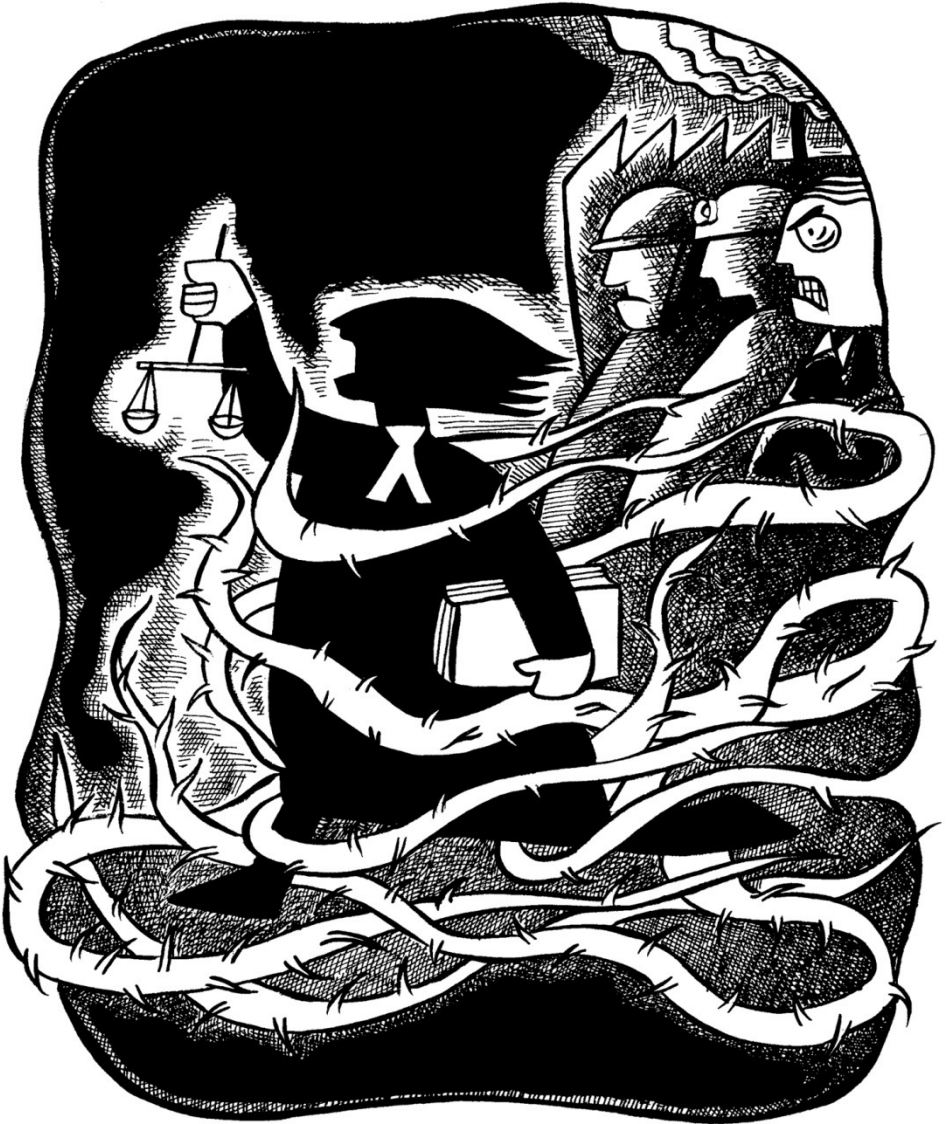
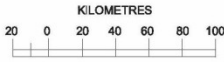


Attacks on Lawyers in Chhattisgarh



A fact finding report by
Indian Association of People's Lawyers (IAPL)
January 2017

CHHATTISGARH
ADMINISTRATIVE DIVISIONS 2011



DBD - (Dakshin Bastar Dantewada)
UBK - Uttar Bastar Kanker
Ku - Kurud (Chormudiy) District Dhamtari

B - BASTAR

BOUNDARIES:

STATE.....
DISTRICT.....
TAHSIL.....

HEADQUARTERS:

STATE.....★
DISTRICT.....●
TAHSIL.....●

District headquarters are also Tahsil headquarters.

Where the district/tahsil name differs from its headquarters name, the latter is given within brackets.

INTRODUCTION

On 26th and 27th March 2016, a 12 member team of lawyers of the Indian Association of People's Lawyers [IAPL] from different parts of the country visited Bilaspur in Chhattisgarh to enquire into harassment of lawyers by the police and the bar associations. The Fact Finding Team [FFT] comprised of:

1. Advocate Sudesh Nitnaware [Maharashtra],
2. Advocate Suresh Tekade [Maharashtra],
3. Advocate Surendra Gadling [Maharashtra],
4. Advocate Monica Sakhrani [Maharashtra],
5. Advocate Viplav Teltumbde [Maharashtra],
6. Advocate Nihalsing Rathod [Maharashtra],
7. Advocate Maharukh Adenwalla [Maharashtra],
8. Advocate Parag Uke [Maharashtra],
9. Advocate Ankit Grewal [Chandigarh],
10. Advocate D. Suresh [Telangana],
11. Advocate M. Venkanna [Telangana], and
12. Advocate R. Vishal [Telangana].

This enquiry was prompted by media reports that reflected the harassment meted to Jagdalpur Legal Aid Group [JagLAG], a team of lawyers providing legal assistance to adivasis and political prisoners. The FFT spoke with lawyers, and social activists, as also perused material shared by them.

The enquiry disclosed the violent attacks on Christians, especially pastors, and Dalits, hence, the FFT felt it necessary to include the same in the report.

BACKGROUND

It is imperative to examine the politico-socio-economic circumstances prevailing in Bastar to put into perspective the situation currently prevailing there.

Chhattisgarh is rich in mineral resources. It has more than 28 precious mineral resources, including 23% of India's iron ore deposits, gold, limestone, diamond, dolomite, tin metal, tin ore, coal, quartzite, granite, corundum, silica, marble, beryl, bauxite, uranium, alexandrite, copper, fluorite and garnet, mainly in the Bastar region. The formation of the State of Chhattisgarh in 2000 led to the formulation of the Chhattisgarh Industrial Policy [2004-2009] whereby industries were given maximum incentives for setting up mega projects in the most backward scheduled tribe predominant areas. Hence, almost all major Indian companies as well as transnational corporations have their presence in Chhattisgarh, including the Tatas, Essar, ACC / Holcim, Ambuja, Birla Hindalco, Sterlite, Jindal, Arcelor Mittal and Adani, apart from foreign giants like De Beers Consolidated Mines, BHP Hilton and Rio Tinto.¹ The Raman Singh led BJP government, in its first term, signed 11 Memorandum of Understandings [MOUs] with companies for setting up new plants as well as expansion of old ones. It is not known as to how many other MOUs have been entered into as their details are not in the public domain.

A total of 171 lakh hectares of forest land was diverted from 1980 to 2003 of which 67.22% was for mining². Widespread displacement met with stiff resistance of the people. It is to crush this protest against land grab, that the state and its agencies, including private militia, unleashed violence, under the pretext that it was merely countering Maoist threats. Nandini Sundar writes, "The 'Naxalite problem' is not so much about violence in absolute terms, as it is a reflection of the threat posed by the Naxalites to the status quo. It is also a function of the security establishment's need to project a 'threat' that justifies more – often unaccountable - funding and

¹ Sudha Bhardawaj [2010].

² Ministry of Rural Development 2009.

forces”³. Wanting to clear the region for mining and other corporates, the state labels protestors as Maoists, thereby, justifying their massacre / arrests in the name of national security. Lawyers defending their clients charged under draconian laws are identified with their clients and treated likewise.

On the one hand, the State of Chhattisgarh is touted as the fastest growing economy amongst the Indian States with a growth rate of 12.37% as against India’s growth rate of 8%. The Gross State Domestic Product [GSDP] for 2016-17 being estimated at Rs. 2,81,632 crores, i.e., 12% higher than the revised estimate for 2015-16. Its total expenditure for 2016-17 is estimated at Rs 70,059 crores, i.e., 6.3% higher than the 2015-16 revised estimate. Manufacturing is the largest component of the state’s economy, constituting 42% of the GSDP, followed by services and agriculture constituting 38% and 19% of the economy, respectively.⁴

On the other hand, the Economic and Human Development Indicators of Chhattisgarh as per United Nations Development Programme [UNDP] tell a different story. Chhattisgarh’s Human Development Index [HDI] Value is 0.358, lower than the India HDI Value of 0.467. Its Gender Development Index ranks as 30 out of 35. The region is also highly unequal. Its Inequality Adjusted Human Development Index Value is 0.291, as against the India value of 0.343, and its loss in HDI due to inequalities is also 35.14 higher than the India figure of 32. Its Poverty Headcount Ratio is 48.7% as against the India figure of 29.8%. Global Hunger Index is 26.63% against the India figure of 23.3%, and has 47.6% prevalence of Underweight Children under 5 years of age, as against the 42.5% all India figures⁵.

