

# Indigenous Rights Monitor

A Quarterly Newsletter of  
Indigenous Rights Advocacy Centre

## Message from the Executive Director

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Dear friends and colleagues,

We are pleased to present before you one more issue of *Indigenous Rights Monitor* which will be the last issue of 2022. The 'Indigenous Rights Monitor' remains the only newsletter focusing exclusively on the situation of the indigenous peoples of India. During the period of September 1, 2022 to November 30, 2022, IRAC has intervened in a total of 58 cases of human rights violation of the Scheduled Tribes/indigenous peoples with the National Human Rights Commission of India. These included 4 cases of custodial death (3 in police custody & 1 in forest officials' custody), one case of custodial torture in police custody, one case of torture by forest department staff, one cases of arrest in alleged fake case by forest officials, 6 cases of other atrocities committed by the forest officials, three cases of killings/violence by Maoists, 9 cases of violence against women and 8 cases of violence against children, 4 cases related to business and human rights, etc.

The year 2022 has been eventful year for us. IRAC has been able to contribute to the UPR process during the 41st session of the United Nations Human Rights Council (UNHRC) in Geneva. In collaboration with Indigenous Peoples Rights International (IPRI), IRAC has submitted stakeholders' report on the situation of the indigenous peoples in India, and IRAC's executive director physically attended the UPR session in Geneva.

IRAC's interventions with the NHRIs have been quite effective and successful as the victims continued to get justice and reparations. A few cases of IRAC's actions to combat criminalization of and violence against indigenous peoples have been highlighted in this edition.

**RIGHTS VIOLATION UNDER THE LENSE OF IRAC**

**Kerala: Arrest and prosecution of Sarun Saji in a false case by foisted by Forest Department**

On September 20, 2022, a tribal youth namely Sarun Saji (24 years) was arrested in an alleged false case allegedly foisted by the forest officials of Kizhukanam forest section in the Idukki Wildlife Sanctuary, Idukki district of Kerala. The victim was allegedly tortured in custody in order to extract confession after he was arrested on the charges of smuggling of deer meat. The forest officials claimed that he deer meat was recovered from his autorickshaw during an inspection conducted at the Vanmavu check post after receiving secret information. Soon after Sarun's arrest, his family members and local people protested alleging that it was a fake case.

Sarun's parents - Saji and Nirmala - launched a hunger strike seeking justice for their son. A preliminary probe conducted by the Chief Forest Conservator, Vigilance, reportedly found that wild meat was kept in the tribal youth's autorickshaw by the forest officials and on that basis he was arrested in a fabricated case. In this connection, seven (7) forest officials have been suspended namely Kizhukanam section forest officer Anil Kumar; beat forest officers Lenin V.C. and Shijiraj N.; senior grade driver Jimmy Joseph; and forest watchers Mohanan K.N. and Jayakumar K.T; and B Rahul, then Idukki wildlife warden. Prior to his suspension, B Rahul was transferred to the Forest Headquarters in Thiruvananthapuram.

Initially, the police refused to register the case filed by Sarun. According to Sarun's complaint, the officials in the forest department arrested him in a false case and tortured him in custody. He moved the Kerala Scheduled Castes and Scheduled Tribes Commission which sought action taken report within 15 days. The intervention by the SC/ST Commission forced the police to register a case against 13 forest officials who were booked for offences such as custodial torture, verbal abuse, illegal detention, conspiracy, and tampering with evidence in the case. The accused have been charged, among others, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Those booked in the case included suspended officers Anil Kumar and B. Rahul.

Though the Forest Department took disciplinary action against the accused, the case against Sarun has not been dropped and he continues to face false prosecution.

Sarun belongs to a very poor family. His father is a mason while his mother earns some money by engaging in Rural Employment Guarantee Scheme work. So, Sarun who is a commerce graduate drives autorickshaw to earn some income. He has reportedly cleared two exams conducted by the Kerala Public Service Commission (KPSC) prior to his arrest in this fabricated case. The fabricated case foisted by the Forest Department could deprive him of a government job and ruin his life.

