

# CRIMINALIZATION AND PROSECUTION OF TRIBALS IN FALSE CASES IN INDIA

A Briefing Paper by  
INDIGENOUS RIGHTS ADVOCACY CENTRE

*On the occasion of Human Rights Day, December 10, 2022*



Pic: A protest in Jharkhand on July 19, 2021 against Stan Swamy's death (Courtesy: IndiaSpend)

## MAGNITUDE OF THE PROBLEM

*According to the National Crime Records Bureau (NCRB), as on December 31, 2021, there were 4,27,165 undertrials in the country, out of which 66.37% belonged to the disadvantaged sections of society i.e. Scheduled Caste (SC), Scheduled Tribe (ST) and Other Backward Classes (OBC) communities*

## 1. Introduction

On November 26, 2022, the President of India, Smt Droupadi Murmu while delivering the valedictory address at the Constitution Day Celebrations organised by the Supreme Court in New Delhi highlighted the plight of the poor tribals languishing in jails for petty crimes despite getting bail because of their inability to pay the bail amount. She made this observation in the presence of the Union Law Minister, the Chief Justice of the Supreme Court, judges of the Supreme Court and High Courts, among others.[1] Three days later, the Hon'ble Supreme Court directed the prison authorities across the country to provide details of such prisoners within 15 days to the National Legal Services Authority (NALSA). The prison authorities have been asked to submit details such as the names of undertrial prisoners, charges against them, date of the bail order, what bail conditions were not met and how much time they have spent in jail after the bail order.[2]



**Pic above:** On December 15, 2021, Birsa Majhi, a Santhal tribal was summoned by police on false accusation of being a Maoist in the state of Jharkhand (Photo: by: Jharkhand Janadhikar Mahasabha)

According to the National Crime Records Bureau (NCRB), as on December 31, 2021, there were 4,27,165 undertrials in the country, out of which 66.37% belonged to the disadvantaged sections of society i.e. Scheduled Caste (SC), Scheduled Tribe (ST) and Other Backward Classes (OBC) communities.[3] 42,211 undertrials were STs (9.8%) and 90,037 were SCs (21.07%)[4], which is disproportionate of their population which is 8.6% for STs and 16.6% for SCs (census 2011). The undertrial percentage of STs was high in Chhattisgarh (33.97% undertrial against 30.6% of state's population), Jharkhand (25.41% undertrial against 26.2% of state's population), Odisha (24.16% undertrial against 22.8% of state's population), Madhya Pradesh (24.15% undertrial against 21.1% of state's population), Andhra Pradesh (21.57% undertrial against 5.3% of state's population), Assam (16.92% undertrial against 12.4% of state's population), Rajasthan (14.67% undertrial against 13.5% of state's population), among others.[5]

## 2. Criminalization, violence and implication of tribals in false cases

Despite having special constitutional and legal protection, many tribals have been victims of criminalization, violence and false prosecution which has destroyed their lives. The tribals are criminalized for defending their collective rights to “jal jameen jungle” (water, land, and forest resources). Activists who have opposed land acquisition for industrial or mining projects without the consent of the local Gram Sabha have often faced state violence which is very unfortunate. [6]

In Jagatsinghpur district of Odisha, for example, there have been brutal crackdowns and false cases have been lodged against the tribals and other villagers for opposing a steel plant at Dhinkia and several leaders of the Jindal Pratirodh Bheetamati Suraksha Samiti are reportedly in jail.[7]

In the conflict-affected districts, the tribal villagers who lead impoverished lives have been sandwiched between the security forces/police and the Maoists. While the Maoists kill, kidnap and torture them, the police lodged false cases against them on mere suspicion of being Maoist cadres or supporters. Several Adivasis have been charged/arrested under the Unlawful Activities (Prevention) Act, 1967 (UAPA) and other laws. Between August 2021 and January 2022, the Jharkhand Janadhikar Mahasabha (JJM), a coalition of human rights organizations, conducted a survey and found 31 “innocent” Adivasis in Gomia and Namadih blocks of Bokaro district of Jharkhand who have been “falsely” accused of being Maoists and charged under UAPA and other laws. Most of them are illiterate and poor. [8] Recently, on November 11, 2022, the security forces allegedly tortured many innocent tribal villagers, including women, during a search operation at Chiriyabeda hamlet in West Singhbhum district of Jharkhand.[9]

In Chhattisgarh, eight tribal villagers were reportedly arrested as alleged Maoists while they were returning home from the protest against establishment of Central Reserve Police Force (CRPF) camp at Silger in Sukma district on November 2, 2021. The police claimed that they were arrested from a forest near Morpalli village during an “area domination operation” of the CRPF and the state police.[10]

Earlier, on May 17, 2021, three tribal protestors including a minor boy were killed in police firing at Silger[11] and the police were quick to dub the deceased as “Maoists”. [12]

