagaland termed Shah's statement as false and demanded withdrawal of the Armed Forces (Special Powers) Act from the state.⁷³

The Nagaland government has constituted a Special Investigation Team (SIT) and the Army has also constituted a Court of Inquiry to investigate the matter at the highest level. The Nagaland Police have registered a murder case against the personnel of the 21st Para Special Forces and the investigation is ongoing.⁷⁴

c. Custodial Torture not leading to Death

Custodial torture is routine. On August 8, 2021, Chief Justice of India N. V. Ramana said that custodial torture and other police atrocities are still prevailing in India and asked the National Legal Services Authority (NALSA) to carry out nationwide sensitisation of police officers.⁷⁵

During 2021, IRAC has documented several cases of custodial torture of tribals. Some of the emblematic cases are given below.

Case 1: Alleged torture of two tribal villagers by Assam Rifles in Arunachal Pradesh

On 22 May 2021, one jawan of the 19th Assam Rifles (AR) was killed in an encounter with suspected militants near Longvi village in Changlang district of Arunachal Pradesh. Thereafter, the AR allegedly summoned two villagers of Longvi identified as Jungthey Saikeng (local pastor) and Kessam Bongtai to interrogate them about the shootout. The AR personnel took the villagers to another area and allegedly tortured the victims. The victims were allegedly forced to drink alcohol by the AR personnel, who also threatened to shoot if they refused to drink alcohol.⁷⁶

Case 2: Torture of Rangan Kakhun by Rajputana Rifles in Assam

On July 23, 2021, Rangan Kakhun, aged 45 years, a specially abled tribal man, was allegedly tortured by the personnel of Rajputana Rifles in custody at Jagun under Ledo Police Station in Tinsukia district, Assam on alleged charges of his nexus with NSCN militants. While the Superintendent of Police of Tinsukia, Mr Debajit Deuri denied the charges, the victim, Rangan Kakhun himself submitted a representation stating that on July 23, 2021, the Army personnel picked him up and brought to army camp where he was brutally beaten and later on he was hospitalized. He denied association with NSCN militants.⁷⁷

Case 3: Custodial torture of Dharawath Veerashekhar in Telangana

On November 10, 2021, Dharawath Veerashekhar (25 years), a tribal farmer, was picked up on mere suspicion of theft and subjected to torture at the Atmakur police station in Suryapet district in Telangana. He is a resident of Ramoji Tanda in Suryapet district. He was reportedly working on the agricultural field when three policemen came and picked up without giving any reason. After the incident Veerashekhar's elder brother and other relatives followed them to the police station. However,

⁷³ Ratnadip Choudhury, "Amit Shah Lied, Say Protesters In Massive Rally Over Nagaland Deaths", NDTV, December 11, 2021, <https://www.ndtv.com/india-news/nagaland-deaths-huge-protest-targets-amit-shah-controversial-law-afspa-2646790>

⁷⁴ Alice Yhoshü, "Nagaland police files FIR against army soldiers for civilian deaths", The Hindustan Times, December 6, 2021, <https://www.hindustantimes.com/india-news/nagaland-firing-nagaland-police-files-fir-against-army-soldiers-for-civilian-deaths-101638797567730.html>

⁷⁵ PTI, "Custodial Torture Still Prevails, Nationwide Sensitisation of Police Officers Needed: CJI", News18, August 8, 2021, <https://www.news18.com/news/india/custodial-torture-still-prevails-nationwide-sensitisation-of-police-officers-needed-cji-4060334.html>

⁷⁶ "19 AR accused of torturing, harassing villagers," The Arunachal Times, May 29, 2021, <https://arunachaltimes.in/index.php/2021/05/29/19-ar-accused-of-torturing-harassing-villagers/>

⁷⁷ NHRC Case No. 235/3/17/2021-PF

the police refused to provide any information and instead asked them to leave.⁷⁸

At around midnight of November 10, the family received a call from the police station to take Veerashekhar back home because he was unwell. When the family members reached the police station, they found Veerashekhar in an unconscious state, due to alleged torture in police custody. The police said he was sick. However, when Veerashekhar regained his consciousness, he said that he was tied with sticks behind his back, pinned to the wall and tortured to force him to confess. Later, under pressure from the family members and public, the police shifted Veerashekhar to Suryapet district hospital for treatment on November 11.⁷⁹

The preliminary inquiry conducted by Deputy Superintendent of Police, Suryapet, confirmed that Veerashekhar was tortured in custody and based on this report, Sub Inspector M Lingaiah was suspended.⁸⁰

Case 4: Custodial torture of Deepu Raghavan by the police in Kerala

On November 12, 2021, Deepu Raghavan, a 22-year-old tribal youth, was arrested on the false charge of stealing a vehicle and tortured at the Sultan Bathery police station in Wayanad district of Kerala. The victim, a resident of Athikadavu Paniya tribal colony of Meenangadi in Wayanad district, is a daily wage labourer. Sultan Bathery Station House Officer Benny K P claimed that the victim was caught fleeing with the stolen car (KL 05 N 9551) on November 5 and during interrogation he confessed to the theft. But his family members claimed that the case against him was fabricated because he did not even know to ride a bicycle, let alone drive a car. Deepu's mother Leela claimed that the police beat her son in front of her and other family members when they went to enquire at the police station. She alleged that the police even did not give him food the whole day.⁸¹

Deepu was sent to the district jail at Mananthavady but he was released on bail on November 27. After his release on bail, he stated that he did not know how to drive and he had only leaned on the car which led to an argument with its owner. He also alleged that he was "brutally beaten up in police custody."⁸²

Case 5: Custodial torture of five Kuravar tribals in Tamil Nadu

At the midnight of November 14, 2021, three tribal men belonging to the Kuravar tribe identified as K Selvam (48 years), P Dharmaraj (35 years) from Gongarapalayam village and P Prakash (25 years) from Thillai Nagar village, were allegedly forcibly taken away from their homes by plainclothes police personnel from Chinna Salem police station in Kallakurichi district of Tamil Nadu. They were allegedly subjected to torture in police custody. Selvam's wife said that the family members were not informed about the arrests and their whereabouts and therefore, they went searching for them at police stations in Varanjaram, Chinasalem and Kallakurichi. Subsequently, two other Kuravar tribal men identified as K Paramasivam (44 years) and P Sakthivel (28 years) were arrested on November 16, 2021.⁸³

Two of the five namely Selvam and Paramasivam were released on the midnight of November 16, 2021 as they were sick, and the rest namely P Dharmaraj, P Prakash, and P Sakthivel were produced before the magistrate the next day. The police claimed that all of them were picked up on suspicion of theft. Selvam of Gongarapalayam village alleged that they (including himself) were tortured in police custody. He saw Dharmaraj was hung up by just his thumbs. All of them were beaten to extract a confession to jewellery theft. Dharmaraj also reportedly told the magistrate that the police tortured them.⁸⁴

78, 79 Pintu Deepak, "Telangana: Custodial torture of tribal rocks Atmakur", The New Indian Express, November 12, 2021, <https://www.newindianexpress.com/states/telangana/2021/nov/12/telangana-custodial-torture-of-tribal-rocks-atmakur-2382575.html>

80 "Telangana: Sub-inspector suspended after protest over Athmakur tribals' torture", The Times of India, November 13, 2021, <https://timesofindia.indiatimes.com/city/hyderabad/si-suspended-after-protest-over-athmakur-tribals-torture/articleshow/87674528.cms?from=mdr>

81 "Tribal youth 'who can't drive' slapped with car theft case in Kerala, put behind bars", The New Indian Express, November 13, 2021, <https://www.newindianexpress.com/states/kerala/2021/nov/13/tribal-youth-who-cant-drive-slapped-with-car-theft-case-in-kerala-put-behind-bars-2382912.html>

82 "I just leaned on car, says tribal youth held for theft", The New Indian Express, November 28, 2021, <https://www.newindianexpress.com/states/kerala/2021/nov/28/i-just-leaned-on-car-says-tribal-youth-held-for-theft-2389000.html>

83, 84 Krithika Srinivasan, "Five Kuravar tribal men allege custodial torture", The New Indian Express, November 18, 2022, <https://www.newindianexpress.com/states/tamil-nadu/2021/nov/18/five-kuravar-tribal-men-allege-custodial-torture-2384978.html>

d. Implication in False Cases and Harassment

On December 21, 2021, the Tamil Nadu State Human Rights Commission (SHRC) directed the Tamil Nadu government to pay a compensation of Rs 75 lakh (Rs 5 lakh each) to 15 members of a family belonging to the Irula community who were falsely implicated in a theft case and tortured in police custody in Villupuram district in November 2011.⁸⁵ The tribals have also been falsely implicated in Maoist-related cases and harassed by the police. In October 2021, a district court in Dakshina Kannada district in Karnataka exonerated tribal youth, Vittala Malekudiya (23 years) and his father Lingappa Malekudiya who were arrested as being alleged Naxals nine years ago. At the time of arrest from their home in March 2012, the Anti-Naxal Force claimed that the journalism student and his father were members of the dreaded Communist Party of India (Maoist-Leninist) People's War. Both were charged with sedition, criminal conspiracy and terror under the Unlawful Activities (Prevention) Act (UAPA). They spent four months in prison before they were released on bail. Vittala spent four months in jail between March and July 2012 while his father was admitted at Mangaluru's Wenlock Hospital after his injuries. The judge held that having books on Bhagat Singh (a revolutionary Indian freedom fighter who was hanged by the British) and newspaper cuttings are not in violation of the law. "Possessing the books of Bhagat Singh is not barred under the law...reading of such newspapers is not barred under the law...mere possession of paper cuttings of a newspaper does not amount to an offence," the judgment read.⁸⁶

The victimization of innocent tribals by filing false cases against them has continued during the year 2021.

It is alleged that in Jharkhand, innocent tribals were framed under the Unlawful Activities (Prevention) Act, 1967 (UAPA) and section 17 of the Indian Criminal Law Amendment Act, 1908, pertaining to penalties for being a member of an unlawful association, and forced to surrender as Maoists (also known as Naxals).⁸⁷ In September 2016, the National Human Rights Commission (NHRC) said its investigation

found that the allegations with respect to the fake surrender of innocent tribal youths posing as Naxals in Jharkhand during 2011-12 were found to be prima facie true.⁸⁸ It is alleged that the security forces orchestrated fake surrender of 514 innocent tribal youths to boost the surrender figures in Jharkhand.⁸⁹ Incidents of false implications of innocent tribals in Maoist related cases and then threatening or luring them to surrender as Maoists have continued to be reported during 2021.

Case 1: False implication of Birsa Manjhi as alleged Maoist in Jharkhand

In the second week of November 2021, Birsa Majhi (50 years) S/o Rameshwar Majhi was summoned to the Jageswar Vihar police station in Gomia block in Bokaro district of Jharkhand where he was told that he was a wanted Maoist, an absconding criminal and carried a reward of ₹1 lakh (INR 100000) for his capture. In fact, Birsa, resident of Lalgah village in Gomia Block, was a daily wage labourer who worked in a brick kiln near his village. But Jageswar Vihar station house officer (SHO) Kanhaiya Ram refused to believe him and he was summoned again on 15



Birsa Majhi standing in front of his house.

Photo credit: Jharkhand Janadhikar Mahasabha

December and was allegedly ordered on the phone by deputy superintendent of police (DSP) Satish Chandra Jha to surrender in February 2022. The DSP allegedly told Birsa that "benefits available under

85 TNN, "Police excesses: SHRC directs Tamil Nadu govt to pay Rs 75 lakh compensation Irula community people," The Times of India, December 21, 2021, <https://timesofindia.indiatimes.com/city/chennai/police-excesses-shrc-directs-tamil-nadu-govt-to-pay-rs-75-lakh-compensation-irula-community-people/articleshow/88417662.cms>; also see, People's Watch's statement: <https://counterview.org/2021/12/24/shrc-order-peoples-watch-appeals-for-zero-tolerance-to-violence-by-uniformed-services/>

86 Prajwal Bha, "Acquitted nine years after being branded a Naxalite: Story of a Karnataka journalist," The NewsMinute, November 3, 2021, <https://www.thenewsminute.com/article/acquitted-nine-years-after-being-branded-naxalite-story-karnataka-journalist-157205>

87, 90 Mohammad Sartaj Alam, "Making Of A Maoist: Jharkhand Police Declare Villagers Wanted Maoists, Lure & Coerce Them To Surrender," Article14, February 9, 2022, <https://www.article-14.com/post/making-of-a-maoist-jharkhand-police-declare-villagers-wanted-maoists-lure-coerce-them-to-surrender--62033e803cca6>

88 Prashant Pandey, "Jharkhand: NHRC finds allegations of 'fake surrender of naxals' to be true," The Indian Express, September 8, 2016, <https://indianexpress.com/article/india/india-news-india/jharkhand-nhrc-finds-allegations-of-fake-surrender-of-naxals-to-be-true/>

89 "Deepu Sebastian Edmond, 'CRPF used fake surrender youths as guides on anti-Naxal ops'," The Indian Express, July 30, 2014, <https://indianexpress.com/article/india/india-news/crpf-used-fake-surrender-youths-as-guides-on-anti-naxal-ops/>

the surrender scheme” would be given to him if he surrendered. Birsa Majhi believed that the police were looking for one Birsa Manjhi, son of Buddha Manjhi and it was a case of mistaken identity.⁹⁰ According to Dinesh Murmu, an activist with Jharkhand Janadthikar Mahasabha, a rights group which is helping Birsa Majhi, this is a clear case of mistaken identity.⁹¹

This is not his first brush with criminalisation on false charges. In 2005, Birsa along with some neighbours was wrongly accused in a case of witch-hunt and charged under the Prevention of Witch Practices Act after an alleged scuffle with his relatives.⁹² Birsa and the others were allegedly severely beaten in the local police station and then sent to Tenuhat jail. All of the accused, except Birsa, have since been acquitted as the charges could not hold. But Birsa continues to struggle with the legal case. Lawyer Laxmikant Prasad, who appeared for Birsa Majhi in this witch-hunt case, asserted that Birsa is innocent and explained that “Birsa is still on trial just because he could not appear for hearings as he is poor man and was often wandering for work”.⁹³ Yet, in 2018, all his meagre belongings at his home were attached/confiscated by police when Birsa was away in another state (Andhra Pradesh) for work. His family was not even served a notice and they don’t still know in which case that action was taken.⁹⁴

Birsa is too poor to fight a case against him in the court. He has written to the state’s Chief Minister Hemant Soren stating that he was not a Maoist.⁹⁵ The IRAC has sought the urgent intervention of the National Human Rights Commission (NHRC) and the Chief Minister to immediately withdraw the cases against Birsa Majhi and order a judicial inquiry as to how he was framed in a false case. While the NHRC has registered the case,⁹⁶ the Jharkhand government has not taken any action.

Case 2: False implication of Sanjay Majhi as Maoist in Jharkhand

Another case of false Maoist case was implication of Sanjay Majhi (50 years) S/o Late Babua Majhi, resident of Lalgah village in Bokaro district of Jharkhand, as a Maoist cadre by the Jharkhand Police. On 23 December 2021, four policemen visited 52-year-old Sanjay Manjhi, a mason of Lalgah village (the same village from where Birsa Majhi belonged) to inquire about his name and family members. On 27 December, he was summoned to the Jageswar Vihar police station, where the SHO Kanhaiya Ram said there was a warrant of kurki-jabti (property attachment) against him. ‘Attachment or forfeiture’ of property is initiated through a court directive when there is reasonable ground to believe that the property is derived or obtained through the commission of an offence. The SHO told him that he was facing a case under section 17 of the Indian Criminal Law (Amendment) Act for being associated with the Maoists. According to the SHO, this case was registered against Sanjay in connection with the blowing up of a section of railway track by alleged Maoists in October 2014 in the Mahuatand area, approximately 25 km from his residence. The SHO allegedly asked him to either surrender and seek bail “or else there would be attachment forfeiture of my house.”⁹⁷ Till that time Sanjay Majhi did not have any knowledge about this Maoist case (Case No. 68/14 dated 21.10.2014 at Mahuatand police station).