## RIGHTS VIOLATION UNDER THE LENSE OF IRAC

### Maharashtra: Inhuman torture by forest guards in Melaghat Tiger Reserve



A seriously injured Ankush Gorelal Mavaskar. Pic: The Dalit Voice (twitter)

On August 25, 2022, a tribal man named Ankush Gorelal Mavaskar (25), belonging to Korku tribe, was allegedly caught and tortured by the forest guards for fishing in the Melaghat Tiger Reserve in Amravati district of Maharashtra.

Fishing is an important part of subsistence for tribal communities across India but it has been regularly criminalised under the Wildlife Protection Act, 1972. According to Ankush, a resident of Dhulghat Railway, he along with his two friends namely Anand Kasdekar and Pappu Chavan from the same village, had gone for fishing in a dam in Wan forest area under Akot wildlife division of Melghat Tiger Reserve. The forest guards caught them and tortured them. Ankush alleged that some 7-8 forest staff beat him and burnt him with a hot iron rod. He somehow managed to escape to reach his home in a severely injured condition. He was immediately admitted to the sub-district hospital at Dharni.

IRAC has filed a complaint before the NHRC, seeking a detailed inquiry into the incident and action against the accused forest personnel. On August 30, 2022, the NHRC called for an action taken report from the Chief Conservator of Forests, Maharashtra, the District Magistrate, Amravati, and the Commissioner of Police, Amravati within four weeks.

However, since no report was submitted, the Commission vide order dated October 28 once again issued notices to these authorities for submission of the reports within four weeks.

## Advocacy

### IRAC moves to prevent forcible land acquisition in Fifth Schedule Area in Jharkhand

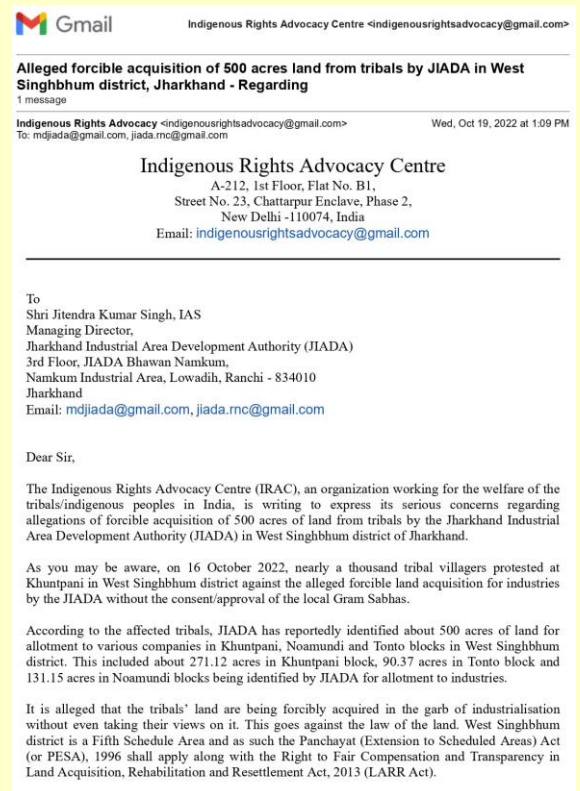
In a letter dated October 19, 2022 (*see on the right*) to the Managing Director, Jharkhand Industrial Area Development Authority (JIADA) of Jharkhand, the IRAC has expressed its serious concerns regarding allegations of forcible acquisition of 500 acres of land from tribals by the JIADA without the consent/approval of the local Gram Sabhas in West Singhbhum district of Jharkhand. On October 16, hundreds of tribals had protested against the alleged forcible land acquisition of about 500 acres of land for allotment to various companies in Khuntpani, Noamundi and Tonto blocks in West Singhbhum district.

“West Singhbhum district is a Fifth Schedule Area and as such the Panchayat (Extension to Scheduled Areas) Act (or PESA), 1996 shall apply along with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act)”, IRAC has pointed out.

IRAC asked the JIADA to obtain the free, prior and informed consent of the affected tribals as per the law. IRAC has also pointed out that acquisition of tribal lands without their consent will be also in gross

violation of the National Guidelines on Responsible Business Conduct (NGRBC) of Government of India and the United Nations Guiding Principles (UNGP) on Business and Human Rights which ensure that the State shall have the responsibility to protect human rights, companies shall have the responsibility to respect human rights and there shall be a robust redressal mechanism.