In several cases, the courts have found that tribals were arrested/jailed in fake/false cases. In October 2021, a district court in Dakshina Kannada district in Karnataka acquitted a tribal youth, Vittala Malekudiya (23 years) and his father Lingappa Malekudiya who were charged under UAPA as Maoists nine years ago in March 2012.[13] In July 2022, a National Investigation Agency (NIA) court in Chhattisgarh acquitted 121 tribals five years after they were arrested for alleged links to a Maoist attack in which 25 security personnel were killed in 2017. They were held under the UAPA but the NIA court held that there was no evidence that the tribals had any association with the Maoists.[14] Despite the acquittal, 13 out of 121 tribals continued to be in jail in other cases.[15]

Apart from terror cases, a lot of tribals have been falsely implicated by the police in theft cases or other petty crimes. For example, 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 tribal community who were falsely implicated in a theft case and tortured in police custody in Villupuram district.[16]

Similarly, innocent tribals have been falsely implicated in forest/wildlife-related offences, arrested and tortured. Recently, the Kerala police booked 13 forest officials for arresting a tribal youth Sarun Saji (24 years) who was arrested on September 20, 2022 in a false poaching case at Kannampadi in Idukki district of Kerala. The forest officials were booked for offences such as custodial torture, verbal abuse, illegal detention, conspiracy, and tampering with evidence in the case.[17] A preliminary probe by Chief Forest Conservator, Vigilance, reportedly found that wild meat was kept in the tribal youth’s autorickshaw by the forest officials to implicate him. In this connection, so far seven forest officials have been suspended.[18] In Karnataka, a tribal named Kariyappa alias Kariya, 49 years, was allegedly tortured to death on October 12, 2022, in the illegal custody of the forest officials after he was arrested on the alleged false charges of hunting and possessing deer meat in H D Kote taluk in Mysuru district of Karnataka.[19]

Earlier, 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 Nagarahole under Periyapatna taluk in Mysore district of Karnataka.[20] While the police refused to register FIR filed by the victim’s wife Pushpa,[21] the victim has been falsely framed in sandalwood smuggling case.[22]

The state governments must make sincere efforts to withdraw the false/fabricated cases as well as petty cases lodged against tribals and release those undertrials who are languishing in jails by conducting a proper review of their cases.

In March 2019, the Chhattisgarh Government headed by Chief Minister Bhupesh Baghel had formed an eight-member committee to re-examine cases filed against Adivasis in the state. Headed by Justice AK Patnaik, the committee was tasked to recommend the withdrawal of cases against Adivasis. The committee was asked to look into a variety of cases registered under severe laws like the Unlawful Activities Prevention Act (UAPA) and National Security Act (NSA) to routine IPC (Indian Penal Code) crimes and offences under the Excise Act. Following the AK Patnaik Committee’s recommendation, the State Government of Chhattisgarh has withdrawn as many as 622 cases benefitting 740 adivasis, but till date not a single one of them has been released. They have been languishing in jail despite the withdrawal of cases against them, which is a gross violation of human rights.[23] The state governments of Jharkhand[24] and Madhya Pradesh also announced the withdrawal of “false and minor cases” filed against tribals.[25] But so far, there has been little progress.



### 3. Recommendations

The lodging of false cases against poor tribals and/or their prolonged incarceration have upended their lives and those of their dependents. The family has to spend its entire resources (which is, in any case, very little) to fight the court cases, as litigation is quite expensive and cases drag on for years. On the other hand, if the breadwinner is jailed, the family is pushed into complete impoverishment as well as social indignity. Yet, there is no scheme to compensate the victims who have been framed in false cases and lose many years of their lives in jail before acquittal.

In light of these painful realities, the Indigenous Rights Advocacy Centre (IRAC) submits the following recommendations for the consideration of the Government of India and the state governments:

- The Government of India and the state governments should take proactive measures for the prevention/eradication of criminalization, violence, and lodging of false/fabricated cases against tribals;
- The Government of India is strongly urged to consider a special legislation on bail to streamline the grant of bail as proposed by the Hon'ble Supreme Court in *Satender Kumar Antil v. CBI* (2022 SCC OnLine SC 825);
- The state governments should conduct a proper review of “all the cases” filed against the tribals in their respective states by constituting a committee/commission headed by a retired judge of the Supreme Court or High Court, and release all those tribal prisoners in whose cases the committees have recommended withdrawal of cases against them, within a time-bound manner;
- The State government of Chhattisgarh should immediately release about 740 tribals in 622 cases in relation to whom the state government has accepted the recommendation of Justice AK Patnaik Committee for their release;
- Augment the free legal aid by the National Legal Services Authority (NALSA), State Legal Services Authority (SLSA), and District Legal Services Authority, as the case may be, to all those tribals who are being incarcerated in jails for any crime;
- Issue appropriate directions to the Central security forces and the state police to respect human rights at all times, including during security operations, and strictly warn against criminalization, violence or false implication of any tribal in any case;
- Issue appropriate directions to the forest officials and other public servants to respect human rights while dealing with forest-related cases and strictly warn against criminalization, violence or false implication of any tribal;
- Strict penal and disciplinary action should be taken against any public servant who is found to be involved directly or indirectly in the filing of fake cases and resorting to criminalization and violence against tribals; and
- Devise a suitable scheme for assistance to victims or their families in all cases where tribals have been acquitted by the courts, human rights commissions or any other justice forum.