The State of Chhattisgarh is highly militarized. In June 2014, Rajnath Singh, the Minister of Home Affairs, Government of India, is reported to have said that the situation in Bastar required a military solution. Thus, more

³Nandini Sundar, *Subalterns and Sovereigns: An Anthropological history of Bastar 1854-2006*, Delhi, Oxford University Press, 2007 [2nd edition].

⁴http://www.prsindia.org/administrator/uploads/general/1457610311_Chhattisgarh%20Budget%20Analysis%202016-17.pdf

⁵http://www.in.undp.org/content/dam/india/docs/chhattisgarh_factsheet.pdf

military battalions were brought into Bastar

A conflict created due to the socio-economic policies of the State of Chhattisgarh causing gross inequalities, is being portrayed by the state as a law and order problem.

The state is seen to form civilian militia to further their agenda. Burgeoning of right-wing Hindu fundamentalist groups is encouraged, as is the spreading of their support base, while turning a blind eye to their bullying. Adivasis, Dalits and Christians have fallen prey to this zealotry, as have lawyers litigating on their behalf.

The state's attempt is to terrorise and silence those whom they believe are obstacles to the state's development paradigm.

FACTS

JAGLAG

It was the hounding of lawyers of JagLAG that prompted the current fact finding.

The fact finding team spoke with Advocate Shalini Gera, who has been working with JagLAG since its inception in July 2013.

JagLAG started working in Bastar with three female lawyers. The primary purpose of setting-up JagLAG was to assess the situation regarding cases that were filed against adivasis and pending in different courts in Bastar, and provide legal assistance, if necessary. Hence, their first year was spent in documentation -filing RTI applications, liaising with lawyers, etc. Then, the JagLAG lawyers started representing tribals accused in criminal cases before the courts, mainly in Jagdalpur and Dantewada. Gradually, the JagLAG team were drawn into issues that were taking place outside of courtrooms, which they had not anticipated. They were compelled to play this role due to the situation prevailing in Bastar. When police atrocities were committed people expected JagLAG to help in registration of FIRs, which the local lawyers were not willing to do. Fake encounters were, and continue to be, a regular practice in Bastar. JagLAG

documented these fake encounters. It is due to such intervention that hostility between the police and JagLAG started.

When Kalluri became Inspector General of Police, Bastar, around June 2014, the hostility became more rigid. Further, around the same time, more military battalions were brought into Bastar, after, Rajnath Singh's notorious proclamation made soon after the BJP government came into power at the centre, namely, of the need for a military solution to solve the problem. Also, Soni Sori, who had been implicated in several cases allegedly for assisting naxal activities, was released on bail, and became politically active. In August 2014, JagLAG got involved in the fake encounter case of Ramaram village, which is detailed later in this report, and other such cases, some of which are also detailed.

Around January 2015, Kalluri's propaganda against JagLAG commenced – that lawyers have come from Delhi to support naxals. In April, Kalluri held a press conference where he openly targeted JagLAG by stating that strict action will be taken against NGOs providing legal aid to Maoists. The police used to constantly come to court and spread rumours amongst the lawyers about an anonymous complaint filed against JagLAG – that they were bogus lawyers; that they were involved in suspicious activity. In September 2015, JagLAG met Ajay Yadav, Superintendent of Police. Though SP Yadav agreed that the police were behaving improperly, the police continued with their propaganda. Lawyers of JagLAG gave their statements to the police, as also submitted documentary proof reflecting that they were empowered to practice. The police refused to close the matter stating that they would only do so after the lawyers who had initially worked with JagLAG attended the police station to give their statements!

This propaganda and targeting of JagLAG by Kalluri, resulted in the Bastar District Bar Association [BDBA] picking cudgels against them. A judge hearing an NIA⁶ matter, in which Advocate Shalini Gera appeared, told her that there was a complaint against JagLAG filed by the President and Secretary of BDBA, and that he would not hear her till the dispute was

⁶ National Investigation Agency.

sorted amongst them. Advocate Shalini Gera was then confronted by ten lawyers, as also the President and Secretary of BDBA to prove her and her associates credentials. BDBA demanded that a fine of Rs.500/- be paid by JagLAG in respect of each case represented by them; when Advocate Gera questioned such imposition, the BDBA members admitted that there was no such rule, but supported such imposition by stating that it was an “oral order”. Advocate Gera was also asked to furnish details of the NIA case, as also name of the advocate on record, which she did. The outcome of this exchange was that on the next hearing, the relatives of the accused asked JagLAG to stop appearing in the case.

JagLAG lawyers were not registered with the Chhattisgarh State Bar Council. Taking advantage of this, on 3rd October 2015, BDBA passed a resolution that lawyers not enrolled in Chhattisgarh will not be permitted to practice. JagLAG, despite their request, were not furnished with a copy of the said resolution. JagLAG lawyers were also informed that local lawyers were now prohibited from signing *Vakalatnamas* as advocates on record along with JagLAG lawyers⁷, which is the necessary practice. The Secretary of BDBA used to follow JagLAG lawyers in court, and behaved with them in a most obnoxious manner. There was an instance when the Secretary of BDBA caused a ruckus in the NIA court demanding that Advocate Gera leave, even though she was not appearing and was merely present to watch her client, Lingaram Kodopi, make an application.

Some of the judges too were hostile and others under tremendous pressure, making it very difficult for JagLAG to continue with their lawyering. The NIA judge refused to allow Advocate Gera to appear nor accepted any application submitted by her. In fact, he refused to record her presence, and would adjourn her matters without noting reasons for the same. In a Family Court matter, the lawyer for the opponent moved an adjournment application, which the judge granted, citing the said resolution. Another judge told Advocate Gera not to attend court for a few days till the tensions subsided.

⁷ Advocate Shalini Gera and other lawyers of JagLAG were enrolled with the Bar Council of Delhi.

Not being able to practice, the said resolution was challenged before the State Bar Council⁸. By interim order dated 6th November 2015, the JagLAG lawyers were allowed to practice, and BDBA was directed to furnish them with a copy of the said resolution. The FFT examined a copy of BDBA's resolution dated 3rd October 2015. There were interpolations in the said resolution that attempted to hide its illegality, allowing BDBA to argue that the said resolution had not restrained any lawyer from practicing. The said resolution read that local lawyers should not sign memo of lawyers registered outside the State. After the insertion, the said resolution reads that such situation should be informed to the Bar Association.

In Chhattisgarh, the practice followed is that lawyers registered outside of the State are permitted to appear through Memo of Appearance signed by a local lawyer. Advocates signing Memos of Appearance in matters handled by JagLAG were also targeted by BDBA. Despite the said resolution dated 3rd October 2015, Advocate Sankalp Dubey continued to sign the Memos of Appearance in cases represented by JagLAG, but in February 2016, he too withdrew all the Memos of Appearance. Such withdrawal was due to threats from BDBA, as also another resolution passed, stating, no local lawyer should file Memo of Appearance with lawyers not registered with the State Bar Council, and if such Memos of Appearance had been filed, the local lawyer should withdraw the same within ten days.

A press conference was again held by Kalluri on 19th February 2016, where he stated that it is the local lawyers who are against JagLAG for defending Maoists, which may result in JagLAG lawyers being harmed if they continued with their lawyering. The aforementioned BDBA resolution was also referred to in the press conference. The press conference was widely reported in local newspaper. Consequently, local lawyers, including Advocate Sankalp Dubey, withdrew their Memos of Appearance.

⁸ Reliefs sought by JAGLAG before the State Bar Council were as follows, (i) quashing of the said resolution;(ii) furnishing them with a copy of the said resolution; (iii) allowing them to practice; (iv) taking disciplinary action against members of BDBA for having passed the illegal resolution.

