



## ILLEGAL ASSAULT, EVICTIONS AND CONFINEMENT OF FOREST RIGHTS CLAIMANTS: FOREST RIGHTS IN MADHYA PRADESH'S KHANDWA AND BURHANPUR

The districts of Burhanpur and Khandwa, have in recent years seen a number of instances where Adivasi women and men have been assaulted, forcibly kidnapped and locked up, jailed and brutalized by the Forest Department of the Madhya Pradesh government. These cases are not merely isolated incidents, but a result of the systematic denial of legal and constitutional rights of Adivasis and the consent of the State government in the trampling of the same.

The most recent instance is that of the destruction of the houses and fields of 40 Adivasi families of Negaon – Jamniya, while all their belongings were looted by a mob of around 200 persons brought by the forest department from neighbouring villages. Activists and villagers who pointed out the illegality of this “action” were assaulted and forcibly held in the office of the DFO/Divisional Manager (Forest Development Corporation) for more than 10 hours. Their phones were snatched and have still not been returned.

**The Forest Rights Act 2006:** The British Raj introduced draconian forest laws which criminalised entire communities and facilitated brutal expropriation and eviction. This had led to many fierce Adivasi revolts and “*van satyagrahas*” in the region, which are still remembered for their courage and sacrifice, and were led by folk heroes like Tantia Bhil, Ganjan Singh Korku, Vir Sing Gond, Khajya Naik, Bheema Naik, and many more. But, even after Independence, the British forest regime continued, as did the brutality. The relentless struggle against such injustices by Adivasis across the country forced the Parliament to recognize and correct the “historical injustice” meted out to Adivasis and other traditional forest dwellers in colonial and Independent India. Recognizing the central role that Adivasis, through their traditional, community-based methods of forest conservation and management have played in protecting forests across the country, the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006**, (FRA) was passed which gave comprehensive legal rights to Adivasis living in and around forest land prior to 13<sup>th</sup> December 2005 - the date on which the Bill was introduced in Parliament. A detailed process for verification of claims, with a central role for Gram Sabhas and appellate role of Sub-divisional and District Level Committees has also been laid down in the Act. At the same time, the Act brought in safeguards to protect claimants from evictions until the process of verification of their claims had been completed, and provides rights of *in-situ* rehabilitation for those who had already been forcibly evicted. The verification process is not dependent on the infamous forest department alone but involves revenue and tribal departments, yet remains centered on the Gram Sabhas.

But, due to both apathy and a deliberate policy of keeping lakhs of Adivasis vulnerable and insecure, the State Government as well administration has ensured that claims are either not processed or “rejected” without following any of the mandatory legal processes, while violence continues unabated against Adivasis in the State.

**Instances of brutal assault, illegal confinement, illegal eviction and other atrocities in Khandwa and Burhanpur in the past two years:** These instances show the impunity with which the State government and Administration are routinely trampling upon rights of Adivasis, all of whom are claimants under the FRA. They show:

1. **Violation of section 4(5) of the FRA**, which clearly prohibits any eviction until the process of recognition and vesting of forest rights has been completed. This also a violation of the circular issued on 01.05.2019 by the Madhya Pradesh government’s Commissioner (Tribal Welfare), directing that all claims earlier found to be ineligible are to be re-verified, and thus no one is to

be evicted. Police facilitates this violation, while the Collector, who is responsible for the proper implementation of the FRA turns a blind eye, as does the State Government, despite repeated complaints.