According to Sanjay Majhi, he is a daily labourer and earning livelihood as a mason in his village. He is an illiterate but he has two sons and two daughters who are studying. He says he has no connection with the Maoists whatsoever. But he has been on bail since 2014 in an old case of coal theft (Crime No. 26/13 at Gomia police station). In that coal theft case, he has been regularly attending the hearing in the Bermo Anumandal court and he last appeared in December

91 Telephonic interview with Dinesh Murmu, an activist with Jharkhand Janadthikar Mahasabha, Jharkhand on January 23, 2022.

92 Vishnukant Tiwari, ‘I Am Not a Maoist,’ Says Tribal Man Listed as ‘Wanted’ in Jharkhand’s Bokaro, The Quint, January 15, 2022, <https://www.thequint.com/news/india/i-am-not-a-maoist-says-tribal-man-listed-as-wanted-in-jharkhand-bokaro#read-more>

93 Telephonic interview with Laxmikant Prasad, lawyer for Birsa Majhi in the 2005 case registered under Prevention of Witch Practices Act, on January 22, 2022

94 HT Correspondent, ‘Tribal man finds his name on wanted Maoist list, seeks CM’s help’, Hindustan Times, January 4, 2022, <https://www.hindustantimes.com/cities/ranchi-news/tribal-man-finds-his-name-on-wanted-maoist-list-seeks-cm-s-help-101641313568309.html>

95 Vishnukant Tiwari, ‘I Am Not a Maoist,’ Says Tribal Man Listed as ‘Wanted’ in Jharkhand’s Bokaro, The Quint, January 15, 2022, <https://www.thequint.com/news/india/i-am-not-a-maoist-says-tribal-man-listed-as-wanted-in-jharkhand-bokaro#read-more>

96 NHRC Case No. 42/34/1/2022

97, 99 Mohammad Sartaj Alam, ‘Making Of A Maoist: Jharkhand Police Declare Villagers Wanted Maoists, Lure & Coerce Them To Surrender’, Article14, February 9, 2022, <https://www.article-14.com/post/making-of-a-maoist-jharkhand-police-declare-villagers-wanted-maoists-lure-coerce-them-to-surrender-62033e803cca6>

2021. So, he cannot be absconding from the police. Yet, the Jharkhand Police has declared him as absconding in another case (Case No. 68/14 dated 21.10.2014 at Mahuatand PS) relating to blowing off railway lines.⁹⁸

According to Sanjay's eldest son Sunil Majhi (25 years), the Jageswar Vihar police passed an order on 30 December to attach the house registered in his father's name, though no notice had been served to them. According to police records, in the railway track explosion case one Sanjay Majhi whose father's name was not mentioned was being investigated for the explosion. When the case was transferred from Mahuatand police station to Jageswar Vihar police station in 2016 or 2017, the case diary was written to show the name of the accused as Sanjay Majhi, son of Babua Majhi. A case diary entry dated 18 February 2020 said a notice had been pasted on the house of Sanjay Manjhi, son of Babua Manjhi.

Two witnesses had signed against the case diary entry, Sadaram Manjhi and his brother-in-law Mukesh Manjhi. But both told Article 14, a human rights body, that they had not consented to being witnesses in the case against Sanjay but they had signed on a sheet of paper in connection with Sadaram's mother who was branded a witch and murdered in 2020.⁹⁹

Case 3: Arrest of eight tribal villagers as Maoists in Chhattisgarh

The police called the Silger protests "Maoists-sponsored protests" and vowed to set up more security camps to counter the Maoists.¹⁰⁰ On the other hand, innocent tribal villagers were arrested and framed in false cases for protesting against the security camps. On November 2, 2021, eight tribal villagers¹⁰¹ were reportedly arrested as alleged Maoists in Chhattisgarh's Sukma district while they were returning home from a protest against establishment of CRPF camp at Silger village. The Chhattisgarh police claimed that these alleged Maoists arrested from a forest near Morpalli village during an "area domination operation" of the CoBRA (Commando Battalion for Resolute Action), an elite unit of the CRPF, and the District Force of police.¹⁰²

98 Petition submitted by Sanjay Majhi to the Superintendent of Police, Bokaro district, Jharkhand on 19 January 2021

100 Prithviraj Singh, "3 new security camps in Bastar — Chhattisgarh's 'master plan to shrink' Naxal stronghold," *The Print*, June 15, 2021, <https://theprint.in/india/3-new-security-camps-in-bastar-chhattisgarhs-master-plan-to-shrink-naxal-stronghold/677368/>

101 These eight tribals have been identified as Kawasi Raju alias Santu, Kalmu Mada (25), Komram Kanna (38), Madkam Hidma (29), Tursam Mudraj (45), Madkam Enka (25), Madkam Soma (32) and Madkam Mutta (40).

102 Ritesh Mishra, "Activists raise questions on arrest of 8 alleged Maoists by Sukma police," *The Hindustan Times*, November 6, 2021, <https://www.hindustantimes.com/cities/others/activists-raise-questions-on-arrest-of-8-alleged-maoists-by-sukma-police-101636214428783.html>

3. Violations by the Armed Opposition Groups

The armed opposition groups, particularly the Communist Party of India (Maoists), have been responsible for gross violation of human rights and international humanitarian law as they resorted to mindless killings, abduction and torture of innocent tribal civilians

a. Killings

According to the Ministry of Home Affairs, Government of India, *"The States of Chhattisgarh, Jharkhand, Odisha, Bihar, West Bengal, Andhra Pradesh, Telangana, Maharashtra, Madhya Pradesh, Uttar Pradesh and Kerala are considered LWE [Left Wing Extremist insurgency] affected, although in varying degrees".*¹⁰³ *The Communist Party of India-Maoist (CPI-Maoist) cadres have killed several tribals on the suspicion of being "police informers" during 2021.*

On January 24, Ramsay Gadve (30 years), a resident of Morarpani village, abducted and was killed by sharp-edged weapons by a group of suspected Maoists, while a day later, Inder Sai Mandavi (75 years), a resident of Kamkheda village, was beaten to death by suspected Maoists under Manpur police station in Rajnandgaon district of Chhattisgarh. Both were killed on the suspicion of being police informers.¹⁰⁴

On March 5, Korra Pilku (35 years), a former Maoist cadre, was killed by the Maoists at Kothapalem village in Visakhapatnam district of Andhra Pradesh. According to the police, the deceased was dragged from his house and killed by the Maoist on the charge of being a police informer.¹⁰⁵

On April 19, the Maoists killed two young tribals namely Madkam Arjun (15 years) and Taati Hadma (21 years) in Jagargunda area in Sukma district of Chhattisgarh. They were targeted because of relatives serving in the Indian security forces. The Maoists reportedly accused the child of being a

police informant, beat him savagely and slit his throat.¹⁰⁶

On June 16, the Maoists abducted a tribal youth identified as Sitaram Ketan and killed him at Amjhar village in Dhamtari district of Chhattisgarh. The youth was accused of being a police informer.¹⁰⁷

On July 11, 2021, Baman Poyam (32 years), a resident of Ambeli village under Kutru police station in Bijapur district of Chhattisgarh was abducted and killed by alleged Maoists. His body was found inside a forest, about five km away from his village, the next day.¹⁰⁸

On November 9, Umesh Markam, a tribal villager, was killed by suspected Maoists on the charges of being a police informer at Tetam village in Dantewada district of Chhattisgarh. Dantewada police superintendent Abhishek Pallava said in a statement that *"A small action team of the Katekalyan area committee of Maoists attacked Markam with sharp-edged weapons. Markam died on the spot."*¹⁰⁹

On November 17, Madvi Raj Kumar, a tribal villager, was kidnapped by the Maoists from his home at Cheruvugumpu village in East Godavari district of Andhra Pradesh. He was tried in a people's court for the charges of being a police informer at Maita village on the Andhra Pradesh-Chhattisgarh border and then killed.¹¹⁰

On November 19, a 45-year-old tribal, Somaji Sadmek, was shot dead by Maoists near Hedri in Etapalli tehsil of Gadchiroli district in Maharashtra. He was earlier

103 https://www.mha.gov.in/division_of_mha/left-wing-extremism-division, accessed on December 7, 2021

104 Ritesh Mishra, "Chhattisgarh: Police 'notice' to panchayat representatives to move to safer area", The Hindustan Times, February 9, 2021, <https://www.hindustantimes.com/india-news/chhattisgarh-police-notice-to-panchayat-representatives-to-move-to-safer-area-101612838622696.html>

105 Hans News Service, "Tribals of Balapam panchayat seek protection, development", The Hans India, March 7, 2021, <https://www.thehansindia.com/news/cities/visakhapatnam/tribals-of-balapam-panchayat-seek-protection-development-675603>

106 TNN, "Maoists kill 15-year-old in Sukma. His crime: Kin work in forces", The Times of India, April 20, 2021, <https://timesofindia.indiatimes.com/india/maoists-kill-15-year-old-in-sukma-his-crime-kin-work-in-forces/articleshow/82154379.cms>

107 "Maoists kill another tribal villager, Sitaram Ketan, near Raipur Chhattisgarh", Organiser, June 20, 2021, <https://www.organiser.org/maoists-kill-youth-just-outside-the-capital-of-chhattisgarh-2728.html>

108 PTL, "Maoists Kill Man In Chhattisgarh Village, Dump Body In Forest: Official", NDTV, July 12, 2021, <https://www.ndtv.com/cities/maoists-kill-man-in-chhattisgarh-village-dump-body-in-forest-official-2484758>

109 Ritesh Mishra, "Maoists kill police informer in Chhattisgarh's Dantewada", The Hindustan Times, November 11, 2021, <https://www.hindustantimes.com/india-news/maoists-kill-police-informer-in-chhattisgarh-s-dantewada-101636600823686.html>

110 "Maoists kill Adivasi near Bhadrachalam", Telangana Today, November 18, 2021, <https://telanganatoday.com/maoists-kill-adivasi-near-bhadrachalam>

kidnapped from his home. Police believed that the Maoists killed Sadmek to protest against mining in the Surjagarh hillock. The Maoists left some pamphlets near Sadmek's body, which was found near a temple adjoining the mining site.¹¹¹

On December 21, Maoists allegedly killed a former village chief identified as Korasa Ramesh (28 years), a resident of K Kondapuram village in Mulugu district of Telangana, on the charges of being a police informer. According to the Telangana Police, the deceased and another villager named Kurusam Ramesh were called to Bheemaram village in Chhattisgarh to meet some Maoist cadres. But as soon as they received Bheemaram village on December 20, they were taken abducted by the Maoists. On December 21, Kurusam Ramesh was released but the body of Korasa Ramesh was found near Kothapally village of Chhattisgarh. Police said he was shot dead by the Maoists after branding him as a police informer.¹¹² Police further claimed that a Maoist letter was recovered near Korasa Ramesh's body which said he was killed after being tried at a "people's court" for allegedly working as a double agent.¹¹³

In Manipur state in the Northeastern region, on September 22, social activist Athuan Abonmai, former president of Zelianrong Baudi, was abducted by suspected National Socialist Council of Nagaland (NSCN-IM) cadres from Pologround in Tamenglong headquarters.¹¹⁴ Later on the same day, his body was found near Pallong village under Tamei sub-division in Tamenglong district. The deceased reportedly suffered multiple bodily injuries, including a deep cut on the head.¹¹⁵ The investigation of the case was handed over to the National Investigation Agency (NIA).

b. Abduction

The Maoists have been responsible for abduction of indigenous peoples in areas affected by the armed insurgencies during 2021.

On January 30, two tribal villagers identified as Rauta Majhi and Gobinda Majhi of Gumu village under Belghar police station in Kandhamal district of Odisha, were abducted by the Maoists on the charges of being police informers. However, they were released the next day. Gobinda Majhi was brutally thrashed by Maoists.¹¹⁶

On June 17, a 12-year-old Gutti Koya tribal girl was allegedly abducted by the Maoists from her house in an internally displaced persons (IDP) settlement in the Chintoor Agency in East Godavari district of Andhra Pradesh. Gutti Koya tribals had fled Salwa Judum and Maoist violence in Chhattisgarh many years ago.¹¹⁷

The Maoists abducted eight tribals on July 17-18, from Kunded village under Jagargunda police station limits in Sukma district of Chhattisgarh. However, they were released unharmed on the night of July 21. The police said the Maoists warned the villagers "not to support police or development works" in the area before releasing them.¹¹⁸

On November 7, the Maoists allegedly abducted five tribal villagers including a class 12 girl, from Bater village under the Konta police station in Sukma district of Chhattisgarh. They were released after two days.¹¹⁹

On December 7, the Maoists abducted fifteen tribals from Charla mandal in Bhadrakri-Kothagudem district of Telangana.¹²⁰ They were reportedly accused of being police informers. However, the Maoists released them after two days.¹²¹

111 TNN, "Maoists gun down tribal to protest mining," The Times of India, September 21, 2021, <https://timesofindia.indiatimes.com/city/nagpur/maoists-gun-down-tribal-to-protest-mining/articleshow/86380386.cms>

112 "Maoists kill former Sarpanch for working as double-agent in Mulugu", Telangana Today, December 22, 2021, <https://telanganatoday.com/maoists-kill-former-sarpanch-for-working-as-double-agent>

113 Srinivasa Rao Apparasu, "Maoists kill former village head in Telangana", The Hindustan Times, December 22, 2021, <https://www.hindustantimes.com/india-news/maoists-kill-former-village-head-in-telangana-101640174446470.html>

114 "Manipur tribal leader's murder: Video shows abduction in police presence; 14 cops suspended", Eastmojo, September 24, 2021, <https://www.eastmojo.com/manipur/2021/09/24/manipur-tribal-leaders-murder-video-shows-abduction-in-police-presence-14-cops-suspended/>

115 IFP Bureau, "Killing of Athuan Abonmai: Sledge hammer recovered from crime scene", Imphal Free Press, September 25, 2021, <https://www.ifp.co.in/9947/killing-of-athuan-abonmai-sledge-hammer-recovered-from-crime-scene>

116 Debabrata Mohanty, "Maoist killed in Odisha encounter, say police", The Hindustan Times, January 31, 2021, <https://www.hindustantimes.com/india-news/maoist-killed-in-odisha-encounter-say-police-101612092324348.html>

117 T. Appala Naidu, "Abduction of minors, new recruitment strategy of Maoists?", The Hindu, August 1, 2021, <https://www.thehindu.com/news/national/andhra-pradesh/abduction-of-minors-new-recruitment-strategy-of-maoists/article35660337.ece>

118 PTI, "Eight People, Allegedly Kidnapped By Maoists In Chhattisgarh, Released: Police", NDTV, July 22, 2021, <https://www.ndtv.com/india-news/eight-people-allegedly-kidnapped-by-maoists-in-chhattisgarhs-sukma-released-police-2491870>

119 "Chhattisgarh: Naxals release five abducted villagers", The New Indian Express, November 9, 2021, <https://www.newindianexpress.com/nation/2021/nov/09/chhattisgarh-naxals-release-five-abducted-villagers-2381089.html>

120 TNN, "Telangana: Maoists hold 15 tribals hostage", The Times of India, December 9, 2021, <https://timesofindia.indiatimes.com/city/hyderabad/maoists-hold-15-tribals-hostage/articleshow/88173763.cms?from=mdr>

4. Violations by the Forest Officials

a. Criminalization, torture and filing of false cases

Under Section 3 of the Forest Rights Act, 2006, the Scheduled Tribes have forest rights relating to all types of Minor Forest Produce (MFP) as defined under Section 2(i) of the Act. Section 3(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) states,

“For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b)

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d)....”