Advocate Gera informed the FFT that she has since then gotten herself registered with the Chhattisgarh State Bar Council.

OTHER LAWYERS WORKING IN BASTAR

It is not only JagLAG, other lawyers too, especially those who defend political prisoners, have faced the brunt of the police, including false cases being foisted upon them. An environment is created because of which they are shunned by the community and their colleagues. These lawyers, some of whom are members of IAPL, are hounded because they defend alleged Maoists, or because their family members have been arrested for naxal activities, or because they raise before the courts issues regarding police atrocities. There is a deliberate design by the administration to terrorise and/or threaten advocates into withdrawing their appearance for those accused of naxal activities. Lawyers are identified with their client's causes when discharging their professional duties. Some such lawyers were spoken to by the FFT; it is necessary to narrate their struggles.

Advocate Satendrakumar Chaubey has been practicing since 1996. In 1998, he was appointed as lawyer by villagers accused of attacking Bargaon police station in Ambikapur. He was, thus, branded as a naxal lawyer.

In the same year, while he was conducting a trial, the police raided his house. Though the police did not find anything incriminating, Satendrakumar got to know that an FIR has been registered against him. Satendrakumar was arrested in 1999 from Jharkhand. He remained in jail for three months, after which he was granted statutory bail as chargesheet was not filed within the prescribed period. Since then chargesheet has been filed, without the mandatory sanctions. Till date no sanction has been granted nor have charges been framed. Case papers of his clients that were seized during the raid are shown as naxal material in his possession. The matter is now pending before the NIA court in Bilaspur. Satendrakumar said that persons from whose homes incriminating material was seized were made witnesses in the matter, whereas he was made an accused. He also informed that ornaments of his

wife and daughter that were found in his home were taken away by the police.

Due to the pending criminal case against him, people no longer come visiting to his house.

Advocate Amarnath Pandey represents tribals booked in false naxal cases, as also families of those killed in fake encounters. Several criminal cases were filed against Mr. Pandey merely because of the issues that he litigated. One such case was that of Ledha. Ledha was married to Ramesh Nageshia, a Zonal Commander of the Maoists. Ledha was accused of being a naxal and alleged to have been involved in the killing of three police personnel in a landmine. Ledha was acquitted by the trial court. Thereafter, at the behest of the police, Ledha convinced her reluctant husband to surrender. Ramesh surrendered before the SP of Ambikapur. Soon after the surrender, the police shot Ramesh in the presence of Ledha. Upset with what had occurred, Ledha informed the National Human Rights Commission about the fake encounter, which prompted them to seek a report from Kalluri. Kalluri then obtained an affidavit from Ledha that Advocate Pandey is a white-collared naxal, and causing such allegations to be made for the sake of money. Ledha's father was then beaten at Shankderghad police station, and she was raped by Kalluri⁹. Ledha was kept in the police station for ten days during which period she was tortured and repeatedly raped by police personnel. She was then kept in virtual "house-arrest", before she was able to escape, and inform what had transpired. As Advocate Pandey assisted Ledha to bring the atrocities committed by Kalluri and his men to the notice of the court, the police pressurized Ledha's father into filing a criminal complaint against Advocate Pandey and his advocate brother, Pawan Pandey, stating that Ledha and he had been kept in their home against their wishes and had been influenced by them to file false cases against the police.

The police also orchestrated the registration of a false criminal case against Advocate Pandey by the Deputy Sarpanch under the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act 1989

⁹Kalluri was then the Superintendent of Police.

[C.R.No.330 / 2007 dated 19-7-2007] on the ground that Advocate Pandey had assaulted and abused him. Fearing arrest, Advocate Pandey was compelled to leave Ambikapur for six months, and he returned only after the High Court granted him anticipatory bail. Advocate Pandey believes that this criminal case was registered against him as he had brought the fake encounter of Narayan Khairwal, alleged to be a Zonal Commander of the Maoists, to the notice of the High Court and Magistrate.

Advocate Pandey informed the FFT that Kalluri believes that no action would ever be taken against him. *“Jungle mein mor naccha kissi ne dekha”* [has anybody seen a peacock dance in the forest] was his oft repeated line. Kalluri’s confidence seemed not to be misplaced as he was awarded the President’s medal, and promoted to the post of DIG, Naxal Operations, Bastar.

Advocate Rekha Praganiya, wife of Dipak Kumar, practices in Durg district of Chhattisgarh, and was arrested on 4th March 2012, a few days after Dipak was arrested from Kolkata in a naxal related case investigated by NIA. Due to Dipak’s case, their one-room home was searched for 7 to 8 hours, and the incriminating evidence found against her were the case papers of her client Malti. On the basis of these case papers, Rekha was arrested for involvement with naxal activity! Rekha was shown as absconding in an ongoing criminal case in which she herself had been representing the accused!

As is the general practice, all her books, case papers, copies of RTI applications, CDs, including, children’s cartoons, etc., were seized. She was taken in police custody remand for six days, during which period she was interrogated for a mere six minutes. However, the police created media-hype against her – how the police from Kolkata and other States had interrogated her, though nothing of that sort had happened; the media streamed news of dramatic revelations by her, which she has never made. To further sensationalise the arrest, Rekha was charged under section 124A IPC [sedition]¹⁰. So as to portray that dreaded naxals were being produced in court, there would be very few cases kept on

¹⁰Charge of sedition was later withdrawn.

board on that date. Initially, no lawyer was willing to take up her case, and she too was not allowed to appear in person. Later, Advocate Nagen Sharma represented her.

The jail authorities attempted to isolate her in prison. Rekha was given her requirements, but was not allowed to talk with others, lest she create awareness amongst them about their rights. Prisoners were told not to communicate with her as she was a *naxali* lawyer.

Rekha was acquitted on 26th June 2013, after having spent more than a year in jail, as were her co-accused.

Despite her acquittal, lawyers resisted her return to court. Rekha was told that she should not to take up matters or appear in court. Rekha was ostracized by her colleagues. Lawyers who had been her friends said, “Sorry, we can no longer speak with you.” The lawyers continue to treat her so.

ROLE OF BAR ASSOCIATIONS

The bar associations instead of safeguarding the interests of lawyers, and creating an atmosphere where they are able to function freely without fear are passing resolutions stating that no lawyer should appear for Christians, Dalits and alleged Maoists, and intimidating those who dare to so appear.

Resolutions passed by BDBA have been earlier dealt with in detail. The Jashpur Bar Association passed a resolution stating that no lawyer should appear for those arrested in the Rani Bageecha Basti incident, which is dealt with later. Hence, no lawyer was willing to take up the case on behalf of the accused. PUCL¹¹ approached a lawyer, but he was too scared to even talk to them. It was only, one and a half to two years later that lawyers came forward to represent the accused. Similar was the situation faced by lawyers who presented a bail application on behalf of Resham Pradhan, this case is also dealt with later. The Sub Divisional Magistrate refused to accept the bail application, and no local lawyers were

¹¹ People’s Union of Civil Liberties.

permitted to appear. Finally, Advocate Shishir Dixit, a lawyer from Bilaspur, went and obtained bail.

Advocate Sonsingh Jhali, a Dalit Christian lawyer who challenged the gram sabha resolution preventing non-Hindus from entering the village is under a lot of pressure from lawyers senior to him. On one occasion a commotion was caused by the Bajrang Dal in the Court of the Chief Judicial Magistrate, Yogita Wasnik, in an attempt to force the complainants, clients of Advocate Jhali, to compromise the matter.

Kailash Gupta, an advocate, who appeared for those arrested in the Balsara Kand incident was at the behest of the Jindal management beaten up so badly that he had to be hospitalized, and due to the intimidation he dropped the matter. In the case of the two dalits, Anil Mochi and Sankar Ratre, who were arrested under false allegations of “gau hatya” (cow slaughter), the bail application was torn and the accused’s lawyer threatened by the officer hearing the matter. Not only did that lawyer withdraw from the case due to intimidation and pressure, he also refused to share the case number. The details of Anil and Sankar’s case are mentioned elsewhere in this report.

Bar associations are quick to pass resolutions restraining lawyers from appearing in cases that arouse popular sentiment. One such resolution was in response to an incident of 24th February 2016 that had occurred in Banjhipara Mohalla, Raigarh district. The bar association of Raigarh district passed a resolution proclaiming that no lawyer should represent a sorcerer accused of rape and murder of a three year old¹². Advocate Santosh Mishra dared the resolution and took up the case.