## Endnotes:

- [1]. “Why Judiciary and Executive must heed President Murmu’s serious concerns on prisoners’ rights”, Sabrang, November 30, 2022, <https://www.sabrangindia.in/article/why-judiciary-and-executive-must-heed-president-murmus-serious-concerns-prisoners-rights>
- [2] “Supreme Court seeks details of undertrials languishing in jail despite bail”, Tribune, November 29, 2022, <https://www.tribuneindia.com/news/nation/sc-seeks-details-of-undertrials-languishing-in-jail-despite-bail-456105>
- [3]. <https://ncrb.gov.in/sites/default/files/PSI-2021/TABLE%20.11D%20-%202021.pdf>
- [4]. <https://ncrb.gov.in/sites/default/files/PSI-2021/TABLE%20.11D%20-%202021.pdf>
- [5]. Population percentage of STs in different states have been obtained from <https://tribal.nic.in/downloads/statistics/Statistics8518.pdf>
- [6]. [https://media.business-humanrights.org/media/documents/03-2021-12-09-HRDA-UA-EAST-OD-Debendra\\_Swain\\_and\\_others.pdf](https://media.business-humanrights.org/media/documents/03-2021-12-09-HRDA-UA-EAST-OD-Debendra_Swain_and_others.pdf)
- [7]. See <https://thewire.in/rights/odisha-droupadi-murmu-dhinkia-activists-repression> and <https://countercurrents.org/2022/11/stop-corporate-loot-of-dhinkia-through-brute-force/>
- [8]. Counterview Desk, “Accused of being Maoist, legal battles push poor Jharkhand tribals deep into debt”, Counterview, July 11, 2022, <https://www.counterview.net/2022/07/accused-of-being-maoist-legal-battles.html>
- [9]. Press Release “Adivasis of Chidiyabera once again become victims of violence and abuse by security forces” issued by Jharkhand Janadhikar Mahasabha, December 2, 2022
- [10]. 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>
- [11]. “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>
- [12]. 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/>
- [13]. Prajwal Bha , “Acquitted nine years after being branded a Naxalite: Story of a Karnataka journalist”, The News Minute, November 3, 2021, <https://www.thenewsminute.com/article/acquitted-nine-years-after-being-branded-naxalite-story-karnataka-journalist-157205>
- [14]. Anurag Dwary, “121 Tribals, Charged With Helping Maoists, Acquitted After 5 Years In Jail”, NDTV, July 18, 2022, <https://www.ndtv.com/india-news/121-tribals-charged-with-helping-maoists-acquitted-after-5-years-in-jail-3167687>
- [15]. “13 of 121 Chhattisgarh tribals acquitted in 2017 Naxal attack still in jail”, The New Indian Express, July 19, 2022, <https://www.newindianexpress.com/nation/2022/jul/19/13-of-121-chhattisgarh-tribals-acquitted-in2017-naxal-attack-still-in-jail-2478045.html>
- [16]. 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/>

- [17]. “Forest officials booked for foisting false poaching case against tribal youth”, mathrubhumi.com, December 6, 2022, <https://english.mathrubhumi.com/news/kerala/forest-officials-booked-for-foisting-false-poaching-case-against-tribal-youth-1.8109980>
- [18]. “Another Forest Dept official suspended for fabricating case against tribal youth,” Manorama, November 2, 2022, <https://www.onmanorama.com/news/kerala/2022/11/02/tribal-youth-implication-wildlife-warden-suspended.html>
- [19]. “Karnataka: Tribal man in foresters' custody dies of suspected torture in HD Kote”, The New Indian Express, October 13, 2022, <https://www.newindianexpress.com/states/karnataka/2022/oct/13/tribal-man-in-custody-of-foresters-dies-of-suspected-torture-in-hd-kote-2507545.html>
- [20]. Special Correspondent, “Forest guards open fire on tribal in Periyapatna”, The Hindu, December 2, 2021, <https://www.thehindu.com/news/national/karnataka/forest-guards-open-fire-on-tribal-in-periyapatna/article37808967.ece>
- [21]. 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>
- [22]. 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>
- [23]. “Tasked To Recommend Withdrawal Of Cases Against Adivasis, Panel Ignores Serious Offences”, The Outlook, July 26, 2022, <https://www.outlookindia.com/national/tasked-to-recommend-withdrawal-of-cases-against-adivasis-panel-ignores-serious-offences-news-211908>
- [23]. Abhishek Anga, “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/>
- [25]. Anurag Dwary, ““Heritage Liquor” Mahua Legalised In BJP’s Madhya Pradesh Tribal Outreach”, NDTV, November 23, 2021, <https://www.ndtv.com/india-news/heritage-liquor-mahua-legalised-in-bjps-madhya-pradesh-tribal-outreach-2620984>

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