

# Indigenous Rights Monitor

A Quarterly Newsletter of  
Indigenous Rights Advocacy Centre

## Message from the Executive Director

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Dear friends and colleagues,

As you are aware, through this newsletter we bring out the patterns of violations against the indigenous peoples in India, and our interventions and advocacy activities during the period under review. During the reporting period, that is, between March 1, 2022 and May 31, 2022, IRAC has intervened in a total of 31 cases of human rights violation of the Scheduled Tribes/indigenous peoples with the National Human Rights Institutions (NHRIs) of India, primarily the NHRC. These included 7 cases of torture by security forces/police/forest officials, 4 cases of killing by Maoists, 4 cases of violence against women, 2 cases of custodial deaths, 2 cases of violence against children, 2 cases of arrest on alleged false charges, 1 case of alleged killing by security forces, 1 case of arrest of IPHRD, 1 case of threat of eviction (by non-tribals), 1 case of torture by non-tribals, 1 case of injury in firing by security forces, 1 case of death due to alleged denial of medical treatment, 1 case of witchcraft related death and 3 other cases.

IRAC works towards eradication of criminalization and violence against the indigenous peoples, and establishing accountability for acts of human rights violation against them. While the violations committed by the State actors are prominently highlighted (which should of course be highlighted), often the violations committed by the non-state actors particularly the armed opposition groups are not given attention to. In this latest issue of *Indigenous Rights Monitor*, we have highlighted one case involving the killing of an innocent tribal by the Maoists. After IRAC took up the case with the NHRC, the state of Maharashtra has agreed to provide a compensation of one million rupees to the family of the deceased who was killed by the Maoists.

Further, another case which has been highlighted is the intervention and advocacy work of IRAC towards securing justice for the family of Bhima Kale, a marginalized Phase Pardhi tribe, who died in police custody in October 2021 in Maharashtra.

## **RIGHTS VIOLATION UNDER THE LENSE OF IRAC**

### **Killing of Somaji Sadmek by Maoists in Maharashtra**

Common Article 3 to the Geneva Conventions prohibits killings, torture or taking hostages of civilians/non-combatants in armed conflicts. However, in India, it is often reported that the Maoists have resorted to these crimes against civilians, particularly tribals living in the conflict zones or what the Government calls “Left Wing Extremism affected States”. Tribals have been sandwiched between the State and the Maoists.

On September 26, 2021, Indigenous Rights Advocacy Centre (IRAC) submitted a complaint to the National Human Rights Commission (NHRC) seeking its urgent interventions against abduction and killing of 45-year-old tribal identified as Somaji Sadmek by the Maoists near Hedri in Etapalli tehsil in Gadchiroli district of Maharashtra on 19 September 2021. 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. IRAC sought NHRC’s action including directing the state government of Maharashtra to order an inquiry into the killing, registration of a case of murder and to bring the perpetrators to justice; and to pay compensation of at least one million rupees to the next of kin of the deceased.

The NHRC registered the case (Case No. 2233/13/11/2021) and on September 30, 2021, issued directions to the Chief Secretary, Government of Maharashtra, and the Director General of Police (DGP), Maharashtra to “ensure the needful actions in the matter and submit their action taken reports to the Commission within eight weeks.”

Pursuant to the direction of the Commission, the Additional DGP (PCR), Maharashtra vide communication dated March 23, 2022 submitted the enquiry report dated March 15, 2022 of Superintendent of Police, Gadchiroli. The report stated that on September 18, 2021 the deceased named Somaji Sadmek along with his family members was sleeping in his house when nine armed Naxalites/Maoists took him into possession and shot him dead with the gun shots on the head and on the chest. Based on a complaint filed by the complainant, an offence vide Cr. No. 32/2021 u/s 302/143/147/148/149/120(b) Indian Penal Code (IPC) r/w 5/28 Indian Arms Act has been registered. During investigation, accused Karan, Mainu Pandu, Mangru Katak and Ajay Sobu Hichami have been arrested and chargesheet is being prepared and same will be filed before court as soon as possible.