CHRISTIANS / DALITS AND THE SANGH PARIVAR

Since 2010, there have been several incidents of attacks on Christians and Dalits. In Bastar, anti-Christian sentiment is being spread by Hindu fundamentalist organisations, such as the Bajrang Dal, Vishwa Hindu

¹²The sorcerer claimed that he knew the precise location of the victim’s body. The tracing of the body at such location, resulted in mass agitation against the sorcerer and an FIR being registered against him.

Parishad, Rashtriya Swayamsevak Sangh, and other such outfits¹³, which are mushrooming.

Churches, and Christian / Mission schools

Christians are attacked, both in the public and private spheres. They are being attacked in their houses when they are praying. Churches are being entered into and vandalized; pastors are beaten with rods. In 2012, a cemetery was desecrated in Jagdalpur by Bajrang Dal. A rally was taken out in protest of the desecration, but nobody was arrested for the same.

Violence is perpetrated against pastors and missionary schools on the ground that they are propagators of conversion. Bajrang Dal's cadre obtain affidavits stating that forceful conversion is carried out. As an anti-conversion law is applicable in Chattisgarh¹⁴, the permission of the District Magistrate [Collector] is required prior to conversion, but because of the nexus between the hindutva forces and the district administration, which ensued in beating of a pastor by Bajrang Dal, this is not done, thus, giving ample opportunities to enhance communal tension.

Previously, it was a church in a remote area or a pastor alone on a bicycle that were attacked. Now, it is a very confident public attack. In June 2015, a nun was abducted and gang-raped in Raipur. No criminal case was registered nor was she medically examined. There were wide-scale protests by the Christian community against police inaction. The National Human Rights Commission too slammed the police.

When attempts are made by Christians to register FIRs, the police threaten them with ominous consequences, or on some pretext delay its registration and the organisations that carried out the attacks are invited to the police station, with their *tikka*-adorned lawyers, leading to confrontation in the police station itself. On the other hand, criminal cases are gladly registered against those belonging to the minority. In 2015, six pastors were arrested. Fr. Kanhaiyya, an adivasi gram panchayat member and healer, was arrested for having naxal connections. The allegation

¹³ Dharm Sena, Vandri Sena, Narendra Modi Sena.

¹⁴The Chhattisgarh Religion Freedom [Amendment] Act 2006.

being that naxals use him as a healer. The police vandalized his house and arrested him, claiming that Fr. Kanhaiyya was with naxals for three days. The FFT was told that Fr. Kanhaiyya is in prison since the last one year.

Illegal decrees are passed against churches. For example, churches should remain shut on Sundays. If a church remains open on a Sunday, it is vandalised. A Sunday before the FFT's visit, a church was vandalised and four people, arrested. A church had to be demolished as the municipal authorities issued a legal notice claiming that it was illegally constructed

Bajrang Dal cadres regularly visit villages, and have managed gram sabhas to pass resolutions under the Panchayats [Extension to the Scheduled Areas] Act 1996 to prevent non-Hindus from entering villages. A Public Interest Litigation- PIL [W.P. (C) No. 1759 of 2014] has been filed by the residents of Sirisguda, Jagdalpur before the High Court to quash the gram sabha resolution, and the same is pending. The PIL seeks general directions to prevent interference to freedom of religion. An interim order was passed on 6th October 2015, "It is ordered that the impugned resolution shall not come in [sic] exercise of fundamental right to preach and propagate of religion and their faith."

Bajrang Dal also prevented supply of provisions to the Christian Dalit families. Since they were not getting ration, a complaint was made to the Sub Divisional Magistrate, who then visited the locality and ensured supply. Hence, the villagers assaulted the Christian Dalits.

Missionary schools are targeted, and their teachers arrested. In 2014, in Khursipar in Bhilai, Fr. Lezo Mathew of Nirmala High School, a strict disciplinarian, tried to stop a boy from molesting a girl. In retaliation, Bajrang Dal activists accused Fr. Mathew of molesting a child, paraded him in the town, thereafter, taking him to court. On the way to court, he was manhandled and attempts made to force him to confess to the "crime". When M. Prasad Rao¹⁵ intervened, a well-wisher told him to leave the court so as to escape assault by lawyers and their goons. Fr. Mathew spent two months in jail before he was granted bail by the High

¹⁵State Coordinator of Chhattisgarh Christian Fellowship.

Court. Fr. Mathew has since been acquitted due to lack of evidence. Another incident relates to a missionary boarding [hostel] school in Chirmiri block, Koriya district. A child was found to have a rash in her private parts. An FIR was registered at the instigation of the local Bajrang Dal activist. A Father, an ayah and a caretaker have been accused under section 376 IPC, and were still in jail when the FFT visited.

Rumor-mongering is also resorted to create an emotionally heightened environment in the area against missionary schools. A rumor was spread that a child had died in MJM School. Thus, the parents rushed to the school in protest, only to find out that a child had been hospitalised.

Members of the Bajrang Dal have forced the church to give in writing that a Saraswati statue will be installed in mission schools. It is contended that a Jesus statue leaves an impression on the minds of children that Jesus is most supreme. Schools are also told that students should call their principals / teachers as "*acharya*" or "*guruji*", in place of "father".

Violence has been perpetrated by right wing groups, with the tacit support of the state agencies. One such incident was that which took place in Jashpur in Rani Bageecha Basti during Christmas prayers on the night between 24th-25th December 2013. Members of Prathna Samaj, Hindu Mahasabha, Hindu Raksha Samiti and Bajrang Dal attacked those attending and conducting the prayers, accusing them of carrying out conversions. Ironically, the police registered F.I.R. against the Christians, and 27 of them were arrested. The FFT was informed that Hindu fundamentalists have a large presence in Jashpur, and a strong "*ghar wapas*" campaign is being carried on, and that such attacks occur regularly.

A tactic of the Sangh Parivar organizations is to spread falsehoods to create an anti-minority environment. Muslims too have been victims of such propaganda. Lakhan Singh, the President of PUCL spoke about an incident that occurred in May 2014 in Bilaspur. The dead carcass of a cow was sold by its owner to a Dalit family for disposal. While they were skinning the cow, members of the Bajrang Dal conducted a rally calling for a Bilaspur bandh, and to enhance the tension, it was claimed that Muslims

had killed the cow. PUCL conducted a fact finding to expose the fact that the cow was skinned by a Dalit family and not a Muslim one. A criminal case has been registered against the Dalit accused. No lawyer was willing to defend them. Ultimately, Advocate Shaukat Ali of All India Lawyers Union, got them released on bail. When they were released, the accused were so terrorized that they refused to speak to PUCL.

Dalits and Tribals

It is being vehemently advocated that adivasis are hindus. In tribal belts, the Ramayan is being translated into halbi¹⁶ and distributed amongst tribals. Adivasi girls are being raped in state-run ashramshalas; 42 such cases were reported in one month, but nobody was arrested, at the most a Warden is suspended or transferred. Any report of child sexual abuse in a Christian educational institution results in an immediate call to shut down Christian educational institutions.

In April 2015, Anil Mochi and Sankar Ratre, both Dalits, were jailed due to rumours spread by the Hindu Dharma Sena. This incident took place in Raigarh district. Anil and Sankar were given mochipeti [tool box] by the Chhattisgarh government under a scheme for Dalits. A cow had died due to electrocution on the railway line. Railway personnel called Anil and Sankar to remove the carcass. Since the carcass was very heavy, they were skinning and cutting the cow into pieces on the railway line itself. While they were doing so, Vishnu Sharma, a member of Hindu Dharm Sena, saw them and spread a rumour that a cow was killed by Dalits for its skin, and demanded that they be booked for “gau hatya”. Anil and Sankar were booked under section 151 CrPC¹⁷, and remained in jail for 40 days. The carcass was sent for post-mortem as the Hindu Dharm Sena alleged that the cow was poisoned. The post-mortem confirmed that the cow had died of electrocution. The advocate who initially represented them was terrorized into giving up the case by the Special Officer, i.e., the Deputy Collector, Gaurav Singh, who was deputed to hear the matter in lieu of the Sub Divisional Magistrate. Advocate Ramadhar Baghel, then

¹⁶ Language spoken in Bastar by tribals.

¹⁷ Arrest to prevent the commission of a cognizable offence.

represented Anil and Sankar before the Kharsiya Sub Divisional Magistrate's Court, Raigarh District. Ultimately, bail was granted, but for a high surety of Rs.50,000/-. The land owner who stood surety was compelled to get his immovable property valued prior to the accused being released.