In addition, the IRAC has also moved the NHRC to prevent forcible land acquisition by JIADA. The NHRC registered IRAC’s petition and vide order dated October 25, 2022 directed the Chief Secretary, Government of Jharkhand, to get the allegations looked into and to submit an Action Taken Report within four weeks for consideration of the Commission.



IRAC’s petition

## **IRAC participates at the UPR review of India in Geneva**

Indigenous Rights Advocacy Centre (IRAC) has made a humble contribution to the review of human rights records of India at the 4<sup>th</sup> cycle of the Universal Period Review. On March 30, 2022, IRAC and Indigenous Peoples Rights International (IPRI) submitted a joint stakeholder report for the UPR review of India held on November 10, 2022. The report assessed the implementation or non-implementation by the Government of India of the recommendations during the 3<sup>rd</sup> cycle, and focused on specific recommendations directly affecting Indigenous Peoples. Some of the critical issues raised in the joint submission included: violence and criminalization of indigenous peoples, denial of forest rights, torture and impunity, lack of anti-torture law, non-ratification of UNCAT, lack of proper implementation of the Forest Rights Act, 2006 (FRA), the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and other laws related to indigenous peoples, land grabbing, situation of the indigenous women and children etc. The submission also provided several recommendations.

IRAC's Executive Director Mr. Dilip Chakma has represented IRAC during the 41<sup>st</sup> session of the UPR at the United Nations Human Rights Council (UNHRC) in Geneva held on November 7-18.

During India's fourth UPR review on November 10, several countries raised critical issues on rights of indigenous peoples and minorities, death penalty, freedom of speech and violence against women, torture etc. Some of the issues with specific relevance to IPs included the recommendation of ratification of Indigenous and Tribal People's Convention 1989 (ILO Convention 169) by Paraguay; effective enforcement of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by Belgium; issue of Armed Forces (Special Powers) Act, 1958 (AFSPA) etc. Latvia urged India "to take measures to foster safe, respectful and enabling environment for civil society and human rights defenders, especially women and indigenous human rights defenders free from persecution, intimidation and harassment" and, "to protect and ensure the rights of persons belonging to ethnic and religious minorities".

Luxembourg raised concern over the rights of human rights defenders and demanded the immediate release of all human rights defenders in detention. Switzerland and the US also asked India to review the Unlawful Activities Prevention Amendment (UAPA) Act and to assess its conformity with international law to ensure that it is not used against HRDs. States such as Greece, Italy and Latvia, recommended continuing efforts to improve the legal framework of freedom of expression, including creating a safe space for journalists and civil society organisations.

## IRAC's interventions with NHRC

During September 1, 2022 to November 30, 2022, the Indigenous Rights Advocacy Centre (IRAC) has intervened in a total of 58 cases of human rights violation of the Scheduled Tribes/indigenous peoples with the National Human Rights Commission of India. These included 4 cases of custodial death (3 in police custody & 1 in forest officials' custody), one case of custodial torture in police custody, one case of torture by forest department staff, one cases of arrest in alleged fake case by forest officials, 6 cases of other atrocities committed by the forest officials, three cases of killings/violence by Maoists, 9 cases of violence against women and 8 cases of violence against children, 4 cases related to business and human rights, etc.

Geographically, these cases are spread across the country. Out of the 58 complaints filed with the NHRC, 11 cases each were from Jharkhand and Madhya Pradesh; followed by 7 cases from Telangana; 4 cases each from Chhattisgarh and Odisha; 3 cases each from Assam and Maharashtra; 2 cases each from Andhra Pradesh, Kerala, Rajasthan, Tamil Nadu and Uttar Pradesh; and 1 case each from Arunachal Pradesh, Gujarat, Karnataka, Uttarakhand and West Bengal.