Regarding compensation, the Additional DGP (PCR), Maharashtra submitted that under Etapalli Gopinath Munde Farmers Accidental Insurance, proposal has been submitted to the Tehsil Agricultural Office which is under process. Further, it was submitted that the Next of Kin of the deceased will be entitled for compensation of Rs. 10 lakh (one million) under different schemes of Government of India and State Government and the wife of deceased has been told to submit relevant documents required for the submission of above proposals to the Sub Divisional Police Officer (SDPO), Hedri. As soon as the requisite documents are received, the proposal for monetary relief will be submitted to the Government.

## RIGHTS VIOLATION UNDER THE LENSE OF IRAC

### Violence against tribal children at government-run shelter home in Chhattisgarh

On October 1, 2021, Indigenous Rights Advocacy Centre (IRAC) took cognizance of a media report about the alleged sexual assault of minor specially-abled children (i.e. children with hearing loss and speaking impairment) belonging to tribal communities at a government-run shelter home in Jashpur district of Chhattisgarh. According to the media report, the accused persons (caretaker and watchman of the shelter home) stripped, beaten, chased naked and raped at least one of the children on the night of September 22, 2021. The children narrated these incidents to the police through signs and gestures. IRAC sought a proper investigation and strong action against the culprits. The complaint was registered in the NHRC as Case No. 576/33/7/2021.

On October 12, 2021, NHRC sought report from the District Magistrate and the Senior Superintendent of Police, Jashpur district within four weeks. But they failed to submit any report. On February 7, 2022, the NHRC observed that the concerned authorities failed to submit any report and took a “serious view of the non-responsive attitude of the concerned authorities”, and directed “its Registry to issue a reminder to the District Magistrate, Jashpur & Senior



Superintendent of Police, Jashpur, Chhattisgarh to submit the report in terms of the proceedings dated 12.10.2021 within four weeks, failing which the Commission shall be constrained to invoke provision u/s 13 of the Protection of Human Rights Act, 1993.”

Pursuant to the directions of the Commission, the Superintendent of Police, Jashpur submitted a report dated February 28, 2022 that a case crime No.227/2021 dated September 24, 2021 u/s 363/376(2)(i)/34 IPC (Indian Penal Code), section 5/6/9/10 POCSO Act (Protection of Children from Sexual Offences Act) against accused Narendra Ram Bhagat and case crime No.228/2021 dated September 24, 2021 u/s 363/354A/354B/34 IPC and Section 8/10 POCSO Act against accused Rajesh Chauhan, Caretaker were registered at Jashpur police station. During investigation, after having found evidence of commission of the offences, both the accused persons were arrested and sent to judicial custody on September 25, 2021. Chargesheets have been submitted in both the cases before the Court. However, the report of the Superintendent of Police was silent on the payment of monetary compensation to be paid to the victim. So, on April 4, 2022, the NHRC directed the District Magistrate and the Senior Superintendent of Police, Jashpur to submit additional report about the action taken regarding payment of monetary compensation to the victims in the instant case, within four weeks.

## Advocacy for Justice

### Solapur custodial death case: Seven cops booked after six months

Diwakar Sharma, *Mid-day*, April 23, 2022

(Source: <https://www.mid-day.com/mumbai/mumbai-news/article/solapur-custodial-death-case-seven-cops-booked-after-six-months-23224053>)

*Following this paper's sustained coverage, and the intervention of National Human Rights Commission, seven cops booked; tribe's next demand: charge them for murder instead of bailable offences.*

Six months after the father of seven was tortured to death in the custody of Vijapur Naka police in the Solapur district, the state's Criminal Investigation Department (CID) has booked seven policemen. Bhima Rajja Kale, who belonged to the Phase Pardhi tribe that has been frequently targeted by the police, died in October after he was picked up in connection with a theft case. After a massive sit-in protest by his family members, the NHRC's intervention and a series of reports by mid-day, the CID took over the probe and finally filed the FIR on Thursday. The cops have been currently booked for culpable homicide not amounting to murder, but the Phase Pardhis want them charged for murder.