Advocate Shobharam Gilhare, a Dalit, associated with Centre for Social Justice, spoke about the harassment meted to him by lawyers of the dominant caste when he wanted to set up his practice at Raipur. In 2011, wanting to start his legal practice, he met several lawyers, but they refused to let him join them, thus frustrated, he started doing social work. In 2013, Centre for Social Justice started giving him legal work. Advocate Gilhare began functioning from the bar room, along with seven other lawyers. In June 2014, Advocate Tiwari, the then Secretary of the bar association, confiscated the table at which he was sitting. Despite complaining to the bar association, till FFT's visit he had not been allotted a table in the bar room.

Advocate Ghilare said that Dalit lawyers had told him that initially they had to work as house servants and clean dishes for the lawyers at the bar, and only then were they allowed to practice.

SAMAJIK EKTA MANCH

Several organisations have been constituted under the auspices of state agencies to intimidate / terrorise people – Samajik Ekta Manch, Mahila Ekta Manch, Adivasi Ekta Manch, Nagirk Ekta Manch, and most importantly the District Reserve Guard, which is the new avatar of Salwa Judum¹⁸, which in 2011 the Supreme Court had declared as illegal and unconstitutional¹⁹.

Samajik Ekta Manch [SEM] was started by Kalluri in December 2015 to target who were believed to be "naxal sympathisers". Soon after its establishment, SEM took out a rally in Bastar which was led by Kalluri. The BDBA is also part of SEM, and its President used SEM's platform to abuse

¹⁸ Armed civilians as Special Police Officers.

¹⁹ *Nandini Sundar & Ors. Vs. State of Chhattisgarh* : [2011] 7 SCC 547.

JagLAG. Harassment of JagLAG and others increased after the formation of SEM.

On 1st January 2016, a seminar was conducted by Kalluri on the Naxal Problem, which was attended by several judges. The co-sponsor of the said seminar was SEM.

SEM held rallies against those they believed were naxal supporters. On 7th February 2016, a rally was taken out by SEM where effigies were burnt of “white collared naxal supporters and lawyers”, and the rally proceeded to Malini Subramaniam’s²⁰ house. Malini contacted the Superintendent of Police [SP], however, no police personnel were sent. There was sloganeering against Malini, mainly, that she was a naxal and that she places bombs. Those in the rally also attempted to incite Malini’s neighbours to stone her house, but they refused. That same night Malini heard a motor-bike approach her house, heard a shattering noise and then heard the motor-bike leave. In the morning she noticed that stones had been pelted which had shattered her car’s windshield.

Malini, with the help of JagLAG, attempted to get an FIR registered the very next day, but on some pretext or the other the Deputy Superintendent of Police, refused to do so. Ultimately, on 10th February, the FIR was registered under orders of the SP. Statements of Malini’s neighbours were also recorded in which they stated that stones had been pelted and others were instigated to join in the stone pelting. Thereafter, the police threatened the neighbours who had supported Malini stating that they themselves had pelted stones. Malini’s maid servant, Prachi, was also picked-up and interrogated by the police

SEM then demanded that action be taken against JagLAG. They made accusations against JagLAG, such as, they enjoyed a luxurious lifestyle, drank liquor, danced to English music, in attempts to arouse sentiments against them.

On 18th March 2017, Mahila Ekta Manch [MEM], the women’s wing of SEM, came into existence in reaction to a demonstration organized by the

²⁰ Malini Subramaniam is a journalist who has been writing about the goings-on in Bastar.

National Federation of Indian Women²¹ [NFIW] from 14th to 17th March 2016. NFIW, inter alia, demanded action against security personnel involved in mass sexual violence in Bastar, and the attackers of Soni Sori and JagLAG. MEM then carried on an agitation demanding, “*Naxali Shalini Gera, Naxali Bela Bhatia²², Bastar chhodo*”. Human rights organisations, such as Amnesty International, were present in Bastar at that time. MEM made a complaint to the Prime Minister demanding arrest of Shalini Gera and Bela Bhatia under the Chhattisgarh Special Public Security Act 2005, and also sought invocation of the said Act also against NFIW and Amnesty International²³.

POLICE, PEOPLE AND THE STATE’S DEVELOPMENT MODEL

The police have been continuously terrorizing people stating that they are “Maoists / naxal sympathisers”. After the formation of SEM, the situation worsened as SEM took up the mantle of harassing the people.

Soon after its formation, SEM targeted Malini as she had been reporting on atrocities and excesses committed by the police upon tribals. The orchestration between SEM and the police is reflected by the fact that on the very same night that SEM went to Malini’s house and threatened her, about 11.00 p.m., the police landed there, saying that they were gathering information as they had received a complaint against her. The police went to Bela’s house in Parpa village²⁴. The police constantly followed Bela and her husband, Jean Dreze²⁵, as also interrogated them. Simultaneously, personnel from the Geedam nagarpalika visited Soni Sori, and told her that her house was an illegal encroachment and will be demolished²⁶.

The intention of the state agencies is to expel from Bastar those who served the tribals or revealed the goings-on in that region, by creating an

²¹ An all-India mass organization of women.

²² An independent researcher, sociologist and social activist working from Bastar.

²³ Human rights organisations, such as Amnesty International, were also present in Bastar during the demonstration.

²⁴ 7 kms. outside of Jagdalpur

²⁵ An economist.

²⁶ Soni Sori was attacked by an acid-like substance in February 2016.

oppressive environment. When their attempts failed, the police created an oppressive environment by harassing those in any way associated with them - deprived Pravin Baghel, Shalini's landlord, of his means of livelihood till he evicted her and other JagLAG lawyers²⁷; picked-up and interrogated Malini's maid, Prachi²⁸; urgently called Malini's landlord to the police station from Raipur²⁹. Inquiries were made regarding Devesh, a JagLAG lawyer, and Bela's landlord, leading to apprehension that they too were likely to be picked-up.

Malini left Jagdalpur on 18th February 2016, and Shalini and Isha of JagLAG left Jagdalpur on 20th February 2016. Shalini and Isha Khandelwal spoke with the press before leaving. At the press conference, which Bela also addressed, they spoke about their leaving Jagdalpur due to harassment by the police. In response to which, statements were taken from the landlords that Shalini and Malini had vacated the premises of their own free will, and that the landlords had not faced any harassment or pressure at the hands of the police regarding the same.

Shalini told the FFT, "It seems that the state doesn't want any witnesses to the violence they are carrying out." This insight of Shalini is evidenced by the fact that the acid-attack on Soni Sori was carried out immediately after Shalini and Malini left Bastar.

Police are also most partisan, acting openly against the people at the behest of project developers, and arresting villagers opposing anti-people projects.

In 2010, the Balsara Kand incident took place; security personnel fired upon and arrested those protesting the land acquisition for Jindal Steel and Power plant in Tamnar block, Raigarh district.

²⁷ Pravin earned his livelihood through his car. The police released Pravin only when he agreed to evict within a week Shalini and the others, but they kept his car stating that he would not be allowed to carry on his business till they were evicted. Thereafter, Pravin was forced to issue a 24 hour eviction notice while in the police station, after which they handed him the car with the caveat that he should not use it till they vacated the premises.

²⁸ Prachi was told that she would not be released till Malini left Bastar.

²⁹ Malini's landlord was made to issue an eviction notice from the police station itself.

In March 2013, Resham Pradhan and family were booked under Section 151 CrPC, and had to spend 26 days in jail. What was their crime? Opposing their forced eviction. Dalits residing at Saria village, Baramkela block, Raigarh district, were protesting their removal, especially as they had been earlier displaced due to the Mahanadi Development Project, and had been shifted to this alternative site. Some residents opposed such removal, and attempted to prevent the forced eviction, resulting in altercation. Resham Pradhan was arrested with the objective of quelling the protest by frightening the agitators with dire consequences.

The effort of the state is to terrorise people so that they do not speak about the goings-on in fear of further repression. PUCL attempted to contact one of the priests who had been arrested in the Rani Bageecha Basti incident. Digri Prasad Chouhan, a member of PUCL, informed that the priest was so fearful that he refused to speak without the permission of the Police Commissioner.