Section 2(i) of the FRA defines the term “minor forest produce” to include “all non-timber produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers, and the like”. Hence, the tribals have the right to go into the forest lands of any type, including protected forests, reserved forests, Sanctuaries, Tiger Reserve, and National Parks, to collect MFP including Mahua flowers. But tribals have been denied access to the forests and were tortured and false cases were instituted against them under the Wildlife

(Protection) Act, 1972, Indian Forest Act 1927 etc.

Many tribals have been subjected to torture by the forest officials during 2021.

Case 1: Torture of 16 women and eight men in Telangana

On March 27, 2021, 16 women and eight men belonging to the Lambada tribe were allegedly tortured by the forest officials when they went inside the Amrabad tiger reserve in Nallamala hills in Nagarkurnool district of Telangana. The tribals had gone to the forest to collect Mahua flowers which is a major livelihood source for the tribals. After collecting flowers, they were sleeping in the forest when forest officials suddenly attacked them in the middle of the night. The victims alleged that they were undressed/ stripped and beaten by the forest officials. One of the victims, K Patya (48 years) who received injuries on his head, told the media that “After collecting flowers, we were sleeping in the forest when officials suddenly attacked us in the middle of the night. They forced us to strip and they started beating us. They even beat up a 70-year-old woman.”¹²²

IRAC has filed a complaint with the NHRC (Case No. 1086/36/22/2021 M-4). Responding to the NHRC notice, Smt R. Sobha, Principal Chief Conservator of Forests, Telangana in her report dated December 20, 2021 admitted that the “injured persons” (tribals) were admitted at the Government Hospital. But the tribal victims were booked in a wildlife offence case vide POR 1-47/2021, dated March 27, 2021 under sections 27, 29, 30, 31 of the Wildlife (Protection) Act, 1972 for entering into the reserved forest without permission.

¹²¹ “Telangana: Maoists release 15 tribals after holding them captive for 2 days”, The New Indian Express, December 10, 2021, <https://www.newindianexpress.com/states/telangana/2021/dec/10/telangana-maoists-release-15-tribals-after-holding-them-captive-for-2-days-2393813.html>

¹²² “Stripped, beaten up by forest officials: Battered Nagarkurnool tribals in Telangana seek justice”, The New Indian Express, March 31, 2021, <https://www.newindianexpress.com/states/telangana/2021/mar/31/stripped-beaten-up-by-forest-officials-battered-nagarkurnool-tribals-in-telangana>

Case 2: Torture of five tribals in Gujarat

On August 18, 2021, five tribals were allegedly tortured by forest officials during a midnight raid to recover alleged illegal logs at Samarkuva village under Songadh Taluka in Tapi district of Gujarat on 18th August 2021. The five injured victims have been identified as (1) Jitendra Vasava, aged about 35 years, (2) Hareesh Vasava, (3) Sonel Vasava, (4) Dalpat Vasava, and (5) Kalpanaben Vasava. Of them, Jitendra suffered injury in the head. The forest officials suspected that tribals of Samarkuva village which is situated near a reserved forest were involved in illegal cutting of trees and smuggling them. On mere suspicion that the tribals had stored illegally fallen logs in their village, a team of forest officials led by Kherwada Range Forest Officer Ashwina Patel raided the village of Samarkuva late in the night of 18 August 2021 and carried out a search operation in different houses. People started shouting for help after forest officials forcefully entered their houses. The forest officials found nothing during the raid but started harassing the innocent tribals and physically assaulted some of them. In the assault, at least five tribal villagers have been injured.¹²³

Case 3: Torture of seven tribal villagers by the forest guards in Maharashtra

For two days i.e. on November 24-25, 2021, seven tribal villagers were allegedly tortured by forest guards on the suspicion of being involved in poaching of spotted deer in Durgapur in Chandrapur district of Maharashtra. The victims have been identified as namely Aakash Chandekar, Ishwar Ramteke, Hanuman Asutkar, Sandeep Asutkar, Sandeep Nehare, Mangesh Asutkar and Rakesh Sao, all of who belonged to Chicholi village. On November 26, the police registered a case against forester guards Gulab Yadav and Vijay Bhimanwar attached to Chandrapur forest range on the basis of a complaint filed by the victims.¹²⁴

According to the complaint, a team of around nine foresters picked up four tribal villagers namely Aakash Chandekar, Ishwar Ramteke, Hanuman Asutkar and Sandeep Asutkar on November 24 from Chicholi village on the suspicion of being involved in poaching of deers with the help of electrified wire. These four tribal villagers were taken to the range office where they were allegedly beaten with plastic baton and were subjected electric shocks by forester guards identified as Gulab Yadav and Vijay Bhimanwar and others. Further, Aakash Chandekar was allegedly made to strip and the foresters threatened him to give shock to his private parts with a live wire.¹²⁵

After the torture, the four tribal victims were allowed to return home in the same evening, only to be summoned the next morning and again subjected to similar inhuman torture. This time, three more tribal villagers identified as Sandeep Nehare, Mangesh Asutkar and Rakesh Sao were picked up on similar charges and subjected to electric shocks in custody by the same forest guards.¹²⁶ The accused forest guards namely Vijay Bhimanwar and Gulab Yadav have been booked under the SC/ST (Prevention of Atrocities) Act, 1989 for torturing the tribal villagers.¹²⁷

123 Express News Service, "Illegal cutting of trees: 5 tribals injured in Tapi after scuffle with forest officials", The Indian Express, August 20, 2021, <https://indianexpress.com/article/cities/ahmedabad/illegal-cutting-of-trees-5-tribals-injured-in-tapi-after-scuffle-with-forest-officials-746194>

124 "Maharashtra: 7 poaching suspect tribals allege torture," The Times of India, November 27, 2021, <https://timesofindia.indiatimes.com/city/nagpur/7-poaching-suspect-tribals-allege-torture/articleshow/87938291.cms>

125 "Maharashtra: 7 poaching suspect tribals allege torture," The Times of India, November 27, 2021, <https://timesofindia.indiatimes.com/city/nagpur/7-poaching-suspect-tribals-allege-torture/articleshow/87938292.cms>

126 "Maharashtra: 7 poaching suspect tribals allege torture," The Times of India, November 27, 2021, <https://timesofindia.indiatimes.com/city/nagpur/7-poaching-suspect-tribals-allege-torture/articleshow/87938293.cms>

127 "Foresters face Atrocity Act charges too in torture case," The Times of India, December 1, 2021, <https://timesofindia.indiatimes.com/city/nagpur/foresters-face-atrocity-act-charges-too-in-torture-case/articleshow/88017048.cms>

b. Lodging of false and fabricated cases

Whenever the tribals have tried to defend their land or tried to access forest produce by going inside the forests, the forest officials lodged false cases to harass them.

Case 1: Filing of false case against seven Chenchu tribals in Telangana

On July 2, 2021, the forest department filed a false case against seven Chenchu tribals accusing them of pouring petrol on a forest beat officer at Macharam in Amrabad Mandal under Nagarkurnool district of Telangana. According to The Times of India, a large group of forest officials from Amrabad and Maddimaddugu ranges reached Macharam to draw a baseline between revenue and forest limits to take up plantation drives at Macharam in Amrabad Mandal. Chenchu tribal families who were cultivating in the Podu lands were terrified when they saw the forest officials and asked the forest officials to come on some other day because they had applied for land pattas which could be issued any time. But the forest officials wanted the land documents on the spot. Regarding this, an argument began between the tribals and the forest officials, when one tribal woman poured petrol over herself in the fear of losing her land. In the process, a few drops of petrol fell on one of the forest staff who was standing close to her. Taking advantage of this, the forest officials reportedly filed FIR with the police on 3 July 2021 against seven tribal women accusing them of pouring petrol on a forest staff. But, as per the tribal villagers, the allegations made in the FIR are false.¹²⁸

Case 2: False cases against six tribal women in Telangana

On August 21, 2021, false cases were filed against six tribal women for protecting their land from forced grabbing by the forest officials at Toggudem village in Dummagudem mandal of Khammam district of Telangana. The tribals have been cultivating the land in question (about 11 hectares) at Toggudem village for a long time and plant cotton every year, but forest officials wanted to plant trees under Haritha Haram scheme (afforestation scheme). On August 21, when

the tribal women obstructed movement of a lorry carrying saplings to be planted on the 11 hectares of land belonging to the tribals at Toggudem village, the police filed false cases against six tribal women.¹²⁹

Case 3: False case against 13 tribals in Jammu & Kashmir

On September 17, 2021, a false FIR was lodged against 13 tribals by the Forest Department for demanding land patta under the Forest Rights Act at Raiyar village in Budgam district in Jammu and Kashmir. These 13 tribals have been booked under section 379 (Punishment for theft), 427 (Mischief causing damage to the amount of fifty rupees) of Indian Penal Code (IPC). All the 13 people have been accused of trespassing the forest land and damaging the fence erected by the forest department at Raiyar village of central Kashmir's Budgam district.

Kashmir Observer reported that Ravinder Singh, Station House Officer (SHO) of Khanshaib police station in Budgam district confirmed that an FIR has been registered on the request of Divisional Forest Officer (DFO) of Pir Panjal Division, Budgam, Muhammad Ashraf Katoo, against these 13 tribals for allegedly trespassing into the forest land and stealing fencing of the forest department in an attempt to encroach the land. However, the victims have refuted the allegations and stated that they have been wrongly criminalized for demanding implementation of the Forest Rights Act. It is pertinent to mention that the Jammu and Kashmir Administration has recently decided to implement the Forest Rights Act, 2006.

One of the victims, Abdul Majid Deenda, a resident of Riyar village, told Kashmir Observer that they had gone to the office of the DFO to demand land rights under the Forest Rights Act. Jehangir Ahmad Deenda, Vice Chairman of Forest Rights Act Committee accused forest officials of demanding a bribe for verifying their documents for the implementation of FRA. He alleged that when the applicants refused to pay bribes, the forest department lodged an FIR against them saying that they stole the fencing of the forest department.¹³⁰

128 TNN, "Telangana: Complaint against seven members of Chenchus after clash with forest officials", The Times of India, July 4, 2021, <https://timesofindia.indiatimes.com/city/hyderabad/complaint-against-7-chenchus-after-clash-with-forest-officials/articleshowprint/84102211.cms>

129 "Forest officials and tribals lock horns at Telangana-Chhattisgarh border", The New Indian Express, August 22, 2021, <https://www.newindianexpress.com/states/telangana/2021/aug/22/forest-officials-and-tribals-lock-horns-at-telangana-chhattisgarh-border-2348064.html>

130 Auqib Javeed, "13 Tribals booked for attempted land grab in Budgam", The Kashmir Observer, September 30, 2021, <https://kashmirobsrver.net/2021/09/30/13-tribals-booked-for-attempting-land-grab/>

Case 4: Filing of false FIR against eight tribal women in Telangana

On September 30, four tribal women farmers, including Gugulothu Lakshmi, were allegedly attacked by the forest officials with axes at Ambedkar Nagar in Bhandari Kothagudem district, Telangana. The New Indian Express reported that “Tensions escalated at Ambedkar Nagar in Kothagudem district on Thursday, September 30, 2021, when forest officials armed with axes allegedly attacked a few tribal podu cultivators, contending that they were raising crops on a land parcel that belonged to the Forest Department.” In the attack, four tribal women sustained injuries and were shifted to the Kothagudem area hospital. Among the injured women, the condition of Gugulothu Lakshmi was reported to be critical. On the other hand, forest officials lodged a complaint against eight women and a few others at the Two Town police station, alleging that they attacked forest officials who went to plant saplings in the forest land.¹³¹

Case 5: Lodging of false case against Basava in Karnataka

On December 1, 2021, Basava (37 years), belonging to Jenu Kuruba tribal community, was shot and injured by the forest guards in the Hunsur wildlife range of Nagarhole under Periyapatna taluk in Mysore district of Karnataka.¹³² He is a resident of Ranigate Jenu Kuruba hamlet in Periyapatna taluk. He had reportedly gone to the adjoining forest to answer the call of nature when he was shot at.¹³³ Basava has sustained injuries on his left buttock and his left hand and he is still recuperating in a hospital.¹³⁴

The victim's wife Pushpa filed a complaint at the Bylakuppe police station on December 1 itself against four forest guards Subramani, Mahesh, Sidda, and Manju. These four forest guards and Basava had an altercation a month ago when the latter objected to forest staff chopping off a silver oak tree near his house.¹³⁵ Basava also corroborated this when he told The News Minute that the forest officials shot him as they had a grudge against him when he had in November 2021 objected to cutting of a silver oak

tree near his house.¹³⁶ But no case has been registered against the accused forest guards.

On the other hand, Basava has been falsely framed in sandalwood smuggling case. The police registered a case against Basava at Bylakuppe police station under sections 379, 506, 353, 332, 307 of IPC and under sections 86 and 87 of Karnataka Forest Act based on the complaint filed by the forest department.¹³⁷ Nagarhole Tiger Reserve Director Mahesh Kumar claimed that the forest staff, based on a tip-off, had gone near Cauvery Block CPT-1 Reserve Forest to nab three men who were chopping down a sandalwood tree and that they attacked the forest staff.¹³⁸ Mr Kumar further claimed that “In self-defence, the staff opened fire and Basava was injured while two others, Dilip and Satish, are absconding.”¹³⁹

The claim of firing in self-defence has been rejected by the local villagers. Budkattu Krishikar Sangh's secretary J.D. Jayappa told the media that the case against Basava was totally false and fabricated. Basava was attending a self-help group meeting with other members of his community on December 1 and also posed for a group photo at 10.21 am and a few minutes later he was shot by the forest guards “not inside the forest, but near the main road, where the sandalwood tree is not found.”¹⁴⁰ He alleged that the forest officials planted the sandalwood in Basava's field to frame him and that this practice has been followed by the forest officials many times in the past.¹⁴¹

131 “Telangana Forest Department staff attack tribals, 4 women injured”, The New Indian Express, October 1, 2021, <https://www.newindianexpress.com/states/telangana/2021/oct/01/telangana-forest-department-staff-attack-tribals-4-women-injured-2366201.html>

132 Special Correspondent, “Forest guards open fire on tribal in Periyapatna”, The Hindu, 2nd Dec 2021, <https://www.thehindu.com/news/national/karnataka/forest-guards-open-fire-on-tribal-in-periyapatna/article37808967.ece>

133, 135, 138, 139, 140 Karthik KK, “Tribal man shot at by forest staff; activists demand probe”, The New Indian Express, December 3, 2021, <https://www.newindianexpress.com/states/karnataka/2021/dec/03/tribal-man-shot-at-by-forest-staff-activists-demand-probe-2391152.html>

134 Shishir Rao, “Adivasi man shot by forest officials in Karnataka, later accused of sandalwood theft”, The News Minute, January 4, 2022, <https://www.thenewsminute.com/article/adivasi-man-shot-forest-officials-karnataka-later-accused-sandalwood-theft-159464>

136, 141 Shishir Rao, “Adivasi man shot by forest officials in Karnataka, later accused of sandalwood theft”, The News Minute, January 4, 2022, <https://www.thenewsminute.com/article/adivasi-man-shot-forest-officials-karnataka-later-accused-sandalwood-theft-159464>

137 Karthik KK, “Tribal man shot at by forest staff; activists demand probe”, The New Indian Express, 3rd Dec 2021, <https://www.newindianexpress.com/states/karnataka/2021/dec/03/tribal-man-shot-at-by-forest-staff-activists-demand-probe-2391152.html>

c. Forced evictions

Article 10 of the United Nations Declaration on the Rights of Indigenous Peoples (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.”¹⁴² Section 4(5) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006) states that save as otherwise provided, no member of a forest dwelling Scheduled Tribe or Other Traditional Forest Dwellers shall be evicted or removed from the Forest Land under his occupation till the recognition and verification procedure is complete. The law does not provide for automatic or compulsory eviction even when the forest applications are rejected. On February 11, 2021, the Indian Government informed the Parliament that “no Scheduled Tribe persons and other traditional forest dwellers have been evicted due to rejection of claims under the Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 between March 1, 2020 and December 31, 2020”.¹⁴³ But this is not true as the cases of eviction documented by the IRAC in this paper will show.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in section 4 (5) states that save as otherwise provided, no member of a forest dwelling Scheduled Tribes or Other Traditional Forest Dweller shall be evicted or removed from the Forest Land under his occupation till the recognition and verification procedure is complete. It is ironic that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) is being used to evict indigenous peoples from forest land. On February 13, 2019, the Supreme Court ordered 21 states to evict around one million indigenous families whose applications under the FRA had been rejected.