Bhima, 35, died in police custody on October 3 last year, and his family alleged that police had ignored his pleas to get him to a hospital as he was feeling unwell. Deputy Superintendent of Police, Solapur Unit, CID, Shrishail Gaja, conducted the initial

investigation and filed an FIR on Thursday, as a complainant, against Senior Inspector Udayshinh Shamrao Patil, Assistant Inspector Shitalkumar Kolhal, constables Shrirang Khandekar, Shivanand Bhimde, Ambadas Gaddam, Atish Patil and Laxman Rathod of Vijapur Naka police.

The CID has registered an FIR under Sections 166 (public servant disobeying law, with intent to cause injury to any person), 304 (culpable homicide not amounting to murder), 330 (voluntarily causing hurt to extort confession, or to compel restoration of property) and 34 (common intention) of the IPC at the same police station where Kale was subjected to custodial torture.



Screenshot of front cover of printed edition of *Mid-day*, April 23, 2022

The FIR states that Vijapur Naka police took the custody of Bhima on September 22, 2021, and produced him before court the same day. However, his cousin Rajesh Kale, who is a corporator and deputy mayor at Solapur Municipal Corporation, alleged that he was picked up by police on September 18. “Bhima was hale and hearty when he was picked up by the police on September 18, but the policemen assaulted him so badly during illegal detention that he was unable to walk. Bhima had been pleading with police to take him to hospital but none of them listened to his requests,” said Rajesh.

### **FIR on medical attention**

Bhima had been telling police that his condition is not good and he should be taken to hospital, “yet the police did not take him to hospital for immediate medical attention,” reads the FIR. Rajendrasingh Bayas, the lawyer of Bhima’s wife Swati Kale, said, “Bhima was kept in the lockup where there was no CCTV camera. He was in poor health in police custody. When his wife, Swati, and other relatives visited Vijapur Naka police station and asked the senior inspector Udaysingh Patil that ‘why is he [Bhima] asking you [police] to take him to hospital’, the officers said his mental condition is n good.” FIR mentions that Kale had fever and was coughing and puking while in custody. “Both his legs had serious infection when he was in police custody,” it adds.

### **Tortured to death**

Kale was taken to Civil Hospital, Solapur, on September 24 at 2.25 pm for treatment. “And on September 25, he was subjected to severe physical torture by officers of Vijapur Naka police station. He was badly assaulted and mentally tortured to confess to the offence which he had not committed,” Bayas alleged. “There was a serious negligence by police officers who took him to hospital only after his health condition deteriorated and finally he breathed his last on the night of October 3,” he added.

Matin Bhosale, state president of Dadaji Adivasi Phase Pardhi Samaj Sanghatana, said, “The Phase Pardhi tribe is often subjected to police brutality. Many Pardhis have died in police custody, but this is the first case in which an FIR has been registered against the policemen involved in custodial torture. It was possible only after mid-day continued its sustained reportage on the sensitive issue that was also heard in the National Human Rights Commission (NHRC).” However, the family members and the lawyer are not happy with the IPC Sections under which the policemen have been booked, and demanded that the CID book them on the murder charge.

### **‘Book for murder’**

“The Supreme Court has laid down specific guidelines in the D K Basu case and these guidelines must be followed by police after they arrest an accused. But nothing as such was seen in Bhima’s case. It’s a serious lapse,” Bayas said. “Our collective demand is to book these policemen under Section 302 (murder) of the IPC. IPC Section 304 is a bailable offence. Police have registered an FIR, but it is equivalent to a lollipop. Why have the accused policemen not been arrested or suspended till date?” he asked.

Swati said, “I have learnt that a case has been registered against the policemen, but how is it going to affect my livelihood? I am still struggling to run my house and raise my children. They have lost their father. Will this FIR bring their father back?” “I still demand that these policemen be hanged for making our lives hell. My husband was not even allowed a glass of

water when he was dying,” she added.