FINDINGS

OBSTRUCTING OF THE ADMINISTRATION OF JUSTICE

Harassment of lawyers by police and bar associations

The police and bar associations in Bastar are doing all in their power to intimidate and deter lawyers from appearing for political prisoners, and those protesting harassment at the hands of the state and its agencies. If anybody dares to challenge them, such person is embroiled in a false case, and their lawyers too meet the same fate. In Bastar, lawyers are branded as Maoists or their supporters and are prohibited from performing their professional duties, merely because their clients are so charged.

Bar associations have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements³⁰. As detailed above, instead of

³⁰*Basic Principles of the Role of Lawyers*, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August 20 7 September 1990, U.N. Doc. A/CONF, 144/28/Rev.1 at 118 [1990].

protecting lawyers from police propaganda, the bar associations have been desisting lawyers from performing their professional duties, thereby, obstructing the administration of justice. That bar associations are dancing to the tune of the police is reflected by the fact that BDBA's New Year celebrations for 2016 were sponsored by the police.

Some Judges and Magistrates too have bowed down to the illegal diktats of the bar associations, preventing lawyers against whom resolutions have been passed from appearing before them. Office bearers of bar associations are unhesitant to cause disturbance in courtrooms if their diktats go unheeded.

Members of the bar association are also part of the right-wing extremist organisations targeting alleged Maoists or their supporters, as also Christians and Dalits. Lawyers have also been harassed for the caste they belong to, as in the case of Advocate Shobharam Gilhare.

It is important to note that lawyers have a crucial role in the administration of justice and in the functioning of the criminal justice system. All persons are entitled to a fair trial, towards which a lawyer plays an indispensable part. It is imperative that justice should be allowed to take its course in a regular, orderly and effective manner. The action on part of police and bar association in restraining lawyers from performing their duties is a blatant violation of the rule of law, the constitutional values, the guarantees under the criminal justice system, and international standards.

Article 21 of the Constitution, right to life, and Article 19(1)(g) of the Constitution, both fundamental rights, guarantee a person the right to a fair trial and the right to practice any profession, respectively. Article 22 of the Constitution, also a fundamental right, guarantees to every accused the right to be represented by a lawyer of his choice. This principle is reiterated in Section 303 CrPC, which categorically states that an accused has a right to be defended by a lawyer of their choice in any proceedings in a criminal court. Furthermore, "equal justice and free legal-aid" to enable "opportunities for securing justice" is enshrined under Article 39A of the Constitution, a directive principle.

At this stage, it is important to mention that under *the Basic Principles of the Role of Lawyers [1990]*, “All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.” Furthermore, “Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.” The instrument also states, “Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions”.

It is the state’s obligation to protect lawyers, and refrain from interfering with their independent working, especially in conflict situations where the lawyer’s role is to uphold civil liberties and democratic rights. The Report titled, *Protection of Lawyers in Conflict & Crisis*, published in December 2016³¹, “explores the role of lawyers during conflicts, dictatorships and political transitions.³²” The said Report, further states, “The independence of the legal profession is an essential element of any democratic society based on the rule of law. It is particularly important in terms of defending human rights and fundamental freedoms. Whilst the independence and safety of individual members of the legal profession may be threatened in times of peace and political stability, such risks multiply in the context of conflict and crisis.³³” Every state has a responsibility to “maintain the independence of the legal profession and to protect lawyers from persecution and threats to their rights, including arbitrary detention, disappearance and attack.³⁴”

The United Nations Declaration on Human Rights Defenders, referring to lawyers, “asserts a right to participate in activities against human rights

³¹ Funded by the Economic & Social Research Council.

³² *ibid*, Preface.

³³ *ibid*, Executive Summary.

³⁴ *ibid*, Page 7.

violations, and a right to be protected by the state from threats or harassment as a result of these activities.³⁵

The United Nations Special Rapporteur on the Independence of Judges and Lawyers is quoted to say, the majority of the national situations brought to his attention involve threats to lawyers as a result of representing sensitive cases and being inappropriately identified with their clients³⁶.

Termination of services of a Judicial Officer

What is most alarming is that upright judicial officers have also faced the wrath of the security officers resulting in termination of their service. In 2016, the Chief Judicial Magistrate of Sukma, Prabhakar Gwal³⁷, was removed from service “in public interest with immediate effect” by the Chhattisgarh government on the recommendation of the High Court without even holding a departmental enquiry. Prabhakar Gwal, amongst other things, had questioned the police’s indiscriminate arrest of tribals, and had granted bail in deserving cases. The SP, Sukma had complained on the ground that Gwal’s action of granting bail to those accused of naxal activities has adversely affected the morale of security forces and has weakened the judicial process. In an interview³⁸, Gwal said that he had written letters to the police headquarters as to “how some local villagers were arrested by the police and shown as Maoists.” Earlier, during his stint in Sukma, Gwal has complained “regretting interference in his work by local district collector Niroj Bansod.³⁹”

³⁵ *ibid*, Page 12.

³⁶ *ibid*, Page 6.

³⁷ A 2016 batch Judicial Officer belonging to the Dalit community.

³⁸ *Targeted for being fair, says Sukma judge*, Pawan Dahat, THE HINDU [e-paper uploaded on 21st April 2016].

³⁹ *Collector interfering, says chief judicial magistrate*, Rabindra Nath Choudhury, The Asian Age [e-paper uploaded on 31st December 2015].

SECURITY FORCES ACTING WITH IMPUNITY AGAINST TRIBALS

The strategy of the state, implemented through security forces, is to subdue with terror those villagers who according to them are hindering development. The State government has given the security forces total liberty to clear the area of any dissent. Hence, the security forces are acting with a sense of great impunity knowing that they will not be held liable for the violence perpetrated on the people. In the name of anti-Maoist operations, tribals are being harassed into leaving their homes. Around October 2015, after Ajit Doval, the National Security Adviser, visited Bastar, there was a noticeable difference in anti-naxal operations in villages; the impunity of security forces was more pronounced. The anti-naxal squad and security forces perpetrated mass-scale violence; people were terrorized and assaulted, their homes vandalized, women gang-raped. During previous anti-Maoist operations, 1 or 2 people would be arrested, but the FFT was told that now 40 people or so are arrested in a single case.

Police are generating media-hype. Kalluri himself is calling press conferences to create propaganda against those he wants expelled from Bastar. Instead of controlling the heightened tensions, the security forces are accelerating the same.

Police fail to register FIRs, and, instead pick-up the villagers and foist multiple false cases against them.

Several incidents of villagers' deaths in firing by police / security forces have been reported, which, the police triumphantly claim are Maoists killed in encounters. One such incident took place on 28th July 2014 in Ramaram village. A silent siege was laid on the village by the police and CRPF; then they started random firing in which a sick woman was killed. While returning, the police picked-up and killed a shepherd from the neighbouring village, whose body they clothed in naxal fatigues to legitimize the story that Maoists had been killed in a successful operation. Security forces' propaganda also exaggerates the casualties incurred. For example, in the Ramaram village incident, they claimed that eleven deadly Maoists had been encountered. Those who belie their claims, such as Soni

Sori, Linga Kodopi, JagLAG, are then branded and targeted by the security forces as Maoists or Maoist supporters.

Another incident occurred on 6th January 2015, when Bheema Nuppo of Tadpara hamlet of Revali village was killed by police. Instead of investigating the role of the police, an FIR was registered against naxals. The police claimed that the Bheema was shot by naxals from across the river while he was having a bath. The statements of villagers that it was security forces who killed Bheema were not recorded. Others who inquired / documented this incident⁴⁰ also concluded that Bheema was killed by security forces. Prabhat Singh, a journalist who documented this incident was arrested on 21st March 2016⁴¹, because of which the Revali village was covered at the all-India level. The villagers demanded that an inquiry should be conducted by a Judicial Magistrate “into cause of death” under section 176 (1A) CrPC. The police’s answer was to register criminal cases under section 188 IPC against those participating in the rally! An inquiry into cause of death was conducted by the Executive Magistrate, in which eleven villagers deposed. As evidence, the villagers have the shells with which the attack was done. The FFT was informed that the villagers had taken the body for post mortem, but the same was not properly done, and the body remains buried without any second post mortem having been conducted. The FFT was also told that no Enquiry Report had yet been prepared.

Villagers are indiscriminately picked-up. On 26th November 2014, the police picked-up twenty-six young men from the villages of Chhote Tongpal and Jangampal. When the women questioned the police, they were assaulted, one of them was stripped and beaten, but they followed the police and waited outside the Kukanar police thana. Finally, due to efforts of JagLAG, eleven of those arrested were released; the remaining fifteen were charged for aiding Maoists.