Although the Supreme Court temporarily stayed its order on February 28, 2019, the indigenous peoples have faced ruthless evictions from forest land as a large number of their claims were arbitrarily rejected by the authorities at district and state level despite submission of relevant documents by the tribals.¹⁴⁴ As per the Ministry of Tribal Affairs, as of October 31, 2021, a total of 1.64 million claims over forest land out of total 3.77 million processed claims were rejected, a 43% rejection rate nationwide. Another 0.52 million claims were pending for disposal.¹⁴⁵ Indigenous Rights Advocacy Centre (IRAC) has documented eviction of over 2,400 persons belonging to indigenous communities in 20 separate incidents of forced eviction (including 18 evictions by the Government’s Forest Department) reported from 10 states and one Union Territory during the period of April 2020 and up to February 2022.¹⁴⁶

Further, the Indian Government told the Parliament that 82,893 hectares of forest area have been diverted for developmental activities such as mining, thermal power plants, dams, road, railways and irrigation projects, defence etc between April 2016 to March 2021¹⁴⁷, without taking participation of the indigenous peoples in the decision making process and without their FPIC. The Compensatory Afforestation Fund (CAF) Act, 2016 and CAF Rules, 2018 came into force with effect from September 30, 2019 under which ‘compensatory afforestation’ is mandatory in case of use of forest areas for non-forest activities such as mining and infrastructure projects etc. The Ministry of Environment, Forest and Climate Change has disbursed INR 486.36 billion to 33 States/UTs for compulsory afforestation programmes under Compensatory Afforestation Fund (CAF) as of March 2022.¹⁴⁸ Ironically, these CAFs have been used to carry out plantation activities, displacing indigenous peoples from their homes and lands and affecting their livelihoods across the country.¹⁴⁹

¹⁴² The United Nations Declaration on the Rights of Indigenous Peoples is available at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

¹⁴³ Reply of Smt Renuka Singh Saruta, Minister of State for Tribal Affairs in response to Unstarred Question No. 1249 in the Rajya Sabha on 11.02.2021

¹⁴⁴ Nihar Gokhale, “As Supreme Court Stays Eviction Of 9.5 Million Forest Dwellers, Here’s How States Illegally Rejected Land Claims”, India Spend, March 2, 2019, <https://www.indiaspend.com/as-supreme-court-stays-eviction-of-9-5-million-forest-dwellers-heres-how-states-illegally-rejected-land>

¹⁴⁵ Ministry of Tribal Affairs, “Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31.10.2021]” available at [https://tribal.nic.in/downloads/FRA/MPR/2021/\(A\)%20MPR%20Oct](https://tribal.nic.in/downloads/FRA/MPR/2021/(A)%20MPR%20Oct)

¹⁴⁶ These 20 cases of forced eviction were reported from Madhya Pradesh (4 cases), Tamil Nadu (3 cases), Assam (2 cases), Chhattisgarh (2 cases), Jammu and Kashmir (UT - 2 cases), Odisha (2 cases), Gujarat (1 case), Manipur (1 case), Telangana (1 case), Kerala (1 case), Maharashtra (1 case)

¹⁴⁷ Statement of Minister of State in the Ministry of Environment, Forest and Climate Change, Mr Ashwini Kumar Choubey placed in the Lok Sabha, in response to Unstarred Question No. 2496, answered on 13.12.2021, available at <http://164.100.24.220/loksabhaquestions/annex/177>

¹⁴⁸ Response of Minister of State in the Ministry of Environment, Forest and Climate Change, Shri Ashwini Kumar Choubey to Unstarred Question No. 1967 in the Lok Sabha, answered on March 14, 2022

¹⁴⁹ Anuradha Nagaraj, “India’s reforestation drive leaves indigenous tribes battling to survive”, BusinessDay, February 2, 2022, <https://www.businesslive.co.za/bd/world/asia/2022-02-02-indias-reforestation-drive-leaves-indigenous-tribes-battling-to-survive/>

Thus, the actions of the forest department to evict the indigenous peoples were totally in violation of the FRA, 2006 and international human rights law including the UNDRIP, and further constituted “atrocities” as defined under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.¹⁵⁰

Cases of Eviction by Forest Departments

The IRAC has documented as many as eight cases of forced eviction of tribal families by the forest department in six different states/UT of India during the year 2021. Not only the tribals were forcibly evicted from their land, various other atrocities were perpetrated upon them at the time of eviction such as houses were burnt down/ demolished, physical assaults, destroying of standing crops and/ agricultural lands by spraying toxic chemicals etc. of the eight eviction cases, two each were reported from Madhya Pradesh and Tamil Nadu, and one each from Assam, Odisha, Kerala and J&K (UT)

Case 1: Eviction of Gujjar tribals by forest officials in Shopian district, Jammu and Kashmir

On May 24, 2021, the forest department officials allegedly assaulted and evicted, without serving any prior notice, many Gujjar tribal families at Zampathri in Shopian district in Jammu and Kashmir. Over a dozen persons, including both forest personnel and the tribals, were injured after locals and officials from the forest department clashed during the eviction drive to remove ‘encroachments’.¹⁵¹ Among the tribals who were injured included Farooq Ahmad Dedar (40 years) and two women belonging to the Gujjar Bakarwal community. Farooq Ahmad was severely injured in the head due to beating by the officials.¹⁵²

Case 2: Eviction of 35 families in Kalahandi district, Odisha

On June 30, 2021, 35 families, majority of who belonged to tribal community and a few were Dalits, were forcibly evicted from Bhatapani and Dumerpani hamlets in Sahajkhola reserve forest under Ampani police station area of Koksara block in Kalahandi district of Odisha allegedly by the members of Vana Surakshya Samiti (VSS) (forest protection committee) from neighbouring Gotomunda village with alleged tacit support from the forest officials.¹⁵³ The VSS are constituted at the village level by the Government of

Odisha for the protection of “Reserved Forests, Protected forests, Village forests, Revenue forests etc. not covered under Protected Areas” under Joint Forest Management system.¹⁵⁴ The eviction was allegedly instigated by the forest officials.¹⁵⁵

About 200 tribals and Dalits, including women and children, have been rendered homeless during this COVID-19 pandemic after their forcible eviction and destruction of their homes and properties in the attack on 30 June. These families have been living at Dumerpani and Bhatapani hamlets in Kalahandi district for the last 25 years. They had originally migrated from neighbouring Nabarangpur district of Odisha. They eked out a living by cultivating maize in the forest land and as daily wage earners. They have already enrolled themselves as voters of Kalahandi district, have Aadhaar cards as residents of Kalahandi district and getting government scheme benefits.¹⁵⁶ But the state government did not recognize their rights over the forest land under the Forest Rights Act, 2006.

The District Magistrate, Kalahandi vide communication dated August 9, 2021 informed the NHRC that 15 families of Dumerpani hamlet and 20 families of Bhatapani hamlet “alleged that they were forcibly vacated from their houses by the villagers of revenue village Gotamunda who have vandalized their houses, damaged their stored grain and butchers the domestic animals. Subsequently a FIR in Ampani PS on 02.07.2021 was registered against the villagers of Gotamunda. Thereafter the affected displaced families fled to neighboring Nabarangpur District to which they originally belong.” The District Magistrate further submitted that “displaced families could not be settled in the suit land as the disputed encroached land is located inside the Reserve Forest and settlement through FRA is not legally tenable as lands are occupied after 2006.” As per the District Magistrate, Kalahandi, all the displaced families have been provided with ration card and those having no housing land would be covered under Basundhara Scheme for provisioning of house sites. 22 families have already been provided with homes under Pradhan Mantri Awas Yojana/ Biju Pucca Ghar Yojana housing scheme and the remaining families would also be provided housing. But the complainant Dilip Kumar Das, a human rights activist, in his response submitted to the NHRC on October 11, 2021 refuted the claims made by the District Magistrate, Kalahandi.¹⁵⁷

¹⁵⁰ Under Section 3(1) of the SC/ST (Prevention of Atrocities) Act 1989, one of the offences of atrocities is “(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or

¹⁵¹ Anees Zargar, “Over a Dozen Injured During Eviction Drive by Forest Officials in South Kashmir,” NewsClick, May 24, 2021, <https://www.newsclick.in/over-dozen-injured-during-eviction-drive-forest-officials-south-kashmir>

¹⁵² “Down South Forest Officials Allegedly Beat Tribals,” KashmirLife, May 24, 2021, <https://kashmirlife.net/down-south-forest-officials-allegedly-beat-tribals-268087/>

¹⁵³, ¹⁵⁵, ¹⁵⁶ Telephonic interview with human rights activist Mr Dilip Kumar Das, Kalahandi, Odisha, July 17, 2021

¹⁵⁴ See, the Resolution dated 9th September, 2011 of the Forest and Environment Department of the Government of Odisha, <http://govtpress.odisha.gov.in/pdf/2011/2176.pdf>

¹⁵⁷ Proceedings of the NHRC dated January 10, 2022 in Case No. 1493/18/6/2021

Case 3: Eviction of 40 tribal families in Khandwa district, Madhya Pradesh

On July 10, 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.¹⁵⁸

During the eviction, many Adivasi villagers, including women were beaten up. Three villagers identified as Ramlal, Mahesh and Sekariya were beaten and forcibly taken to the forest office in Khandwa where they were locked up and their hands tied with ropes. When the Jagrit Adivasi Dalit Sangathan (JADS) activists namely Nitin Varghese, Ramesh Jadhav and Amarsing Solanki pointed out the illegality of the eviction and violence, they were also roughed up, their phones were snatched and they were forcibly locked up in the office of the District Forest Officer (Forest Development Corporation) who was overseeing the eviction. These 6 persons were released after more than 10 hours only after around 200-300 Adivasis sat on dharna outside the office of the Superintendent of Police, Khandwa, demanding their release. They were forced to sign on blank papers and their phones have still not been returned.¹⁵⁹

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. They were forced to live in makeshift tents, often just a piece of tarp strung to two tree branches, hardly any protection from the rain.¹⁶⁰

The eviction of the 40 Adivasi families is illegal and violative of the Forest Rights Act (FRA), 2006. The Forest Rights Act in section 4(5) prohibits any

eviction until the procedure for verification and recognition of rights under the law is complete. The evicted tribal families are claimants under the FRA in whose case the verification had not even started. This eviction was also a violation of the order dated April 23, 2021 of the Madhya Pradesh High Court in WP 8820/2021 which prohibited any eviction during the pandemic and stated, "(ix) that the State Government or any of its Department or any Municipal Corporation / Council / Board or any Gram Panchayat or any other local body or any other agency and instrumentality of the State shall not take any action for eviction and demolition in respect of any property, over which any citizen or person or party or any Body Corporate, has physical or symbolic possession as on today till June 15, 2021".¹⁶¹ This prohibition was in force at the time of the assault on the Adivasis of Negaon-Jamniya.

Case 4: Eviction of 12 tribal families in Ernakulam District, Kerala

On July 6, 2021, the forest department of Kerala evicted 12 tribal families from Vaishali cave in the Idamalayar forest in Ernakulam District, Kerala. Those evicted included 11 women and 12 children. After forcibly eviction the tribals were provided temporary accommodation at the tribal hostel at Idamalayar on 7 July. However, the authorities have failed to rehabilitate them.¹⁶²

These 12 tribal families originally belonged to Arakkappu colony located on the banks of Idamalayar river in Thrissur district of Kerala. They had to abandon their houses due to frequent landslide that swept away their agricultural land and houses. On July 5, 2021, these 12 families migrated and took shelter inside the Vaishali cave from where they were evicted by the forest department.¹⁶³

158, 159 Press release titled "Organized Violence Against Adivasis, Denial Of Forest Rights – Adivasis Organize To Protect Their Rights As Corporate Control Over Forests Escalates" jointly issued by the Jagrit Adivasi Dalit Sangathan (JADS), the Citizens for Justice and Peace (CJP), and the All India

160 Vallari Sanzgiri, "Gov't doesn't really care about us: Forcibly evicted Khandwa Adivasis", Citizens for Justice and Peace, July 27 2021, <https://cjp.org.in/govt-doesnt-really-care-about-us-forcibly-evicted-khandwa-adivasis/>

161 Order dated 23.04.2021 of the Madhya Pradesh High Court, Jabalpur bench in W.P. No. 8820/2021 [In Reference (Suo Motu) vs. Union of India and others], https://www.reat.mp.gov.in/uploads/files/WP_8820_2021_Order_23-Apr-2021.pdf

162 "Evicted tribal families seek rehabilitation, stage protest," The New Indian Express, July 30, 2021, <https://www.newindianexpress.com/cities/kochi/2021/jul/30/evicted-tribal-families-seek-rehabilitation-stage-protest-2337447.html>

163 "Tribal families put up tents at Vaishali cave, evicted and shifted," The New Indian Express, July 8, 2021, <https://www.newindianexpress.com/states/kerala/2021/jul/08/tribal-families-put-up-tents-at-vaishali-cave-evicted-and-shifted-2327008.html>

Case 5: Burning down huts and eviction of tribals in Vellore district, Tamil Nadu

On August 3, 2021, The New Indian Express reported that huts of tribals were burnt down by the forest department in Chinnoor in Palampattu hills under Amirthi Forest Range in Vellore district of Tamil Nadu. After the applications of 34 tribal families were rejected under the FRA 2006 in Chinnoor atop Palampattu hills, the Forest department personnel belonging to Amirthi Range visited the hamlet and issued them notices against farming/cultivation without patta. B Sivaraj, district secretary of Tamil Nadu Tribal People Welfare Association, alleged that the forest department personnel torched huts belonging to the tribal families in order to forcibly evict them from the forest land. These tribal families have been residing and cultivating the land in the Palampattu hills for generations.¹⁶⁴

Case 6: Burning down of tribal huts in Sagar district of Madhya Pradesh

On September, 24 2021, forest officials allegedly burnt down tribal huts to evict them at Charguwan village in Gaurjhamar forest range under Sagar district of Madhya Pradesh.