Nature of violations	Total number of Cases
Custodial death (police)	3
Custodial torture (police)	1
Custodial death (forest department)	1
Torture by forest staff	1
Arrest in fake cases by forest department	1
Other atrocities by forest department	6
Eviction/threat of eviction by forest department	2
Killing/torture by Maoists	3
Violence against women	9
Violence against children	8
Witchcraft related	3
Business and human rights	4
Killing/torture by non-tribals	4
Others/miscellaneous	12
<b>TOTAL</b>	<b>58</b>

State	Total No. of Cases
Madhya Pradesh	11
Jharkhand	11
Telangana	7
Chhattisgarh	4
Odisha	4
Assam	3
Maharashtra	3
Andhra Pradesh	2
Kerala	2
Rajasthan	2
Tamil Nadu	2
Uttar Pradesh	2
Arunachal Pradesh	1
Gujarat	1
Karnataka	1
Uttarakhand	1
West Bengal	1
<b>TOTAL</b>	<b>58</b>

## IRAC's impacts

### Rajasthan: NHRC recommends payment of Rs 300,000 in a custodial torture case

On October 28, 2022, the NHRC recommended payment of a compensation of Rs.3,00,000 to be paid to victim Shri Somaram and further directed the Chief Secretary, Rajasthan and Director General of Police, Rajasthan to take action as per law against the erring officials, in a case filed by IRAC. The case related to alleged attempt to rape of a tribal woman and assault to her parents in December 2021. Based on the report of the Superintendent of Police, Udaipur and the comments from IRAC, the NHRC on August 22, 2022 issued show cause notice to the Chief Secretary, Rajasthan to explain why a monetary relief of Rs.3,00,000 should not be paid to the tribal woman's father Somaram who was assaulted in police custody. Responding to the NHRC notice, the Superintendent of Police, Human Rights, Police Headquarter, Rajasthan (Jaipur) stated that "there is no provision for providing of compensation to the victim in the case relating to simple hurt to the father of victim". But the NHRC rejected the reply as "not satisfactory" and awarded the compensation to be paid to the victim within four weeks.


### Alleged extrajudicial killing in Manipur: NHRC summons Secretary of Ministry of Defence

In the case of alleged extrajudicial killing of Mangboilal Lhouvum (29), a Kuki tribal, by the Assam Rifles in Kangpokpi district of Manipur in June 2021, the NHRC vide order dated November 14, 2022 issued conditional summon the Secretary, Ministry of Defence, Government of India, to appear before it on December 29 along with the requisite reports. Earlier, on the basis of IRAC's complaint the NHRC had repeatedly sought reports from the Ministry of Defence including copy of Court of Inquiry but the Ministry failed to submit the same.

### Jharkhand: NHRC summons District Collector, Garhwa in denial of ration to 33 tribal families

On October 14, 2022, NHRC summoned the Deputy Commissioner, Garhwa to appear in person on December 21 along with the requisite reports in connection with IRAC's complaint against denial of ration to 33 tribal families belonging to Particularly Vulnerable Tribal Group (PVTG) at Hesatu village under Tehri panchayat of Bargarh block in Garhwa district of Jharkhand.

**NHRC seeks compliance report:** Acting on a complaint filed by IRAC against gang rape of a 19-year-old tribal girl in Palghar district of Maharashtra, the NHRC vide order date October 13, 2022, asked the Superintendent of Police, Palghar, and the District Magistrate, Palghar, to submit the compliance report regarding payment of final compensation amount to the victim within four weeks. Earlier, vide letter dated September 21, 2022 the Collector & District Magistrate, Palghar had informed the NHRC that interim compensation of Rs. 30,000 has been paid to the acid attack victim while maximum amount of Rs. 10 Lakhs can be awarded to her under the Manordharya Yojana of Maharashtra Government.

This newsletter is published by *Indigenous Rights Advocacy Centre* to create awareness on human rights issues. It is for private distribution only. IRAC may be reached by post at: A-212, 1st Floor, Street # 23, Chattarpur Enclave, Phase 2, New Delhi- 110074, India; or by email: [indigenoustrightsadvocacy@gmail.com](mailto:indigenoustrightsadvocacy@gmail.com). To know more about IRAC, do visit our website: [www.irc.in](http://www.irc.in) Follow us  @irc\_india