The bereaved family demands immediate arrest of all the policemen. “The FIR has been filed, but the policemen have neither been suspended nor arrested. Why are the senior officers protecting them? We had been reiterating that Bhima was subjected to custodial torture, but the senior officers did not pay heed to our demands,” said Rajesh.

Sources in the police department told mid-day that Patil and Kolhal reported sick and went underground after they learnt about the FIR. The flying squad of CID, Pune, under the supervision of Deputy Superintendent of Police Girish Dighavkar, will investigate the case here on. However, the case files are yet to reach Pune from Solapur, said a source in the CID. “Since the complainant is the Solapur unit of the CID, it cannot investigate its own case. So, we have transferred the case to the Pune team,” a senior officer in CID told mid-day.

### Suspension post probe

Responding to a question about the suspension of the seven policemen, Commissioner of Solapur Police Harish Baijal said, “They have not been suspended yet. Their suspension will depend upon what action the state CID takes against them.” “Registration of FIR against some policemen is the first welcome step in this case. However, police should conduct the investigation properly and file the chargesheet in the court at the earliest. Speedy trial should be ensured in the Special Court as per the SC/ST Act,” said Dilip Chakma, executive director, Indigenous Rights Advocacy Centre.

### BRIEF ABOUT IRAC’S INTERVENTIONS IN THE CASE OF CUSTODIAL DEATH OF BHIM KALE:

On October 11, 2021, IRAC filed the complaint before the National Human Rights Commission (Case No. 2423/13/28/2021-AD). On November 11, 2021, the NHRC first issued notices to District Magistrate, Sholapur and the Commissioner of Police, Sholapur, calling for action taken report. IRAC continuously followed up this case and pressure on the authority was created through the media. The fight continues....

Mid-day’s coverage dated February 14, 2022 (See right) is available online at:

<https://www.mid-day.com/mumbai/mumbai-news/article/phase-pardhi-man-custodial-death-state-cops-snub-nhrc-23214197>

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**PHASE PARDHI MAN'S CUSTODIAL DEATH**  
**STATE COPS SNUB NHRC**

After National Human Rights Commission picks up this paper's exclusive report, Solapur district officials, police chief yet to send detailed explanation as deadline lapses

**PHASE PARDHI MAN DIES IN CUSTODY. TORTURE ALLEGED**

SPURRED by a Phase Pardhi man's death due to alleged custodial torture, the National Human Rights Commission had sought a detailed report from Maharashtra in six weeks, but the state authorities failed to comply with the deadline that ended in mid-December. As per the Crime Investigation Department, the NHRC's letter had been addressed to the Solapur police chief and they received it only last week. » P06

mid-day's report on October 9, 2021, on the custodial death

**'Custodial death of any person is the worst form of human rights violation. The Pardhi community is particularly vulnerable and an easy target for false criminalisation because of their 'criminal' tag'**  
 Dilip Chakma, member of Indigenous Rights Advocacy Centre

**'We are yet to record the statement of Kale's brother as he is not available and the histopathological report is also pending'**  
 A CID officer

## IRAC's interventions with NHRIs

During March 1, 2022 to May 31, 2022, the Indigenous Rights Advocacy Centre (IRAC) has intervened in a total of 31 cases of human rights violation of the Scheduled Tribes/indigenous peoples with the National Human Rights Institutions (NHRIs) of India, primarily the NHRC. These included 7 cases of torture by security forces/police/forest officials, 4 cases of killing by Maoists, 4 cases of violence against women, 2 cases of custodial death, 2 cases of violence against children, 2 cases of arrest on alleged false charges, 1 case of alleged killing by security forces, 1 case of arrest of IPHRD, 1 case of threat of eviction (by non-tribals), 1 case of torture by non-tribals, 1 case of injury in firing by security forces, 1 case of death due to alleged denial of medical treatment, 1 case of witchcraft related death and 3 other cases.

Geographically, these cases are spread across the country. Out of the 31 complaints filed with the NHRIs, 5 cases were from Madhya Pradesh followed by 4 cases each from Jharkhand and Tamil Nadu, 3 cases from Maharashtra, 2 cases each from Telangana, Assam, Arunachal Pradesh, Manipur, West Bengal and Andhra Pradesh, and one case each from Rajasthan, Karnataka and Chhattisgarh.