The forest officials accused the tribals of encroaching forest lands at Charguwan village in Gaurjhamar forest range in Sagar district. On 24 September, a group of forest officials led by deputy forest ranger Nirbhan Singh reached the village to remove the alleged encroachment and set all huts afire to evict the tribal families. The tribal victims have alleged that the forest officials even didn't give time to huts' owners to rescue their belongings.¹⁶⁵

Case 7: Eviction of 205 tribal families in Assam

On November 8, 2021, about 205 Chakma and Garo tribal families were evicted from Tedongnala and Lankaireju in Lumding reserve forest in Hojai district of Assam. Since then, they have been living in pathetic conditions in temporary relief camps without basic facilities. Some Chakma community-based organizations from Guwahati (Assam), Tripura, Mizoram and Arunachal Pradesh have visited the internally displaced persons and they found that during the winter months, these displaced tribals including aged, women, children and infants were living in makeshift tents made of bamboo and

tarpaulins without basic facilities such as drinking water, toilets, food and medical facilities. The children were also being denied fundamental right to education.¹⁶⁶



Chakma tribals living in relief camps in miserable conditions after eviction in Assam

Case 8: Eviction of 23 Kadar tribal families in Tamil Nadu

On 20 August 2019, 23 Kadar tribal families, consisting of around 90 people, were evicted by the Forest Department from their traditional dwellings at Kallarkudi settlement deep inside the Anamalai Tiger Reserve (ATR) in Coimbatore district of Tamil Nadu in south India. At that time heavy monsoon rains had caused several landslides damaging their homes. So, the Kadars constructed new makeshift huts at a nearby location inside the forests but the forest officials came and dismantled their huts on the ground that the land belonged to the government and shifted them to vacant/unused quarters of Thaimudi tea estate near Valparai.¹⁶⁷ The Kadars are traditional forest dwellers and depend on forest produce for sustenance. Detached from their traditional land and environment, the Kadars faced problems in the Thaimudi tea quarters which also lacked basic facilities and demanded resettlement inside the forests.¹⁶⁸

Kadars are considered to be original inhabitants of Anamalai hills¹⁶⁸ and are among the ancient tribes in South India. The word 'Kadar' means 'Residents in forest'.¹⁶⁹ The Kadars are entirely dependent on collection of non-timber forest produce and are

164 "Tribals in Vellore allege mistreatment by forest dept, decry eviction move," The New Indian Express, August 3, 2021, <https://www.newindianexpress.com/states/tamil-nadu/2021/aug/03/tribals-in-vellore-allege-mistreatment-by-forest-dept-decry-eviction-move-2339323.html>

165 "Madhya Pradesh: Tribal's huts set afire, deputy ranger suspended in Sagar," Free Press Journal, September 25, 2021, <https://www.freepressjournal.in/bhopal/madhya-pradesh-tribals-huts-set-afire-deputy-ranger-suspended-in-sagar>

166 Email submitted to Shri Himanta Biswa Sharma, Chief Minister of Assam by Indigenous Rights Advocacy Centre, December 23, 2021

167 Wilson Thomas, "23 families of Kadar tribe temporarily moved to quarters near Valparai," The Hindu, August 20, 2019, <https://www.thehindu.com/news/cities/Coimbatore/23-families-of-kadar-tribe-temporarily-moved-to-quarters-near-valparai/article29184942.ece>

168 Wilson Thomas, "Kallar-Kadar tribal families evicted from ATR await for their rights," The Hindu, August 11, 2020, <https://www.thehindu.com/news/cities/Coimbatore/kallar-kadar-tribal-families-evicted-from-atr-await-for-their-rights/article32328522.ece>

169, 170 Government of Tamil Nadu, <https://tntribalfelfare.tn.gov.in/Tribes-of-Tamilnadu.php>

known for living in harmony with nature.¹⁷¹ According to anthropologist Edgar Thurston, Kadars are the oldest ethnic tribal group of southern India.¹⁷² Yet they have been denied their individual and community rights under the Forest Rights Act, 2006. Further, while Kadars are listed as Particularly Vulnerable Tribal Groups (PVTG) in Kerala, which ensures them special protection and welfare measures, the same status has not been accorded to them in Tamil Nadu.¹⁷³

Demand for land rights under FRA

The displaced Kadar families demanded alternative land inside the Anamalai forests under provisions of the Forest Rights Act (FRA), 2006. But the demand was rejected by the forest officials who instead offered them rehabilitation outside the forests with cash incentive of INR 15 lakhs (1.5 million), along with good housing, electricity and drinking water facilities either in Valparai town or Sirukundra area, provided the Kadars agree that they will never enter the forest again. The Kadars were told that their ancient villages were located in a tiger reserve, hence, they cannot live there anymore. But the Kadars refused the rehabilitation outside the forests and demanded that they be resettled in Teppakulamadu where their ancestors had lived in the Anamalai forests. They also passed a resolution in a gram sabha held on March 6, 2020 to issue patta (title) for homestead under the FRA. However, authorities of the ATR informed them that the application for homestead patta at Teppakulamadu could not be processed as it falls under 'critical tiger habitat'.¹⁷⁴

On February 10, 2020, around 300 Adivasis living in the Anamalai ranges began a peaceful march from Valparai to Coimbatore to demand patta (title deed) for Kadars at Teppakulamadu. Coinciding the birthday of Mahatma Gandhi on October 2, 2021, around 100 tribals started a protest at Thaimudi near Valparai.¹⁷⁵

Resettled by government, then evicted again

The struggle of the Kadars finally caught the attention of the Tamil Nadu government after more than two years. On 7 November 2021, the Minister for Electricity, Prohibition and Excise Mr V Senthil Balaji granted land pattas to 21 displaced Kadar families in an event held at Valparai and each family was allocated 1.5 cents over 1.5 acres of total land at Teppakulamadu in the ATR and subsequently the tribals constructed their huts there. But their victory was short lived. In the morning of December 3, 2021, more than 40 personnel from the forest department came and dismantled their huts claiming that the tribals built their huts on forest lands! The forest department officials dismantled the huts without giving prior information.¹⁷⁶

The Kadar families lodged a complaint with the Valparai police station seeking to book the concerned forest officials under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Later, the District Collector of Coimbatore, Mr. Sameeran, ordered a re-measuring of the location where pattas had been issued, on December 4. In a separate meeting held at the Collector's office on December 6 in the presence of all concerned department officials (forest, revenue, and police), the District Collector assured that Kadars will be provided with 12 acres of residential land at Kallarkudi-Teppakulamadu and their farm land will remain at the old Kallarkudi settlement.¹⁷⁷

NHRC's intervention

The IRAC has moved the NHRC with respect to the eviction of the 23 Kadar tribal families. In its proceedings on December 28, 2021, the Commission has expressed deep concern and termed the matter "disturbing". It recorded that "The allegations made in the complaint are serious in nature involving forced eviction in violation of law by the public servants". The Commission has served notice the Chief Secretary, Government of Tamil Nadu and the Director General of Police, Tamil Nadu calling for a report within a period of four weeks.¹⁷⁸

171 Tiju C Thomas & Sanket Bhale, "Kerala's Kadars continue fight for assertion of their community forest rights", Down To Earth, October 20, 2020, <https://www.downtoearth.org.in/blog/forests/kerala-s-kadars-continue-fight-for-assertion-of-their-community-forest-rights-73868>

172, 177 Thanaraj, "The Kadar Community Charts An Inspirational Journey Of Resilience As They Take Back Their Forests", Adivasi Lives Matter, January 5, 2022, <https://www.adivasilivesmatter.com/post/the-kadar-community-charts-an-inspirational-journey-of-resilience-as-they-take-back-their-forests>

173 Ministry of Tribal Affairs, Government of India, <https://tribal.nic.in/ST/StatewisePvTGList.pdf>

174, 175 Staff Reporter, "Kallar Kadar tribals demand homestead patta", The Hindu, October 2, 2021, <https://www.thehindu.com/news/cities/Coimbatore/kallar-kadar-tribals-demand-homestead-patta/article36799936.ece>

176 Forest dept tears down Kadar huts in ATR, The New Indian Express, December 4, 2021, <https://www.newindianexpress.com/states/tamil-nadu/2021/dec/04/forest-dept-tears-down-kadar-huts-in-atr-2391702.html>

178 Proceedings of the National Human Rights Commission dated December 28, 2021 in Case No. 3132/22/5/2021

5. Violence against Indigenous Women

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, a total of 681 cases of rape of indigenous women were registered during 2020¹⁷⁹ as against 714 such cases during 2019¹⁸⁰ reflecting a slight decrease in the number of rape cases. Further, a total of 813 cases were registered for assault on indigenous women with intent to outrage her modesty during 2020¹⁸¹ as against 758 such cases during 2019¹⁸² reflecting an increase. However, this data reflects only the number of cases reported, which represents only a fraction of the actual number of women who have experienced violence.

Unfortunately, the indigenous women have been victims of alleged extrajudicial execution, arrest and alleged sexual violence at the hands of the police and paramilitary security forces, particularly in Maoist affected areas, during 2021.

On February 19, 2021, the Chhattisgarh police announced that Pandey Kawasi (20 years) and five other alleged 'Maoists' including Kumari Jogi Kawasi (35 years) surrendered under the 'Lon Varratu' scheme which appeals to the Maoists to return to the mainstream. All the six 'surrendered Maoists' were photographed wearing white t-shirts with the words 'Lon Varratu' printed on them. 'Lon Varratu' is a Gondi phrase that means 'come back home'.¹⁸³ As per a police's official communique, Ms Pandey was a part of Chetna Natya Mandali, a cultural outfit of the banned CPI (Maoist) and she surrendered on her own accord with five other Maoists on 19 February.¹⁸⁴ However, her family members refuted this claim. "Neither my daughter was a Maoist nor did she surrender. The police detained her from home and tortured her to surrender," stated Somdi, mother of Pandey Kawasi, in an interview to The Quint.¹⁸⁵ The local villagers also claimed that Pandey Kawasi and Kumari Jogi Kawasi were taken away by the District Reserve Group (DRG) from Gudse village under Katekalyan police station in Dantewada district on the charges of being Maoists on February

18. The villagers said while Kumari Jogi Kawasi had, in the past, cooked for Maoists when they visited Gudse village, Pandey Kawasi was in no way associated with the Maoist movement. On February 20, when parents of Pandey Kawasi met her at the Karli police station, her face was allegedly swollen as she was tortured.¹⁸⁶ However, IRAC is in no position to independently verify the allegations. Later, on February 23, 2021, Pandey Kawasi allegedly committed suicide in police custody. Abhishek Pallava, Superintendent of Police, Dantewada, told Newslaundry that Pandey Kawasi killed herself due to pressure from her family to marry "a drunkard boy against her wish."¹⁸⁷

On May 31, 2021, Payke Veko, an 18-year-old tribal girl, was allegedly shot dead in an encounter in Dantewada in Chhattisgarh. The police claimed that she was a Maoist cadre which the family members refuted. In a complaint submitted at Nelasnar police station in Bijapur district on June 6, the deceased's mother Sukki Veko stated that the deceased was taken away from her house on the night of 30 May by the DRG personnel and raped before being killed in their custody. "There were bruises all over her body...marks of physical abuse," said the complaint. The family also identified seven DRG personals who allegedly barged into the house and took Payke with them, the Hindustan Times reported.¹⁸⁸

Furthermore, Sukki Veko also claimed that the body of her daughter was mutilated when it was handed to the family.¹⁸⁹ "There were marks of physical abuse...her fingers, breasts, and thighs were cut. She was not killed in an encounter. She was raped and killed by the security forces," she told The Quint.¹⁹⁰ However, IRAC is not in a position to independently verify the allegations. The police have denied all these allegations. Bastar Inspector General of Police, P Sundarraj informed the media that "On May 31, based on a tip-off about the presence of maoist cadres from PLGA [People's Liberation Guerrilla Army] Platoon No. 16, an operation was launched in Gumalnar area. An exchange of fire took place

179 National Crime Records Bureau, "Crime In India 2020", Vol. II, p. 623, <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

180 National Crime Records Bureau, "Crime In India 2019", Vol. II, p. 615, <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%202.pdf>

181, 182 National Crime Records Bureau, "Crime In India 2020", Vol. II, p. 617, <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

183, 186, 187 Prateek Goyal, "Bastar: 'Surrendered Naxal' dies by suicide in police custody. Villagers say she wasn't a Naxal at all", Newslaundry, February 27, 2021, <https://www.newslaundry.com/2021/02/27/bastar-surrendered-naxal-dies-by-suicide-in-police-custody-villagers-say-she-wasnt-a-naxal-at-all>

184, 185 Kashif Kakvi and Vishnukant Tiwari, "My Daughter Wasn't a Maoist: Mother of 20-Yr-Old Who Killed Self", The Quint, February 26, 2021, <https://www.thequint.com/news/hot-news/my-daughter-wasnt-a-maoist-mother-of-20-year-old-who-killed-self-in-dantewada#read-more>

188 Ritesh Mishra, "Chhattisgarh: Kin allege woman killed in fake 'encounter'; cops call her Maoist", The Hindustan Times, June 7, 2021, <https://www.hindustantimes.com/cities/others/chhattisgarh-kin-allege-woman-killed-in-fake-encounter-cops-call-her-maoist-101623067654298.html>

189, 191 Gargi Verma, "Dantewada: 24-year-old tribal woman killed in 'maoist encounter'; family claims it was staged, alleges rape", The Indian Express, June 8, 2021, <https://indianexpress.com/article/india/chhattisgarh-geedam-maoist-encounter-alleged-rape-7349199/>

between Dantewada DRG and maoists at around 6.30 am. During a search operation later, a woman maoist's body was recovered which was identified as that of the woman concerned. She carried a reward of Rs. 2 lakh [0.2 million]. Two country-made weapons and improvised explosive devices IEDs were also recovered from the site." Dantewada Superintendent of Police Abhishek Pallava also stated the woman was a member of platoon No. 16 and her name had come up in the interrogation records of all surrendered and arrested Maoists of Indrawati Area Committee of CPI (Maoist) and her platoon.¹⁹¹ But Ramlal Netam, sarpanch of Chhinged gram panchayat told the media, "Payke Veko was not a Maoist. This is a total lie. She was a common village girl who was due to be married on 10 June."¹⁹²

On November 19, 2021, six tribal women identified as Baby Narayan Wavre (45 years), Taru Subhash Dokphode (25 years), Sonam Sabu Bhoir (21 years), Sita Santaram Bhoir (35 years), Vimal Manku Pujhara (43 years), and Deepika Dinesh Wavre (25 years) who worked as daily wagers in Papdi-Koliwada in Vasai, had gone to the weekly market to buy groceries in Vasai in Palghar district of Maharashtra. The six tribal women belonged to Malhar Koli community and were natives of Kavdas village in Dahanu taluka of Palghar district. They were at the market when suddenly two policemen walked up to them and asked them not to move. An assistant police inspector (API) Vinod Wagh picked up these six women from the market, took them to the Papdi police chowkie under Vasai police station and locked them up. While Baby Narayan Wavre was caned on her left arm by API Vinod Wagh three times, others were hit on their palms.¹⁹³ The police tortured these tribal women on the mere suspicion of them being pickpockets. The women showed the police officer their Aadhar cards and tried explaining that they were not thieves but API Vinod Wagh did not hear them at all. After torturing them for nearly half an hour he released them. After the incident, the victims submitted a complaint against API Vinod Wagh at the Vasai police station. They underwent medical check-ups at the DM Petit Hospital which confirmed reddish marks on the arm of one of the

women. Initially the police allegedly tried to protect the API Vinod Wagh by forcing local vegetable vendors to give false statements that they did not see anyone being assaulted by API Wagh. However, following protests, he was suspended on November 30, 2021. But still no FIR was registered against him.¹⁹⁴

190, 192 Vishnukant Tiwari, "Bastar Tribals Allege Rape, Murder of 18-Yr-Old by Security Forces", The Quint, June 8, 2021, <https://www.thequint.com/news/india/chhattisgarh-bastar-girl-killed-by-drg-not-a-maoist-say-family#read-more>

193 Diwakar Sharma, "Vasai: Branded as thieves, six tribal women caned and locked up just for being poor," Mid-day, November 25, 2021, <https://www.mid-day.com/mumbai/mumbai-news/article/branded-as-thieves-caned-and-locked-up-just-for-being-poor-23202278>

194 Vasai: Branded as thieves, six tribal women caned and locked up just for being poor, Mid-day, November 25, 2021, <https://www.mid-day.com/mumbai/mumbai-news/article/branded-as-thieves-caned-and-locked-up-just-for-being-poor-23202278>

6. Violence against Indigenous Children

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, a total of 456 cases of rape of indigenous children were registered during 2020¹⁹⁵ as against 396 cases during 2019¹⁹⁶ reflecting increase. Further, a total of 72 cases were registered for assault on indigenous children with intent to outrage her modesty during 2020¹⁹⁷ as against 122 such cases during 2019¹⁹⁸ reflecting a decrease. However, this data reflects only the number of cases reported, which represents only a fraction of the actual number of children who have experienced violence.