The women who were brutally assaulted tried to lodge an FIR, but to no avail, though medical reports showed grievous injuries. Hence, a section

⁴⁰Bela Bhatia, Malini Subramaniam.

⁴¹ He was released on bail three months later by the High Court.

156(3) CrPC application was made before the Magistrate, seeking registration of an FIR against the police. Two months later, the Magistrate directed registration of an FIR against unknown assailants! No statements were recorded nor were any other steps taken by the police in furtherance of registration of FIR. A Magisterial enquiry was conducted on the women's complaints. The enquiry report found the complaints to be false on the ground that they were suspect and motivated as they were filed by wives whose husband's were arrested and under instigation of JagLAG!

Prior to this incident, on 20th November, the police had gone to arrest a village level BJP leader Ayataram Mandavi, but not finding him at home, they picked-up his wife Sukadi. As the police did not share any information regarding Sukadi's whereabouts, about two thousand villagers gheraoed the Kuknar police thana. Soni Sori led the protest as the others were too scared to do so. After 4 days of the gherao, the police alleged that Sukadi was found roaming in the forest. Ayataram's hounding by the police continued, which compelled him, Sukadi and Soni Sori to call a press conference where they expressed their desire of registering an FIR against police for abduction of Sukadi. Six months later Ayataram was booked in six cases, including that of electoral malpractices, because of which he remained in jail for eight months. Kalluri visited him in jail and warned him against engaging "Delhi wale" lawyers, but Ayataram did not relent. Ayataram quit the BJP as they did not in anyways help him during this distressful period

In January 2016, 29 residents of Kunna village in Sukma district were picked-up by security forces, and severely assaulted, resulting in one of them dying the next day.

Rifts and insecurity is created amongst the villagers by appointing some of them as Special Police Officers. Hidma was one such Special Police Officer. On 17th April 2015, during a festival, Hidma along with two policemen went to Modenar village, Jagdalpur tehsil, of which Hidma was a resident, to arrest a person, but due to intervention of the villagers, no such arrest could take place. The police then got angry and fired at the villagers, and one boy, Bhima Madkem, was shot in his leg and was badly injured. After

Hidma and the police left, angry villagers beat Hidma's family members. It was Soni Sori and Bela Bhatia who got Bhima Madkem admitted to a hospital in Jagdalpur, and his complaint registered. JagLAG, despite efforts were not allowed to meet Bhima in hospital by the police, who maintained a constant vigil over Bhima, In fact the police, obtained a statement from Bhima's family that they had not engaged JagLAG.

Hidma filed a police complaint for kidnap of his family members. Four villagers were picked up allegedly for the kidnapping of Hidma's relatives⁴². Prabhat Singh interviewed Hidma's relatives, who on video denied being kidnapped. When the relatives were asked as to why they did not inform the police of the same, they said that they were too scared to do so due to previous harassment at their hands. After the publication of the interview, Prabhat Singh received his first threat from Kalluri at a press conference, namely, "*Tumhari Kundali hamare haath mein hai*" [your fate is in our hands]. Journalists are constantly threatened and arrested so as to silence them from reporting and reflecting the reign of terror in Bastar – fake encounters, arrests in false cases, atrocities and terrorizing of people. Freedom of speech and expression is gagged, as also the right to know, fundamental rights under Article 19(1)(a) of the Constitution, though tireless journalists, such as Prabhat and Malini continue to uphold the same.

Harassment of villagers goes hand in hand with pressurizing villagers to surrender as naxals, and become informers. Due to such constant pressure, villagers stop playing an active role in the community, The same happened to Ayataram Mandavi.

Sexual violence by the security personnel during anti-Maoist operations is rampant. It is documented that between 20th and 24th October 2015, more than forty women were sexually assaulted by security forces, including, three cases of gang-rape⁴³. A 14 year old and a pregnant woman were gang-raped in Peddagellur village in Bijapur district. On 1st November 2015, an FIR was registered and a Magisterial Inquiry was

⁴²JagLAG represented the villagers who were accused of kidnapping Hidma's relatives.

⁴³Fact findings were conducted by WSS, Sarva Adivasi Samaj and Congress party.

ordered. Several women gave their statements to the police, but no arrests had been made. Between 11th and 14th January 2016, 13 cases of gang-rape and many more cases of sexual assault were reported at the hands of security forces from Nendra village falling under Basaguda police station in Bijapur district. Around the same time, in Kunna village of Sukma district, the security forces sexually assaulted 10 women. The women were stripped, and everything short of rape was perpetrated upon them.

Police in all the aforementioned 3 instances of sexual violence squeezed the breasts of women to identify if they were lactating. Police say, if a woman is of child bearing age and not lactating, she is a naxal!

CO-OPTION BY THE STATE OF NON-STATE ACTORS

Formations of non-state actors to pursue the state's agenda of terror has worsened the human rights situation in the region. These outfits are the state's creations to crush dissent by hounding villagers, lawyers, journalists, researchers and activists in the name of countering naxalism. Kalluri has not only created, but security forces have also openly supported, Samjik Ekta Manch, and its different formations. This attitude of the police gives confidence to bigots to do as they please.

The Chhattisgarh Police Act 2007 allowed the Superintendent of Police to "appoint any person to act as a Special Police Officer for a period as specified in the appointment order⁴⁴" having "the same powers, privileges and protection...as the ordinary officers of the police." The Supreme Court, in 2011, in *Nandini Sundar's case* spoke "of the dangers of armed vigilante groups that operate under the veneer of State Patronage or support." The Petitioners had submitted that the State of Chhattisgarh was "actively promoting the activities of a group called 'Salwa Judum', which was in fact an armed civilian vigilante group, thereby further exacerbating the ongoing struggle, and was leading to further widespread violation of human rights.⁴⁵" The Supreme Court observed, "It is now clear to us, as alleged by the petitioners, that thousands of tribal youth

⁴⁴Section 9(1) of the Chhattisgarh Police Act 2007.

⁴⁵Section 9(2) of the Chhattisgarh Police Act 2007.

are being appointed by the State of Chhattisgarh, with the consent of the Union of India, to engage in armed conflict with the Maoists/Naxalites.” The Supreme Court held Salwa Judum as unconstitutional under Articles 14 and 21, and “that it is the responsibility of every organ of the State to function within the four corners of constitutional responsibility. That is the ultimate rule of law.” The State of Chhattisgarh was ordered to “immediately cease and desist from using SPOs in any manner or form in any activities, directly or indirectly, aimed at controlling, countering, mitigating or otherwise eliminating Maoist/Naxalite activities”.

Despite such indictment by the Supreme Court, the State of Chhattisgarh has lately formed the District Reserve Guards [DRG]. DRG comprises of surrendered naxals and local recruits, viz., Gondi speaking tribals, from the Salwa Judum camps. It is the local recruits who are at the forefront of the recent operations. Violence is a tool used by them to terrorise and humiliate the people; the language used is sexually abusive. Earlier, during these operations, the DRG looted belongings, but nowadays they are annihilating - burning and destroying, and killing chicken and goats.

STATE SPONSORED HARASSMENT OF CHRISTIANS AND DALITS

People belonging to minority religions, especially Christians, are feeling extremely unsafe. They are being violently attacked, and are victims of untold harassment and atrocities.

Hindu fundamentalist groups in the region are increasing, as is their confidence. Brazen public attacks are carried out, with weapons, on Christians, especially the pastors, in the name of “conversion”. Mission schools are also targeted. A tension-filled environment is deliberately created, fuelled by rumour-mongering. Nothing is being done to control these groups. On the contrary, the police are siding with them.

The police constantly threaten that registration of an FIR is being attempted against Christians. If they go to register an FIR, the same is refused or delayed, and the complainant terrorized with dire consequences. Lawyers too treat them so, and those willing to represent them are pressurized by the police. Hence, they do not know who to turn to for help.

Similar is the position of Dalits. They face long terms of incarceration in the name of “gau hatya”, or due to their protesting anti-people policies of the State government. Moreover, the courts too make release difficult by rejecting bail or granting bail on exorbitant terms. For example, Anil and Sankar, in a section 151 CrPC case, were granted bail on surety of Rs.50,000/-, and the surety was unduly harassed.

Attempts are made to restrain Dalit lawyers from carrying on their legal practice, as in the case of Shobharam Gilhare.