Nature of violations	Total number of Cases
Torture by SF/Police/Forest Officials	7
Killing by Maoists	4
Violence against women	4
Custodial death	2
Violence against children	2
Arrest on alleged false charges	2
Alleged killing by security forces	1
Arrest of IPHRD	1
Threat of eviction (non-state)	1
Death due to denial of medical treatment	1
Torture by non-tribal	1
Injury in firing by security forces	1
Witchcraft related killing	1
Others	3
<b>TOTAL</b>	<b>31</b>

State	Total No. of Cases
Madhya Pradesh	5
Jharkhand	4
Tamil Nadu	4
Maharashtra	3
Telangana	2
Assam	2
Arunachal Pradesh	2
Manipur	2
West Bengal	2
Andhra Pradesh	2
Rajasthan	1
Karnataka	1
Chhattisgarh	1
<b>TOTAL</b>	<b>31</b>

## NHRC acts upon IRAC's complaints

### **NHRC directs Ministry of Defence to submit report of Court of Inquiry into the killing of a tribal in Manipur**

On May 24, 2022, the NHRC directed the Secretary, Ministry of Defence, Government of India, New Delhi to submit the report of the Court of Inquiry (Col) and inform the Commission about decision taken on the Col within four weeks in connection with the alleged extrajudicial killing of Mangboilal Lhovum, a 29-year-old tribal man, in Manipur by an Assam Rifles officer. The NHRC has acted based on an intervention (NHRC Case No. 27/14/16/2021-AD) from Indigenous Rights Advocacy Centre (IRAC). The victim was killed on the night of June 4, 2021 at Chalwa village in T Waichong Sub Division in Kangpokpi district of Manipur. (Details of this case can be read in "Indigenous Rights Monitor", Vol 1, issue 1, June-August 2021, available online at [https://irac.in/wp-content/uploads/2022/01/August2021-Newsletter\\_Final-1.pdf](https://irac.in/wp-content/uploads/2022/01/August2021-Newsletter_Final-1.pdf))

The NHRC has also directed the Director General of Police (DGP), Manipur to submit the updated investigation report within four weeks alongwith all documents sought by the Commission vide proceedings dated February 1, 2022.

### **Starvation of tribals: NHRC summons the district magistrate of Garhwa, Jharkhand**

On May 24, 2022, the NHRC issued conditional summons to the District

Magistrate, Garhwa district, Jharkhand, directing him to personally appear before the Commission on June 29, 2022 along with the required information/ documents. However, if the required information/ documents are received on or before June 22, the personal appearance of the concerned officials shall stand dispensed with. The NHRC took this strong action after the District Magistrate had failed to submit reports and even reminders had failed to evoke response. The case relates to reported starvation of 8,000 tribals due to denial of ration for three months (Aug-Oct, 2021) in Garhwa district, filed by IRAC (NHRC Case No. 1590/34/7/2021).

### **NHRC summons Chief Secretary and Police Chief of Tamil Nadu**

On May 5, 2022, the NHRC took "serious view of the non responsive attitude of the Chief Secretary, Govt. of Tamil Nadu and Director General of Police, Tamil Nadu" and summoned them to personally appear before the Commission at 11:00 AM on June 6, 2022 along with the requisite report and copies of the relevant documents. The matter relates to forced eviction of 23 Kadar tribal families by the Forest Department personnel last year. Based on intervention of the IRAC, the NHRC had issued notices to the concerned authorities but they failed to submit response. For details of this case, please read "Indigenous Rights Monitor", Vol. 2, Issue 1, December 2021-February 2022, available online at [https://irac.in/wp-content/uploads/2022/04/Newsletter\\_Vol-2\\_No.1\\_Dec2021-Feb2022.pdf](https://irac.in/wp-content/uploads/2022/04/Newsletter_Vol-2_No.1_Dec2021-Feb2022.pdf)

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