A particularly vulnerable group requiring special protection are children living in institutions including shelter homes for tribal children. But unfortunately, tribal children faced violence in government-run child care institutions. On September 25, 2021, a caretaker and watchman at a government-run shelter home for physically challenged children in Chhattisgarh's Jashpur district were arrested for the rape of a 15-year-old tribal girl and for molesting five other tribal children at the shelter home. The incident came to light after a female worker at the centre, Kumari Bai, reported the matter to the police on September 23. On the basis of investigations, the police found that one of the female children in the shelter home had been raped, while five others had been molested. Consequently, watchman Narendra

and caretaker Rajesh were arrested under various sections of the Indian Penal Code, including 376, 363, 354 and 342, as well as relevant sections of the Protection of Children from Sexual Offences (POCSO) Act.¹⁹⁹

Indigenous children have also faced violence in the context of civil strife. On May 17, 2021, three protestors from the Gond tribe including a minor boy namely Uika Pandu were killed in police firing in Silger,²⁰⁰ a small Adivasi village in Sukma district of Chhattisgarh where the tribal villagers were protesting against setting up of a new camp of the Central Reserved Police Force (CRPF).²⁰¹ The police were quick to dub the three deceased as "Maoists".²⁰² But a fact-finding investigation by the Bastar Adhikar Shala (BAS) has confirmed that the three deceased were innocent Adivasi civilians.²⁰³

Children have also become victim of Maoist violence. For an example, on April 19, 2021, a minor tribal boy namely Madkam Arjun (15 years) was killed by the Maoists simply because he had close family members in the security forces. The Maoists accused the child of being a police informer, brutally tortured him before slitting his throat and in Jagargunda area in Sukma district of Chhattisgarh.²⁰⁴

195 National Crime Records Bureau, "Crime In India 2020", Vol. II, p. 624, <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

196 National Crime Records Bureau, "Crime In India 2019", Vol. II, p. 616, <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%202.pdf>

197 National Crime Records Bureau, "Crime In India 2020", Vol. II, p. 617, <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%202.pdf>

198 National Crime Records Bureau, "Crime In India 2019", Vol. II, p. 609, <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%202.pdf>

199 Rahul Noronha, "Why strict monitoring of those in charge of shelter homes is essential", India Today, September 29, 2021, <https://www.indiatoday.in/india-today-insight/story/why-strict-monitoring-of-those-in-charge-of-shelter-homes-is-essential-1858767-2021-09-29>

200, 201 "Bela Bhatia and Jean Drèze on the death of three Adivasi protestors from the Gond tribe in police firing," The Caravan, May 27, 2021, <https://caravanmagazine.in/noticeboard/protests-in-bastar-against-crpf-camp-bela-bhatia-jean-dreze>

202 Gargi Verma, "Chhattisgarh: Tribals protest killing of 3 in firing; were Maoists, say cops," The Indian Express, May 20, 2021, <https://indianexpress.com/article/india/chhattisgarh-tribals-protest-killing-of-3-in-firing-were-maoists-say-cops-7322244/>

203 "Fact-Finding Report Confirms Three Deaths of Adivasi Protesters in Silger Firing," Newsclick, May 27, 2021, <https://www.newsclick.in/Fact-Finding-Report-Confirms-Three-Deaths-Adivasi-Protesters-Silger-Firing>

204 TNN, "Maoists kill 15-year-old in Sukma. His crime: Kin work in forces," The Times of India, April 20, 2021, <https://timesofindia.indiatimes.com/india/maoists-kill-15-year-old-in-sukma-his-crime-kin-work-in-forces/articleshow/82154379.cms>

7. Repression against Indigenous Human Rights Defenders

During 2021, indigenous human rights defenders (IPHRDs) faced repression because of their work. HRDs, including IPHRDs, have been targeted and jailed under the draconian Unlawful Activities (Prevention) Act, 1967 (UAPA) and other laws.

Case 1: Arrest and detention of Hidme Markam in Chhattisgarh

On 9 March 2021, prominent Adivasi human rights activist Hidme Markam (28 years) was picked up from an event marking the International Women's Day being organized by the Jail Bandi Rihai Committee (Committee for Release of Prisoners) and the Chhattisgarh Mahila Adhikar Manch at Sameli village under Aranpur police station in Dantewada district of Chhattisgarh.²⁰⁵ The event was taking place close to the site of a recently installed memorial of two young Adivasi women who died recently after allegedly been subjected to sexual violence while in police custody.²⁰⁶ Her lawyer, Gayatri Suman, who was present at the Sameli meeting, stated that Markam was taken away without an arrest warrant.²⁰⁷ Later, Markam was booked in six cases²⁰⁸ registered at Aranpur police station under various sections of the Indian Penal Code, including murder, the Arms Act, the Explosives Substances Act, and the Unlawful Activities (Prevention) Act (or, UAPA). She is currently lodged in the Jagdalpur central jail.

Tribal rights activist Rinchin, who was also present at the time of Markam's arrest, stated that as Convenor of the Jail Bandi Rihai Committee, Markam's main concern was fighting for the release of tribals illegally arrested and detained in jails and she was targeted

by the State for her works.²⁰⁹ Markam is also member of the Chhattisgarh Mahila Adhikar Manch and well-known for her campaigns against large-scale mining projects in Adivasi land. Rinchin asserted that in many such cases Markam is the crucial "connect" between the victims and the larger human rights movement. "Thus, she was like the real link. So, arresting her was a way to cut off that link", reasoned Rinchin.²¹⁰ The Peoples Union for Civil Liberties Chhattisgarh (PUCL Chhattisgarh) in its complaint filed with the National Human Rights Commission (NHRC) also claimed that "she has been arrested as her arrest is intended to send a message to all those who dare to speak boldly against state repression."²¹¹

Charges against Markam appear to be fabricated

Immediately after the arrest, Dantewada Police released a "Naxali Crime Profile" claiming that one "Kawasi Hidme", aged 26 years, had been booked under four FIRs, including two from 2016 (FIR No. 07/2016²¹² & 09/2016²¹³) and two from 2020 (FIR No. 03/2020²¹⁴ & 04/2020²¹⁵) and that she carried Rs 100,000 bounty. One of these four FIRs i.e. FIR No. 03/2020 has charges under the Unlawful Activities (Prevention) Act.²¹⁶ The woman called "Kawasi Hidme" was wrongly identified as Hidme Markam by the police, although Markam's lawyer Gayatri Suman

205 Vishnukant Tiwari, "Chhattisgarh: Civil Society Members Demand Release of Tribal Rights Activist Arrested Under 'Naxal Charges'", NewsClick, March 10, 2021, <https://www.newsclick.in/Chhattisgarh-Civil-Society-Members-Demand-Release-Tribal-Rights-Activist-Arrested-Under-Naxal-Cha>

206 Joint communique of seven United Nations Special Procedures mandate holders to the Government of India regarding the arrest and detention of Ms Hidme Markam, April 8, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26326>

207 Telephonic interview with Ms Gayatri Suman, lawyer for Hidme Markam, July 17, 2021

208 These six FIRs are 07/2016, 09/2016, 07/2017, 17/2019, 03/2020, and 04/2020

209, 210 Telephonic interview with Ms Rinchin, tribal rights activist from Chhattisgarh and member of the Chhattisgarh Mahila Adhikar Manch and a colleague of Ms Hidme Markam.

211 Proceedings dated 31 March 2021 in NHRC Case No. 155/33/14/2021

212 Registered under sections 147, 148, 149, 307 IPC; sections 25, 27 Arms Act; and sections 4, 5 of Explosives Substances Act

213 Registered under sections 147, 148, 149, 294, 307, 102B IPC; sections 25, 27 Arms Act; and sections 3, 5 of Explosives Substances Act

214 Registered under sections 147, 148, 149, 294, 323, 506, 364, 302 IPC; and sections 13, 23, 38(2), 39(2) Unlawful Activities (Prevention) Act

215 Registered under sections 147, 148, 149, 307 IPC; sections 25, 27 Arms Act; and sections 3, 5 Explosive Substances Act

216 "Naxali Crime Profile" of Kawasi Hidme released by the Dantewada district police, dated March 9, 2021, https://drive.google.com/file/d/1_k3ubfqWWIRRjOWfcVQJV9UTY3u5i8kP/view

stated that Markam has no connections whatsoever with alleged Kawasi Hidme.²¹⁷ On the same day (9 March), the Dantewada Police issued another press statement claiming that Hidme Markam (along with her photo) was the range president of “Janatana Sarkar” (literally people’s government, a reference to a parallel state of the Maoists) who was wanted in five cases registered during 2016 to 2020 and she carried a reward of Rs 1.10 lakh (0.11 million).²¹⁸ The five FIRs were No. 7/2016,²¹⁹ No. 09/2016²²⁰ No. 07/2017²²¹, No. 17/2019,²²² and No. 03/2020.²²³ Further, there are also discrepancies in the FIR No. 03/2020. While the “Naxali Crime Profile” dated 9 March 2021 mentioned sections 13, 23, 38(2), 39(2) of the Unlawful Activities (Prevention) Act in FIR No. 03/2020,²²⁴ the UAPA was not invoked in the same FIR (03/2020) in the Dantewada Police press statement of the same date.²²⁵

Another false claim made by the Chhattisgarh Police is that Hidme Markam had been absconding since 2016 after FIRs were filed against her. But Markam has been publicly active in the defence of human rights in Chhattisgarh state, engaging directly with the State officials and police, including Chief Minister, Governor, District Collector and Police Superintendent of Dantewada, Ministers and Members of Legislative Assembly on numerous occasions and photos and videos of some of these meetings are available in public domain. In any case, everyone knew where Markam was residing (her residential house) with her mother and sister. So, it is impossible that she was a wanted person and that the police could never find her since 2016.²²⁶ So, the charges brought against seem to be fabricated.

Proceedings before the NHRC:

The National Human Rights Commission of India (NHRC) is currently hearing a petition filed by the Peoples Union for Civil Liberties Chhattisgarh (PUCL Chhattisgarh) seeking “her immediate release and quashing of all false cases against her and investigation into her illegal arrest and strict action against police for her illegal arrest” (NHRC Case No. 155/33/14/2021). Responding to the NHRC’s notice, the Deputy Inspector General of Police, Chhattisgarh has filed a report dated 12 August 2020 stating that “the police on 09.03.2021 had taken into custody of a woman who was identified as Hidme Markam, the president of the prohibited Maoist organization KAMS in a rally organised for release of jail inmates in Sameli, Dantewada.” The police claimed that she was an accused in four criminal cases registered at PS Arampur and the Chhattisgarh administration has declared a reward of Rs.10,000/- against her. During investigation interrogation report was prepared based on the statement of independent witnesses and self surrendered members namely Ramesh Kumar Markam, Deva Mandavi, Ku. Deve Markami who had identified Hidme Markam “as one involved in Naxali organisation to spread Naxal ideology and arranging food for the Naxals who come to the village.” In three of the cases viz. FIR No.7/2016, 9/2016 and 7/2017 after completion of investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Dantewada and in case No. 17/2019 the investigation has been completed and the charge sheet is pending for presenting before the Hon’ble Court.²²⁷ On 21 October 2021, the PUCL Chhattisgarh submitted its response rejecting the contentions of the police report and reiterated the allegations of illegal arrest of Hidme Markam.²²⁸

217 Telephonic interview with Ms Gayatri Suman, lawyer for Hidme Markam, July 17, 2021

218 Sukanya Shantha, “When Process Is Punishment: Hidme Markam’s Activism and the Sketchy Cases Against Her”, *The Wire*, April 5, 2021, <https://thewire.in/rights/hidme-markam-chhattisgarh-arrest-advansi-rights>

219 The FIR was registered under Sections 147, 148, 149 and 307 IPC; Sections 25 and 27 of the Arms Act; Sections 4 and 5 of the Explosives Substances Act “in which she was involved in firing at the police party and bomb blast with the intention to kill them”

220 The FIR was registered under Sections 147, 148, 149, 307 and 120B IPC; Sections 25 and 27 of the Arms Act; Section 3 of the Explosives Substances Act “in which she was involved in firing at the police party and bomb blast with the intention to kill them”

221 The FIR was registered under Sections 363, 364, 366, 302, 342 IPC “in which she was involved in killing of Harish Podiyami S/o Joga Podiyami aged 25 years, resident of Potali Durwapara under Arampur police station”

222 The FIR was registered under Sections 147, 148, 149, 307, 120B IPC; Sections 25, 27 of the Arms Act; Sections 4 and 5 of the Explosives Substances Act “in which she was involved in firing at the police party with the intention to kill them”

223 The FIR was registered under Sections 302, 364, 147, 149, 294, 323, 506 IPC; Section 25 Arms Act “in which she was involved in killing of Madhvi Bhima and Vetti Bajarang, residents of Dhurwapara Potali under Arampur police station”

224 “Naxali Crime Profile” of Kawasi Hidme released by the Dantewada district police, dated March 9, 2021, https://drive.google.com/file/d/1_k3ubfqWWIRjOWfcVQJV9UTY3u5i8kP/view

225 Sukanya Shantha, “When Process Is Punishment: Hidme Markam’s Activism and the Sketchy Cases Against Her”, *The Wire*, April 5, 2021, <https://thewire.in/rights/hidme-markam-chhattisgarh-arrest-advansi-rights>

226 Telephonic interview with Ms Rinchin, tribal rights activist from Chhattisgarh and member of the Chhattisgarh Mahila Adhikar Manch and a colleague of Ms Hidme Markam.