2. **Brutal illegal assault, illegal confinement in forest department offices:** These offices are obviously not legal 'custodial centres'. Complaints to the police regarding this grave violation are ignored.
  3. **Malicious use of non – bailable sections of law in order to imprison Adivasis:** These include charges under sections 3-6 of the Biodiversity Act which are completely irrelevant since they deal with commercial exploitation and research, while section 7 also clarifies that they are not applicable to local communities! But, because charges under these sections are non-bailable u/s 55, bewildered Adivasis are charged under them and sent to jail! Similarly section 2 of the Wildlife Act which deals with destruction with birds' nests is applied on the grounds that when this land had been cleared for cultivation, it must have had birds' nests on it! These sections are applied even when the accusation is one of "encroachment" since that attracts only bailable provisions.
- **Siwal - Badnapur (dist. Burhanpur):** In July, 2019, the Forest Department of Burhanpur accompanied by the police, destroyed fields of Forest Rights claimants of Siwal with JCB machines. Peaceful protestors were fired upon with pellet guns, injuring four. Babool seeds were dispersed on their fields. Ridiculous false cases were filed against villagers. After protests by thousands, criminal cases were filed against forest officials who were also transferred out. In June 2020 a hut in the field of Sildar Khajan, was burnt down, villagers continue to be threatened repeatedly.
  - **Bhilaikheda (dist. Khandwa):** On 26.06.2020, the Forest Department, Khandwa destroyed the fields of Adivasi FRA claimants in Bhilaikheda, right before the sowing season. The forest department planted babool seeds on fields, to prevent them from farming. In April 2021, Bishan Chandarsing Akhade and Radheshyam Chhagan Tadole who were in a village market were surrounded and picked up by the forest department and were falsely charged under the Biodiversity Act, 2002 and the Wildlife Protection Act, 1972. The two Adivasis were taken forcibly to Khandwa, where they were kept overnight in illegal custody, bound and beaten. When villagers reached the office where they were being illegally confined, they were hidden away and forest staff denied all knowledge of their whereabouts.
  - **Tangiapat (dist. Burhanpur):** With awareness of forest rights spreading, Adivasis have started resisting extortion by forest staff and speaking of legal forest rights. Enraged forest officials have responded with fresh brutality. On 29.08.20, officials of Khaknar range (Burhanpur) picked up two Adivasis, Jabarsing Vaskale and Somla Ajnare of Tangiapat (Rehmanpura) who were returning from the local market. On 30.08.20 when two Adivasi activists of the same village, Kailash Jamre and Pyarsing Vaskale went to bail them out, they were also picked up from the District Court premises. These Adivasis were all forcibly kept in the private quarters of forest staff in the Khaknar Range office compound, chained to the windows, and beaten with rods and lathis. Many of the staff were drunk. Other villagers who searched for them and complained to the police, were given no intimation of their "arrest" till the next day. In order to ensure non-bailable charges, the above sections of Wildlife Protection Act, 1972, and Biodiversity Act, 2002 were slapped on them!  
The activists in illegal custody were told they were being beaten for "talking too much about the law". These activists had also repeatedly been the raising the issue of illegal felling of trees that ongoing in the region with the collusion of the Forest Department officials. While being beaten up, they were told, "*Tumhare baap ka jungle hai jo tum bachaoge, kat raha hai to katne do!*" (Why do you care if the forest is being cut, it is our forest to do what we want with it!). When

produced in the Court the next day, Kailash Jamre collapsed in the Court premises, still handcuffed. He had to be admitted in the hospital for a week on account of his injuries. Over a thousand Adivasis led a Jail Bharo Andolan for several days, in protest against this incident as a result of which the police enquired into the matter but took no action on forest officials guilty of these violations.

- **Lingi Fata (dist. Burhanpur):** On 26<sup>th</sup> November 2020, an Adivasi, Gyarsilal Awaye, was taking Jowar (sorghum) stalks from his field as fodder for his cattle when he was picked up, taken to the Asir Range office, bound and beaten with rods and pipes. After protests by villagers, the police showed some alacrity in ensuring he was produced before the Court by the evening. But though his injuries were recorded by the police, no action was taken. On 02.07.2021, an Adivasi activist of this village, Sursing Ajnare, was assaulted and he was sought to be forcibly abducted by staff of Asir and Dhulkot range, but villagers managed to rescue him.
- **Negaon-Jamniya (dist. Khandwa):** On 10<sup>th</sup> July 2021 forest rights claimants of village Negaon, Panchayat Jamuniya, District Khandwa were attacked and forcibly evicted by the forest department, police and a mob of over 200 hundred men, brought in by the forest department from adjoining villages, who proceeded to loot food grains, chickens, goats, household items, mobile phones, cycles from the homes of 40 Adivasi families. Meanwhile, their fields were dug up and destroyed by JCB machines and sprayed with toxic chemicals prevent any further possibility of farming by the forest rights claimants. Adivasis, including women were beaten up. Three Adivasis were assaulted and taken away, beaten up and held captive while their hands were tied with ropes. When activists pointed out the illegality of the whole action, three activists were also picked up. All were held in the office of the DFO (Forest Development Corporation) for 10 hours and were released only after hundreds of Adivasis from several villages gathered at the office of the SP (Khandwa) demanding action against this abduction and illegal confinement.

**Adivasis made scapegoats for forest loss due to corrupt officials:** The Khandwa-Burhanpur region has seen a number of incidents of timber smuggling and illegal tree felling. The connivance of forest officials seems clear from instances in which citizens have caught vehicles smuggling timber but forest officials have tried to cover up the incident and stall action. Adivasi FRA claimants are then made the scapegoat for the depletion of forest cover. Often, new encroachers are heard to boast that they have paid forest officials and will therefore, be allowed to encroach. This boast is borne out by the refusal of foresters to stop new encroachment in Hirapur-Bakdi and other areas, despite written complaints and clear evidence of this connivance of foresters and encroachers.