DRACONIAN AND OTHER LEGISLATIONS USED & ABUSED TO PEOPLE’S DETRIMENT

In the name of security and Maoist threat, draconian laws have been enacted that are invoked to target tribals, and those who support / assist them, such as lawyers, social activists, or those contemporaneously publishing the atrocities perpetrated by the state in Bastar, such as journalists. The attempt is to terrorise people into subjugation, and if such attempts fail, to lock them, so as to stop their political engagement.

One such legislation is the Chhattisgarh Vishesh Jan Surasksha Abhiniyam 2005 [Chhattisgarh Special Public Security Act 2005], in short referred to as the CSPA Act] that was enacted “to provide for more effective prevention of certain lawful activities of individuals and organisations and matter connected thereto.” The said Act is similar in design to the Unlawful Activities [Prevention] Act 1967, which “extends to the whole of India.” The CSPA Act’s supposed aim was to curtail Maoist violence, but it’s misused to crush any sort of political dissent. It penalizes any individual, who according to the state, “whether by committing an act or by words either spoken or written or by signs or by visible representation or otherwise...tends to interfere with the administration of law”. As the Communist Party of India [Maoist] has been declared as an “unlawful organization” under the said Act, people are threatened with arrest on the grounds that they are members of or aiding and supporting an unlawful organization.

Anti-conversion laws are founded on the belief that forced conversions take place and require to be prevented. Such laws are abused by communal elements, often, with the support of the state.

Christian missionaries are violently attacked and vilified for carrying out forced conversions. Ironically, anti-conversion laws are titled *Freedom of Religion Acts*, conversely, they seek to discourage propagation of religion, a fundamental right under Article 25(1) of the Constitution. When the State of Chhattisgarh was formed it adopted the Madhya Pradesh Dharma Swatantrya Adhiniyam [Madhya Pradesh Freedom of Religion Act] 1968, which prohibited forcible conversion, and punished non-intimation of conversion to the District Magistrate [Collector] within a prescribed period. By the Chhattisgarh Religion Freedom [Amendment] Act 2006, brought into force by the BJP government, the anti-conversion law has been made more stringent – it is not intimation, but prior permission of the District Magistrate that has to now be taken. Such prior intimation results in violence being perpetrated upon those performing the conversion ceremony and / or those converting, hence, they desist from doing so. The FFT was informed of a pastor being beaten by Bajrang Dal when such permission was sought.

Dalits are arrested under the Chhattisgarh Agricultural Cattle Preservation Act and/or any other prevailing law⁴⁶ for “gau hatya”.

Youth were appointed as Special Police Officers under the Chhattisgarh Police Act 2007, causing enhanced strain in the region. Such appointment as aforementioned has been declared unconstitutional by the Supreme Court.

Legislations having a laudable intent, are misused to further the state’s agenda. For example, under the Panchayats [Extension to Scheduled Areas] Act 1996, gram sabhas are known to pass, at the behest of Bajrang Dal, unconstitutional resolutions restraining non-Hindus from entering the village. The Scheduled Castes and the Scheduled Tribes [Prevention of

⁴⁶ Section 151 CrPC as in the case of Anil Mochi and Sankar Ratre.

Atrocities] Act 1989 has been invoked on those helping adivasis, as in the case of Advocate Amarnath Pandey.

PROLONGED INCARCERATION

The statistics referred to in this portion of the report are based on answers to JagLAG's RTI applications⁴⁷ and *Crime in India 2013*⁴⁸.

The rate of undertrial incarceration in Bastar is high. This is reflected by the figures which denote that 98% of all inmates in Dantewada District jail and 96.6% in Kankar District jail are undertrials as against the all India figures of 67.6%. The period of incarceration is also much longer in Bastar; while 90% of undertrials in India get released within the first year of arrest, in Bastar only 31% get released within the first year of arrest.

The rate of grant of bail is very low in Bastar; while over 75% of accused get bail at the all-India level, the figures for Bastar show that merely 18% get bail. At the all-India level the chances of an accused getting bail are 16 times more than that of an acquittal, while in Chhattisgarh the chances of getting bail are 8 times, but in Bastar it is nil. In Bastar there is a higher likelihood of acquittal as against bail - which negates the principle of presumption of innocence.

The reasons for long periods of incarceration are manifold - prosecution witnesses, more particularly, the police and CRPF, repeatedly fail to attend court for recording of their evidence. In a particular case, for 7 years the matter is pending for recording of the doctor's evidence! Another reason delay is that the accused are not produced in court - on an average, an accused is produced for 60% of his dates. In certain courts the accused have not been produced for 6 months.

Hence, jails in Bastar are overcrowded. Statistics of 2013 reveal that the 2 district prisons in Kanker and Dantewada had an occupancy of 278 and 557, as against their respective capacity of 65 and 150 inmates, and the

⁴⁷ Filed in 2013 or thereabouts.

⁴⁸ Published by the National Crime Records Bureau, Ministry of Home Affairs, Government of India.

central prison in Jagdalpur had 1508 inmates as against its capacity of 579 inmates. The occupancy rate in Kanker is that of 428%, in Dantewada that of 371%, and in Jagdalpur that of 260%, as against the all-India occupancy rate of 118% and the Chhattisgarh rate of 261%.

The rate of acquittal in Bastar is very high. In 2013, 96 % of criminal cases ended in acquittal, whereas the all-India figure was 23.6%. This demonstrates the flimsy charges and the lack of evidence against most of the accused. Despite little or no evidence draconian laws are applied and the courts are reluctant to grant bail. Accused are known to continue to languish in jail for more than 6 years.

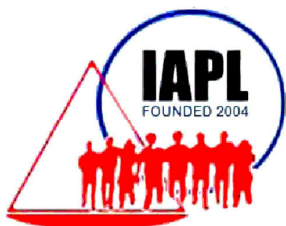
The attempt by the police is to incarcerate people as long as possible under draconian laws to enable the state to carry out its agenda without any protest.

DEMANDS AGAINST THE STATE & ITS AGENCIES

1. STOP the arrest and harassment of lawyers. ALLOW them to fearlessly perform their professional duties.
2. STOP the branding of lawyers and their identifying them with the causes of their clients.
3. STOP interfering with the judiciary's independence.
4. ENSURE that accused enjoy the right to fair trial and expeditious completion of their trials.
5. TAKE ACTION forthwith against those obstructing the administration of justice, including disbanding of bar associations following unethical practices.
6. STOP creating and supporting and arming civilian groups to cause havoc and terror in the lives of people.
7. STOP terrorizing the people in the name of "national security".
8. STOP the looting of community resources, and assure utilization of the same in a manner so as to subserve the common good.
9. STOP the arrest and harassment of Christians and Dalits, and take appropriate action against those perpetrating violent attacks upon them.
10. NEUTRALISE the extremist organisations, such as Bajrang Dal, that are carrying out attacks in the name of Hindutva.
11. REPEAL of draconian laws, such as the Chhattisgarh Special Public Security Act 2005, anti-conversion laws. STOP the misuse of gavatya laws, as also progressive laws, such as the Panchayats [Extension to Scheduled Areas] Act and The Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act.

The **Indian Association of Peoples Lawyers (IAPL)** was founded on January 22, 2004 to support the people in their struggle for human rights Justice and Equality and to fight against all undemocratic laws and procedures of the Indian State. It is affiliated to the International Association of People's Lawyers.

The IAPL acknowledges that what are called Human Rights includes the civil political economic, social and cultural facilities, which are indispensable for the existence of human beings as human beings. It recognizes the rights of Indian People to be free from imperialist domination and hegemony and the rights of the exploited to fight for Justice & Equality and against the oppression and the stranglehold of an unjust state. The IAPL advocates a critical stand against the present Indian and International legal systems that perpetuate an unfair socio-economic order and frustrate the legitimate aspirations of the People for national liberation social justice, democratic rights and civil liberties. It strives to assess and critique the international treaties and agreements from the viewpoint of the people's struggles, to rectify the distortions resulting from the class, caste, gender and majoritarian bias of the establishment. It welcomes co-operation with all national and international organizations whose aims correspond to the Aims and Objects of the Association. The IAPL pledges to contribute its skills, training, knowledge and expertise to promote and support the anti-imperialist and democratic struggles of the oppressed sections of Indian People and to defend the people against the destructive consequences of imperialism and undemocratic class rule.



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