227 Proceedings dated 13 September 2021 in NHRC Case No. 155/33/14/2021

228 Proceedings dated 18 November 2021 in NHRC Case No. 155/33/14/2021

A report dated November 24, 2021 submitted by the Deputy Inspector General of Police, Special Intelligence Branch, Raipur stated that after the completion of the investigation in the case, the charge sheet no. 12A/2021 dated July 7, 2021 has been filed before the Special Court of National Investigation Agency (NIA), Dantewada, which is registered vide case no. 1320/2021. Thereafter, the NHRC closed the case stating, "Since the investigating officer has investigated the case, submitted chargesheet in the matter before the Special Court of NIA, Dantewada, which is registered vide case no. 1320/2021 and the law will take its own recourse, no further intervention of the Commission is required. The case is closed."²²⁹

Case 2: Harassment of Pranab Doley in Assam

On December 20, 2021, Pranab Doley (36 years), an indigenous activist belonging to Mising tribe, stated that his nationality was declared "doubtful" by the regional passport office in Guwahati, Assam. Doley, whose passport had expired in 2020, had applied for renewal in April 2021. On December 20, he received a letter that said: "Your nationality is doubtful as per police Verification Report. Please clarify at the Passport Office in person." Doley said he was suddenly declared doubtful Indian national "because I have raised my voice time and again to save the Constitution in the current political climate." On the other hand, Sumeet Sharma, Superintendent of Police, Golaghat, stated that the police verification report sent to the regional passport office had indeed found that "he is an Indian citizen."²³⁰

Case 3: Harassment of Valsingh Saste in Madhya Pradesh

Valsingh Saste is tribal rights activist and member of the human rights organization Jagrit Adivasi Dalit Sanghatan (JADS). He is a resident of Limbi village under Pati police station in Barwani district, Madhya Pradesh. He belongs to Barela tribal community.²³¹

On 22 July 2021, the Barwani district administration served an externment notice of one year under

section 5(A)(B) of Madhya Pradesh Rajya Suraksha Adhiniyam-1990 (Madhya Pradesh State Security Act of 1990) to tribal rights activist Valsingh Saste. Listing out 16 cases which were 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.²³²

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, tribal rights and for his involvement in Adivasi campaigns for their rights and legal entitlement. The district administration has sought an explanation from Valsingh on why he should not be externed from Barwani and bordering districts like Alirajpur, Dhar, Indore, Khargone, Khandwa, Jhabua and Burhanpur for a year. The district collector, Barwani has asked Valsingh to submit his reply by 27 July 2021 before the District Magistrate's court.²³³

Barwani district, largely populated with tribals, has been facing serious issues such as the implementation of the Forest Right Act, alleged corruption in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) scheme and the public distribution system, migration of labour, and other allied challenges. For over two decades Valsingh has been instrumental in addressing these issues and protecting the constitutional rights of the Adivasis. Valsingh has defended their Forest Rights issues, non-payment of wages under MGNREGA, denial of the minimum support price for farmers, and denial of ration. He has asserted the rights of the Gram Sabha over local resources which have put an end to illegal calcite mining, sand mining through peaceful struggles. Valsingh has been peacefully fighting on these tribal issues and the district administration has falsely accused him as a criminal and served the externment notice.²³⁴

²²⁹ Proceedings of the NHRC Case No. 155/33/14/2021 dated January 24, 2022

²³⁰ Tora Agarwala, "Assam: Passport renewal of activist Pranab Doley stuck over 'doubtful nationality'", The Indian Express, December 23, 2021, <https://indianexpress.com/article/north-east-india/assam/assam-passport-renewal-of-activist-pranab-doley-held-over-doubtful-nationality-7685527/>

²³¹, ²³², ²³³, ²³⁴ Kashif Kakvi, "MP Police Serve Externment Notice to Tribal Rights Activist for holding Rallies; Protest Erupts" NewsClick, August 5, 2021, <https://www.newsclick.in/MP-Police-Serve-Externment-Notice-Tribal-Rights-Activist-holding-Rallies-Protest-Erupts>

8. Non-Restoration of Alienated Tribal Land

India has strong legal framework to protect the land rights of the Scheduled Tribes. In compliance of Paragraph 5(2)(a) of the Fifth Schedule to the Constitution, most States under Fifth Schedule have enacted legislations restricting/prohibiting the transfer of land from tribals to non-tribals in Scheduled Areas. Furthermore, the Gram Sabha or the Panchayats at the appropriate level have the power to prevent alienation of land and restore alienated land under the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) applicable in Fifth Scheduled Areas. These laws, however, remain ineffective and alienation of Indigenous Peoples' lands through fraudulent means or by force has been widespread.

According to a report of the Department of Land Resources, Ministry of Rural Development, Government of India in July 2013, a total of 3.75 lakh (0.375 million) cases of tribal land alienation have been registered covering 8.55 lakh (0.855 million) acres of land, of which 1.62 lakh (0.162 million) cases (43.2%) have been disposed in favor of tribal covering a total area of 4.47 lakh (0.447 million) acres. 1.54 lakh (0.154 million) cases (41%) covering an area of 3.63 lakh (0.363 million) acres have been rejected by the courts on various grounds.²³⁵ This data demonstrates a serious problem of land alienation. Further, even if positive court orders have obtained by the tribal landowners, it does not always mean that in practice the actual restoration has taken place.

According to an investigation by Jananeethi, a social organization providing legal aid to the poor and marginalized sections, land mafia with the connivance of revenue and registration departments have usurped large areas of tribal land using fake documents and police took illegal action against those who opposed the land alienation. On August 8,

2021, a police team from Sholayur police station in Palakkad district in Kerala allegedly arrested Vattalukki tribal hamlet chief Choriya Mooppan and his son who were opposing the move to start construction in 55 acres allotted by the government to a trust headed by a former chief secretary of the state. The land originally belonged to the tribals but an official-land mafia nexus was trying to usurp the land using fake documents.²³⁶

Similarly, a survey done by AADHAR (All Adivasi Development Duly Protecting Human Acts and Rights) Society in seven villages of Gundala mandal of Bhadrachari-Kothagudem district of Telangana found that non-tribals have been in occupation of thousands of acres of forest lands.²³⁷

The situation is the same within the Sixth Schedule Autonomous District Councils in the Northeast. In December 2019, the Gauhati High Court ordered eviction of non-tribals and other persons "not eligible to hold possession of land" in the tribal belts and blocks protected under Chapter X of Assam Land and Revenue Regulation Act, 1886.²³⁸ But no action has been taken to implement this court order during 2021. According to official records, 3.89 lakh (0.389 million) bighas of land in tribal belts and blocks in the Bodoland Territorial Council (created under Sixth Schedule to the Constitution) are under the encroachment of 1.01 lakh (0.101 million) non-tribal people.²³⁹

All cases of alienation or transfer or unauthorized occupation of lands in violation of existing laws should be identified and necessary steps should be taken to restore the land back to the Tribal landowners.

235 Draft National Land Reforms Policy, July 18, 2013, Department of Land Resources, Ministry of Rural Development, Government of India, p. 9, https://www.indiaspend.com/uploads/2021/01/31/file_upload-399237.pdf

236 "Large-scale land grab taking place in Attapadi", The Times of India, September 1, 2021, <https://timesofindia.indiatimes.com/city/kochi/large-scale-land-grab-taking-place-in-attapadi/articleshow/85815613.cms>

237 Vivek Bhoomi, "Independent survey shows non-tribals occupying thousands of acres of podu lands", The New Indian Express, December 9, 2021, <https://www.newindianexpress.com/states/telangana/2021/dec/09/independent-survey-shows-non-tribals-occupying-thousands-of-acres-of-podu>

238 Shajid Khan, "Gauhati High Court orders eviction of 'ineligible' from tribal land", The Telegraph, December 30, 2019, <https://www.telegraphindia.com/north-east/gauhati-high-court-orders-eviction-of-ineligible-from-tribal-land-in-assam/cid/1731535>

239 "Massive Eviction Drive Due on Tribal Belts in BTC", Pratidin, January 28, 2021, <https://www.pratidintime.com/latest-assam-news-breaking-news-assam/massive-eviction-drive-due-on-tribal-belts-in-btc>

9. Condition of the Indigenous IDPs

The Government of India does not have any data on the number of the Scheduled Tribes displaced as a result of various construction/development projects or conflicts. On July 19, 2021, the Minister of State for Tribal Affairs, Government of India, Mr Bishweswar Tudu informed the Lok Sabha (Lower House of Parliament) that “There is no central database relating to land acquisition for States or other Ministries / Departments concerned including details of Displacement of Tribals.”²⁴⁰

i. Condition of conflict-induced IDPs

The government has failed to rehabilitate indigenous peoples displaced due to both conflicts and development projects over the years in many cases of displacement. A large number of Bru (Reang) tribals who fled ethnic violence in Mizoram during 1997 have continued to live in sub-human conditions in relief camps in Tripura. On 16 January 2020, the Government of India had signed an agreement with the state governments of Tripura and Mizoram and leaders of the Bru community to permanently settle the Bru IDPs (who were driven out of their homes in Mizoram due to ethnic conflict) in the state of Tripura. As per the agreement, 6,959 Bru families were to be resettled in Tripura consisting of 37,136 people across 11 locations. According to the pact, every Bru family would get a 40×30-feet plot to build a house, a fixed deposit of Rs 4 lakh (0.4 million), financial aid of Rs 5,000 per month and free rations for two years. Each family would also get Rs 1.5 lakh (0.15 million) to build a home.²⁴¹ However, marred by the COVID-19 pandemic and protests by local communities of Tripura, the resettlement process officially started only in April 2021. By the end of 2021, only around 3,000 Bru families have been resettled while 3,959 families are still in the relief camps in North Tripura's Kanchanpur subdivision.²⁴²

About 5,000 tribal families consisting of around 30,000 people who had been displaced from Chhattisgarh due to Maoist insurgency and counter-insurgency (Salwa Judum which was banned by Supreme Court in 2011) between 2005 and 2011, have continued to live in deplorable condition without basic facilities in about 248 settlements in forests of Telangana, Andhra Pradesh, Odisha and Maharashtra. These state governments have refused to recognize them as Scheduled Tribes and therefore enjoy no rights over the forest land and remained excluded from the social security benefits. They are living without ration cards or voter cards and cannot prove their citizenship.²⁴³ Their situation worsened during the COVID19 pandemic. In 2020, the Telangana government began evicting displaced Adivasis from forest land in areas like Warangal, Khammam, Mulugu and Bhadrachali Kothagudem, stating they weren't authorised to live there as they weren't tribals.²⁴⁴ It is alleged that even if NGOs wanted to provide them some form of aid were prevented by authorities from helping them.²⁴⁵ On 13 July 2021, there was a clash between Gothi Koya tribals (IDPs from Chhattisgarh) and the forest officials in the Janagalanicha forest area in Mulugu district of Telangana when forest officials tried to prevent Podu cultivation by the tribals.²⁴⁶

240 Response of the Minister of State for Tribal Affairs, Government of India, Mr Bishweswar Tudu to Unstarred Question No. 49 in the Lok Sabha on July 19, 2021 relating to “Displacement of Tribal Population”

241 Chandan Panday, “Watch: A report from the Bru camps in Tripura, 25 years after exodus”, EastMojo, November 30, 2021, <https://www.eastmojo.com/tripura/2021/11/30/watch-a-report-from-the-bru-camps-in-tripura-25-years-after-exodus/>

242 “43% of Tripura's Bru people resettled; min says exercise to complete by March”, Millennium Post, February 7, 2022, <http://www.millenniumpost.in/nation/43-of-tripuras-bru-people-resettled-min-says-exercise-to-complete-by-march-467480>

243 PTI, “ST panel issues notice to states on tribals displaced due to left-wing extremism”, The Times of India, January 23, 2022, <https://timesofindia.indiatimes.com/india/st-panel-issues-notice-to-states-on-tribals-displaced-due-to-left-wing-extremism/articleshow/89077297.cms>

244 Prateek Goyal, “Strangers in a strange land: Chhattisgarh's displaced Adivasis in Telangana have nowhere to go”, NewsLaundry, December 20, 2021, <https://www.newslaundry.com/2021/12/20/strangers-in-a-strange-land-chhattisgarhs-displaced-adivasis-in-telangana-have-nowhere-to-go>

245 “Telangana: Deprived of basic facilities, Gothi Koyas live at mercy of forest officials”, The New Indian Express, August 22, 2021, <https://www.newindianexpress.com/states/telangana/2021/aug/22/telangana-deprived-of-basic-facilities-gothi-koyas-live-at-mercy-of-forest-officials-2348055.html>

246 “Tribals attack officials over cultivation of forest land”, The New Indian Express, July 14, 2021, <https://www.newindianexpress.com/states/telangana/2021/jul/14/tribals-attackofficials-overcultivation-of-forest-land-2329719.html>

ii. Condition of development-induced IDPs

The eviction of residents from 222 villages on the Godavari river basin for the Polavaram dam project tells the story of India's tribal families fighting a losing battle for their land and forest rights.

In 2016, 17 tribal families were displaced after their lands were submerged due to the construction of the Rukura Medium Irrigation Dam project in Bonai sub-division in Sundargarh district of Odisha. These 17 families from Bandhabhui village were forced to move to the upper elevation of the forest where they built mud houses.²⁴⁷ Odisha Chief Minister Naveen Patnaik inaugurated the irrigation project in July 2018²⁴⁸ but till date the displaced tribal families have not been provided rehabilitation by the authorities.²⁴⁹

Polavaram Irrigation Project

The under-construction Polavaram (also known as Indira Sagar) Dam project in Andhra Pradesh will displace over 300,000 people, including 150,000 tribals and 50,000 Dalits (Scheduled Castes), from 10,000 acres of forestland and 121,975 acres of non-forest land.²⁵⁰ As per the official data, only 20.19 per cent of Rehabilitation and Resettlement (RR) has been completed. Out of the 373 habitations that will submerge under the Polavaram project, rehabilitation of only 25 habitations has been completed so far.²⁵¹ The relocation was forceful. On March 27, 2021, 72 tribal families were forcefully shifted from their home in Agraharam village in East Godavari district of Andhra Pradesh to a rehabilitation colony in Indukuru village, 30 km away. The police came with JCB earthmover machines to raze down their homes and threatened to arrest if they resisted.²⁵² Yet, the RR has

been a shoddy work. In August 2021, a team of National Commission for Scheduled Tribes (NCST) after visiting the affected areas of Polavaram Project found that the RR villages lacked basic amenities such as drainage systems, roads, drinking water, sanitation and electricity. These villages also lacked proper roads and electricity connectivity. Even the houses were not constructed properly and water was leaking from ceiling and walls. Many project affected families complained that lands given to them were far away from their habitations and not fit for cultivation.²⁵³ The displaced tribals have been heavily dependent on forest resources but now they are deprived from these rights because of lack of forest area in the vicinity of the RR villages.²⁵⁴

iii. Condition of IDPs displaced due to conservation and wildlife protection

Both development and conservation have acted to dispossess the indigenous communities of their land and resources.

110 tribal families who were evicted from the Similipal National Park two years ago are reportedly facing severe hardships at the Rehabilitation and Resettlement (R&R) colonies in Saleibada in Thakuramunda block of Mayurbhanj district in Odisha. Although these families got alternative accommodation in Saleibada, they are still living without any access to potable water, electricity, sanitation and communicable roads etc.²⁵⁵

Located along the foothills of the Shivalik range, the Rajaji National Park (RNP)²⁵⁶ spans 820 square kilometres and is home to the Van Gujjars²⁵⁷, a nomadic pastoral community, in the winters. In the

247, 249 "Rukuda irrigation project: Forced out of home years ago, Odisha tribals await rehab", The New Indian Express, November 12, 2021, <https://www.newindianexpress.com/states/odisha/2021/nov/12/rukuda-irrigation-project-forced-out-of-home-years-ago-odisha-tribals-await-rehab-2382626.html>

248 Press Trust of India, "Odisha CM inaugurates Rs 300 crore irrigation dam project", Business Standard, July 25, 2018, https://www.business-standard.com/article/pti-stories/odisha-cm-inaugurates-rs-300-crore-irrigation-dam-project-118072501568_1.html

250 Subhojit Goswami, "Polavaram dam project has opened floodgates of corruption: activists", Down To Earth, June 27, 2018, <https://www.downtoearth.org.in/news/environment/polavaram-dam-project-has-opened-floodgates-of-corruption-activists-60963>

251 "Andhra Pradesh's Polavaram dream nearer to becoming a reality", The New Indian Express, January 1, 2022, [newindianexpress.com/states/andhra-pradesh/2022/jan/01/states-polavaram-dream-nearer-to-becoming-a-reality-2401866.html](https://www.newindianexpress.com/states/andhra-pradesh/2022/jan/01/states-polavaram-dream-nearer-to-becoming-a-reality-2401866.html)

252, 254 Shagun Kapil, "Polavaram — displaced and nowhere to go: Tribal families robbed of rights, livelihood in resettlement colonies", Down To Earth, December 8, 2021, <https://www.downtoearth.org.in/news/governance/polavaram-displaced-and-nowhere-to-go-tribal-families-robbed-of-rights-live>

253 "Polavaram project: Panel sees violation of tribal rights", The New Indian Express, September 19, 2021, <https://www.newindianexpress.com/states/andhra-pradesh/2021/sep/19/panel-sees-violation-of-tribal-rights-2360761.html>

255 Ananya Padhiary, "Displaced Villagers Near Odisha's Similipal National Park Deprived Of Jobs, Basic Amenities", OdishaTV, December 4, 2021, <https://odishatv.in/news/miscellaneous/displaced-villagers-near-odisha-s-similipal-national-park-deprived-of-jobs-basic-amenities-165445>

256 Rajaji National Park in Uttarakhand was declared a wildlife sanctuary in 1983 and later, a tiger reserve in 2015

257 The Van Gujjars have been granted the Scheduled Tribe (ST) status in Jammu and Kashmir and Himachal Pradesh, but in Uttarakhand and Uttar Pradesh they are still classified as Other Backward Classes (OBC). They traditionally practice buffalo husbandry for livelihood.

summer they migrate to the bugyals (grasslands) located in the upper Himalayas with their buffaloes and return only at the end of monsoons to their makeshift huts (deras) in the foothills of the Shivalik mountain range.²⁵⁸ Under the Forest Rights Act, 2006, the Van Gujjar are specifically entitled to, "...seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access". But they have been subjected to atrocities and eviction by the forest department in the RNP. Since 2002, over 1,390 Van Gujjar families have been relocated from Motichur and Ranipur areas of the Rajaji National Park to Patri and Gendi Khata villages in Haridwar district of Uttarakhand. But hundreds of evicted families have been denied any rehabilitation.²⁵⁹ On December 15, 2021, the Uttarakhand High Court directed the state government to rehabilitate 229 Van Gujjar families (who have been left out of rehabilitation plan) within one year and present a detailed report on its plans in this regard within two months. The court also directed the state government to arrange for food and healthcare for the animals reared by Van Gujjars still living in the tiger reserve.²⁶⁰

On November 8, 2022, the forest department evicted about 205 Chakma and Garo tribal families from Tedongnala and Lankaireju villages in Lumding reserve forest in Hojai district of Assam. Through the

harsh winter, these families have been living in makeshift camps without basic facilities. Community organizations which have visited their camps found that these tribal IDPs including aged, women, children and infants were living in makeshift tents made of bamboo and tarpaulins without basic facilities such as drinking water, toilets, food and medical facilities and in unhygienic condition. The children are also being denied fundamental right to education. The Assam Government has failed to rehabilitate them.

258 Sushmita, "Uttarakhand Van Gujjars allege forest officials assaulted women; probe underway," Down To Earth, June 30, 2020, <https://www.downtoearth.org.in/news/forests/uttarakhand-van-gujjars-allege-forest-officials-assaulted-women-probe-underway-72036#:~:text=Nomadic%20tribe,no>

259 Radhika Gupta, "In Uttarakhand, Van Gujjars are being displaced by both environmentalism and development projects", Scroll.in, June 7, 2021, <https://scroll.in/article/996173/in-uttarakhand-the-van-gujjar-tribe-is-being-displaced-by-environmentalism-and-development-projects>

260 Neeraj Santoshi, "Rehabilitate 229 Van Gujjar families from Rajaji Tiger Reserve": Uttarakhand HC", The Hindustan Times, December 16, 2021, <https://www.hindustantimes.com/cities/dehradun-news/rehabilitate-229-van-gujjar-families-from-rajaji-tiger-reserve-uttarakhand-hc-10163964>

10. Business and Human Rights of the Indigenous Peoples

India has no formal mechanism to fully comply with the United Nations Guiding Principles (UNGP) on Business and Human Rights and related human rights law.²⁶¹ In December 2018, India had released a 'Zero Draft' of National Action Plan (NAP) on business and human rights²⁶² but there has been no progress by the end of 2021. On the other hand, the indigenous peoples, environment activists and anti-mining activists have faced criminalization and violence by the State and corporates for defending "jal jameen jungle" (water, land and forests) across the country. Indigenous peoples have been holding peaceful protests against forced acquisition of land for mining, dam and various other projects in different parts of the country. As of 2020, the Land Conflict Watch has documented 703 ongoing land conflicts in India directly impacting over 6.5 million people and 2.1 million hectares of land, and involving investments amounting to over INR 13 trillion (US\$172 billion). 26% of these land conflicts and 60% of all mining related conflicts are occurring in the Fifth Schedule areas which are predominantly inhabited by indigenous peoples. Further, 75% percent of all conservation and forestry related conflicts and 51.4% of mining related conflicts involved the violation or non-implementation of the Forest Rights Act, 2006 which means that victims are mostly indigenous peoples.²⁶³

The Government of India (GOI) has taken several actions to dilute the existing forest and environmental safeguards to make land acquisition easier for companies. For example, to facilitate ease of doing business, GOI has drafted the Coal Bearing Areas (Acquisition and Amendment) Bill 2021 (CBA Bill 2021) to amend the existing Coal Bearing Areas

Act, 1957. The CBA Act of 1957 currently allows only Central Government to acquire land only for Government Companies i.e. Coal India Limited but the CBA Bill 2021 makes "provisions for leasing of land and coal mining rights vested under the CBA Act to any company (including private sector company) which has become successful bidder in the auction of coal blocks".²⁶⁴

On April 11, 2020, the GOI also released the Draft Environment Impact Assessment Notification 2020 which is widely considered as pro-industry; and on October 2, 2021, a "Consultation Paper on Proposed amendments in the Forest (Conservation) Act, 1980" was released which did not mention anything on rights of tribal communities. Earlier on February 16, 2021, the GOI came out with an order so that the mining industry can avoid public hearing for projects which had been granted environment clearance (EC) under the EIA Notification, 1994. The exemption of public hearing will make it easier for companies to get EC and forest clearance and acquire land for projects.

The implementation of Government's COVID-19 economic recovery plans invariably involves acquisition of land and natural resources in the territory inhabited by the indigenous peoples. As part of the Atma Nirbhar Bharat Abhiyan (Self-Reliant India Mission), the Government of India (GOI) launched the online auction of 41 coal blocks for commercial mining on 18 June 2020.²⁶⁵ By August 2021, 20 coal mines have been successfully auctioned for sale.²⁶⁶ More than 80 per cent of the country's coal reserves are in Adivasi areas.

261 In 2011, the Ministry of Corporate Affairs (MCA), Government of India, released a set of guidelines called the National Voluntary Guidelines on the Social, Environmental and Economic Responsibilities of Business (NVEGs) which was expected to provide guidance to businesses on what consti

262 India's National Action Plan on Business and Human Rights (Zero Draft) is available at https://www.mca.gov.in/Ministry/pdf/ZeroDraft_11032020.pdf

263 Land Conflict Watch, "Locating The Breach: Mapping The Nature Of Land Conflicts In India", February 2020, https://global-uploads.webflow.com/5d70c9269b8d7bd25d8b1696/5ecd20dd626f166d67f67461_Locating_the_Breach_Feb_2020.pdf

264 <http://loksabhadocs.nic.in/bull2mk/2021/12.07.2021.pdf>

265 Unleashing Coal: New Hopes for Atmanirbhar Bharat, PIB, 11 June 2020, https://coal.nic.in/sites/upload_files/coal/files/curentnotices/PIBCoal-11062020.pdf

266 Reply of Minister of Coal, Mines & Parliamentary Affairs Shri Pralhad Joshi in response to Unstarred Question No. 2553 in the Lok Sabha on 4 August 2021

Despite stiff resistance from the indigenous peoples, the Government is determined to go ahead with several extractive industries without obtaining the free, prior and informed consent (FPIC) of the affected tribal people through their Gram Sabhas (Village Councils). In April 2021, the Odisha Government extended Hindalco Industries Ltd (part of Aditya Birla Group) company's lease by 50 years to mine bauxite in Mali Parbat (hill), which is considered sacred by the Adivasis in Koraput district, Odisha. In September 2021, the police and paramilitary forces prevented the Adivasi villagers from attending the public hearing to grant an Environment Clearance (EC) permit to the Hindalco company and 22 tribal youths, including a minor Adivasi student were arrested and booked under serious criminal charges including attempt-to-murder, criminal intimidation, rioting and "obscene acts and songs", etc.²⁶⁷

Beneath the Hasdeo Aranya forest lies one of the biggest reserves of coal in India. As per the estimates of the Indian Bureau of Mines, the reserves of coal in the Hasdeo Aranya forest amount to 5179.35 million tonnes of coal, spread over an area of 187,960 hectares. It is at the centre of a face-off between the government and the local tribal communities.²⁶⁸ The tribals have been resisting coal mining in the forests of Hasdeo Arand which are known as the "lungs of Chhattisgarh." On October 2, Gandhi's birthday, thousands of Adivasis took out a 300-km walk from Korba to the state capital Raipur²⁶⁹ and met Governor Anusuiya Uikey seeking her intervention as Hasdeo Arand in Korba district falls under Fifth Schedule Areas where PESA is applicable. The Chhattisgarh Bachao Andolan (CBA) in a statement claimed that the forest rights claims of the villagers related to Parsa open cast mine within the Hasdeo Arand are still pending and the gram sabha consents dated January 24, 2018 for Hariharpur, January 27, 2018 for

village Salhi and August 26, 2017 for village Fatehpur were fake. Instead of investigating these allegations the Ministry of Environment, Forest and Climate Change granted stage II clearance for mining in the Parsa coal block on October 21, 2021.²⁷⁰ However, on December 13, the Chhattisgarh High Court issued a stay order on land acquisition for Parsa coal block while hearing a petition filed by five residents of Hariharpur, Salhi, and Fatehpur villages facing displacement. In its order, the High Court has noted that 1,250 hectares of land of Parsa block in Surguja district has been acquired in favour of a private company. Of this nearly one-third is cultivable land of tribal communities.²⁷¹

Similarly, the villagers, including tribals, have been vociferous in their protest against land acquisition to set up a steel plant by Jindal Steel Works (JSW) Utkal Steel Ltd in Gram Panchayats of Dhinkia, Nuagaon and Gadakujang in Jagatsinghpur district of Odisha since the project was proposed in 2017, following the exit of South Korean steel giant POSCO. But instead of handing over the land (2,900 acres) back to the original land owners, the state government decided to transfer the same to JSW Utkal Steel Ltd to set up a steel plant which will affect the livelihood of the peasants and betel growers of Dhinkia, Gobindpur and Nuagaon villages.²⁷² There are allegations that the state government has been harassing activists associated with the Anti-Jindal & Anti-POSCO Movement. On 4 December 2021, at about 3 AM, a huge police contingent under the leadership of Assistant Superintendent of Police of Paradeep Mr. Nimaichran Sethi raided the house of activist Debendra Swain in relation to alleged fabricated FIR (No. 125/ 2021) registered at Abhayachandpur Police Station against Mr. Swain, Basanta Gochayat, Chuguna Jena and three others on the basis of a

267 Complaint of the Indigenous Rights Advocacy Centre, New Delhi with the National Human Rights Commission, 28 November 2021

268, 271 Shivani Gupta, "Hasdeo Aranya coal mining controversy heats up; Chhattisgarh HC stays land acquisition for a coal block", Gao Connection, December 14, 2021, <https://en.gaonconnection.com/hasdeo-aranya-coal-mining-chhattisgarh-bhupesh-baghel-rahul-gandhi-environment-tribal-forest->

269 Chitragada Choudhury, "Chhattisgarh's Adivasis Are On 300-Km March To Save The Hasdeo Forests, Latest In A Decade-Long Protest Against Coal Mining,"

Article14, October 7, 2021, <https://article-14.com/post/chhattisgarh-s-adivasis-are-on-300-km-march-to-save-the-hasdeo-forests-late>

270 Sumedha Pal, "Hasdeo Aranya Mining Clearance: 'Centre Trampling on Tribal Rights,' Say Activists", The Wire, October 23, 2021, <https://thewire.in/uncategorised/hasdeo-aranya-mining-clearance-centre-trampling-on-tribal-rights-say-activists>

272, 274 Ashis Senapati, "Dhinkia steel plant: Villagers block entry points with bamboo structures to oppose JSW project", Down To Earth, December 7, 2021, <https://www.downtoearth.org.in/news/governance/dhinkia-steel-plant-villagers-block-entry-points-with-bamboo-structures-to-oppose-jsw-proje>

complaint filed by one Mr. Prabhat Kumar Rout who accused them of hurling a bomb at his house. Two other FIRs (No. 126/ 2021 and No. 127/2021) were filed by the police against these Human Rights Defenders namely Mr. Swain, Mr. Gochayat, Mr. Jena and others.²⁷³ Further, it is reported that the police have filed case against around 200 villagers after they erect bamboo barricades at Dinkia village to oppose JSW Steel Project.²⁷⁴ On December 20, police entered into Dinkia village and started beating people. After unable to find leader of the Anti-Jindal & Anti-POSCO Movement, Debendra Swain, the police picked up his paternal uncle, Ayodhya Swain, aged 71, who is a paralysis patient and his daughter Mili Swain 22-year-old. The police slapped false charge against them under Indian Penal Code sections: 147 (rioting), 149 (unlawful assembly), 294 (use of obscene language), 427 (mischief causing damage), 506 (criminal intimidation).²⁷⁵

In October 2021, the indigenous Lepcha tribe of Dzongu in North Sikkim (Sikkim state) renewed their protests against proposed construction of two mega dams, namely 520 megawatts Teesta Stage Four Project on River Teesta and the 280 megawatt Panam Hydro Project on Rongyoung River. The Lepchas fear that hydropower projects at Dzongu would destroy the rich Himalayan ecosystem and the cultural heritage of the Lepcha community who worship nature.²⁷⁶ Gyatso Lepcha, general secretary of Affected Citizens of Teesta (ACT) pointed out that around 60% of Dzongu falls under Khangchendzonga national park, a UNESCO World heritage site.²⁷⁷

273 Complaint of Human Rights Defenders' Alert-India to Mr. C.S Mawri, National Focal Point - Human Rights Defenders & Assistant Registrar, National Human Rights Commission, New Delhi, December 9, 2021, <https://media.business-humanrights.org/media/documents/03-2021-12-09>

275 <https://www.groundxero.in/2021/12/25/brutal-police-repression-upon-villagers-protesting-against-jindal-steel-in-odisha/>

276 Pankaj Dhungel, "Sikkim: Why Dzongu residents continue to defy dams on Teesta river", East Mojo, October 10, 2021, <https://www.eastmojo.com/sikkim/2021/10/10/sikkim-why-dzongu-residents-continue-to-defy-dams-on-teesta-river/>

277 Pramod Giri, "Sikkim's Lepcha tribe vows to stall hydropower project in their holy land", The Hindustan Times, October 15, 2020, <https://www.hindustantimes.com/india-news/sikkim-s-lepcha-tribe-vows-to-stall-hydropower-project-in-their-holy-land/story-2Wl8qE5RbcRNZ4HDr7FEMP.h>

The Indigenous Rights Advocacy Centre (IRAC) is a not-for-profit organization based in New Delhi. The vision of the organization is to promote, protect and defend the rights and interests of the tribal communities/Adivasis/Indigenous Peoples in India. As a means of achieving its objectives, IRAC seeks to combine practice, research, advocacy and collaboration as an effective method to promote, protect and defend the individual and collective rights of Indigenous Peoples.

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